
By: **Senators Ruben, DeGrange, Forehand, Garagiola, Hollinger, and
Jacobs**

Introduced and read first time: February 3, 2006

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Finding of High Alcohol Concentration - Sentencing**

3 FOR the purpose of prohibiting a court from staying the entering of judgment and
4 placing a defendant on probation before judgment for certain violations for
5 which the trier of fact finds that the defendant had a certain alcohol
6 concentration; prohibiting a court from suspending a sentence or placing a
7 defendant on probation for certain violations for which the trier of fact finds that
8 the defendant had a certain alcohol concentration; and generally relating to
9 sentencing of a defendant for certain violations for which the trier of fact finds
10 that the defendant had a certain alcohol concentration.

11 BY repealing and reenacting, without amendments,
12 Article - Criminal Procedure
13 Section 6-220(b)(1)
14 Annotated Code of Maryland
15 (2001 Volume and 2005 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Criminal Procedure
18 Section 6-220(d)
19 Annotated Code of Maryland
20 (2001 Volume and 2005 Supplement)

21 BY adding to
22 Article - Transportation
23 Section 27-101(y)
24 Annotated Code of Maryland
25 (2002 Replacement Volume and 2005 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Criminal Procedure

2 6-220.

3 (b) (1) When a defendant pleads guilty or nolo contendere or is found guilty
4 of a crime, a court may stay the entering of judgment, defer further proceedings, and
5 place the defendant on probation subject to reasonable conditions if:

6 (i) the court finds that the best interests of the defendant and the
7 public welfare would be served; and

8 (ii) the defendant gives written consent after determination of guilt
9 or acceptance of a nolo contendere plea.

10 (d) Notwithstanding subsections (b) and (c) of this section, a court may not
11 stay the entering of judgment and place a defendant on probation for:

12 (1) a violation of § 21-902 of the Transportation Article or § 2-503, §
13 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article, if within the
14 preceding 5 years the defendant has been convicted under § 21-902 of the
15 Transportation Article or § 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the
16 Criminal Law Article, or has been placed on probation in accordance with this section,
17 after being charged with a violation of § 21-902 of the Transportation Article or §
18 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article;

19 (2) a second or subsequent controlled dangerous substance crime under
20 Title 5 of the Criminal Law Article;

21 (3) a violation of any of the provisions of §§ 3-303 through 3-307, §§
22 3-309 through 3-312, § 3-315, or § 3-602 of the Criminal Law Article for a crime
23 involving a person under the age of 16 years; [or]

24 (4) a moving violation, as defined in § 11-136.1 of the Transportation
25 Article, if:

26 (i) the defendant holds a provisional license under § 16-111 of the
27 Transportation Article; and

28 (ii) the defendant has previously been placed on probation under
29 this section for the commission of a moving violation while the defendant held a
30 provisional license; OR

31 (5) A VIOLATION OF § 21-902 OF THE TRANSPORTATION ARTICLE FOR
32 WHICH THE TRIER OF FACT FINDS BEYOND A REASONABLE DOUBT THAT THE
33 PERSON HAD A TEST RESULT INDICATING AN ALCOHOL CONCENTRATION OF 0.20 OR
34 MORE AS DESCRIBED IN § 27-101(Y) OF THE TRANSPORTATION ARTICLE.

1

Article - Transportation

2 27-101.

3 (Y) IF A PERSON IS CONVICTED OF A VIOLATION OF § 21-902 OF THIS ARTICLE
4 AND THE TRIER OF FACT FINDS BEYOND A REASONABLE DOUBT THAT THE PERSON
5 HAD A TEST RESULT INDICATING AN ALCOHOL CONCENTRATION OF 0.20 OR MORE AT
6 THE TIME OF THE VIOLATION, THE COURT MAY NOT SUSPEND ANY SENTENCE
7 IMPOSED OR PLACE THE PERSON ON PROBATION, INCLUDING PROBATION BEFORE
8 JUDGMENT UNDER § 6-220 OF THE CRIMINAL PROCEDURE ARTICLE.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2006.