
By: **Senator Jimeno**

Introduced and read first time: February 3, 2006

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Drunk and Drugged Driving - Refusal to Take a Blood or Breath Test -**
3 **Prohibition**

4 FOR the purpose of establishing the offense of failing to take a certain blood or breath
5 test if a person is detained and subsequently convicted for a suspected violation
6 of certain drunk or drugged driving provisions and the person previously was
7 convicted of a certain drunk or drugged driving offense and certain additional
8 penalties were imposed; establishing a certain penalty; providing that a certain
9 penalty is in addition to certain other penalties; and generally relating to drunk
10 and drugged driving.

11 BY repealing and reenacting, without amendments,
12 Article - Transportation
13 Section 21-902 and 27-101(x)
14 Annotated Code of Maryland
15 (2002 Replacement Volume and 2005 Supplement)

16 BY adding to
17 Article - Transportation
18 Section 21-902.2 and 27-101(y)
19 Annotated Code of Maryland
20 (2002 Replacement Volume and 2005 Supplement)

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

23 **Article - Transportation**

24 21-902.

25 (a) (1) A person may not drive or attempt to drive any vehicle while under
26 the influence of alcohol.

27 (2) A person may not drive or attempt to drive any vehicle while the
28 person is under the influence of alcohol per se.

1 (3) A person may not violate paragraph (1) or (2) of this subsection while
2 transporting a minor.

3 (b) (1) A person may not drive or attempt to drive any vehicle while
4 impaired by alcohol.

5 (2) A person may not violate paragraph (1) of this subsection while
6 transporting a minor.

7 (c) (1) A person may not drive or attempt to drive any vehicle while he is so
8 far impaired by any drug, any combination of drugs, or a combination of one or more
9 drugs and alcohol that he cannot drive a vehicle safely.

10 (2) It is not a defense to any charge of violating this subsection that the
11 person charged is or was entitled under the laws of this State to use the drug,
12 combination of drugs, or combination of one or more drugs and alcohol, unless the
13 person was unaware that the drug or combination would make the person incapable
14 of safely driving a vehicle.

15 (3) A person may not violate paragraph (1) or (2) of this subsection while
16 transporting a minor.

17 (d) (1) A person may not drive or attempt to drive any vehicle while the
18 person is impaired by any controlled dangerous substance, as that term is defined in
19 § 5-101 of the Criminal Law Article, if the person is not entitled to use the controlled
20 dangerous substance under the laws of this State.

21 (2) A person may not violate paragraph (1) of this subsection while
22 transporting a minor.

23 (e) For purposes of the application of subsequent offender penalties under §
24 27-101 of this article, a conviction for a crime committed in another state or federal
25 jurisdiction that, if committed in this State, would constitute a violation of subsection
26 (a), (b), (c), or (d) of this section shall be considered a violation of subsection (a), (b),
27 (c), or (d) of this section.

28 21-902.2.

29 A PERSON DETAINED FOR A SUSPECTED VIOLATION OF § 21-902 OF THIS
30 SUBTITLE MAY NOT KNOWINGLY REFUSE TO TAKE A TEST UNDER § 16-205.1 OF THIS
31 ARTICLE IF:

32 (1) THE PERSON PREVIOUSLY HAS BEEN CONVICTED OF A VIOLATION
33 OF § 21-902 OF THIS SUBTITLE;

34 (2) ADDITIONAL PENALTIES WERE IMPOSED ON THE PERSON UNDER §
35 27-101(X) OF THIS ARTICLE RELATING TO THE PREVIOUS CONVICTION UNDER §
36 21-902 OF THIS SUBTITLE; AND

1 (3) THE DETENTION FOR THE SUSPECTED VIOLATION OF § 21-902 OF
2 THIS SUBTITLE RESULTED IN A CONVICTION FOR A VIOLATION OF § 21-902 OF THIS
3 SUBTITLE.

4 27-101.

5 (x) (1) In this section, "test" has the meaning stated in § 16-205.1 of this
6 article.

7 (2) The penalties in this subsection are in addition to any other penalty
8 under this title imposed for a violation of § 21-902 of this article.

9 (3) Subject to paragraph (4) of this subsection, if a person is convicted of
10 a violation of § 21-902 of this article and the trier of fact finds beyond a reasonable
11 doubt that the person knowingly refused to take a test arising out of the same
12 circumstances as the violation, the person is subject to a fine of not more than \$500 or
13 imprisonment for not more than 2 months or both.

14 (4) A court may not impose an additional penalty under this subsection
15 unless the State's Attorney serves notice of the alleged test refusal on the defendant
16 or the defendant's counsel before the acceptance of a plea of guilty or nolo contendere
17 or at least 15 days before trial in a circuit court or 5 days before trial in the District
18 Court, whichever is earlier.

19 (Y) IN ADDITION TO ANY PENALTY IMPOSED FOR THE UNDERLYING
20 VIOLATION OF § 21-902 OF THIS ARTICLE OR ADDITIONAL PENALTIES IMPOSED
21 UNDER SUBSECTION (X) OF THIS SECTION, ANY PERSON WHO IS CONVICTED OF A
22 VIOLATION OF § 21-902.2 OF THIS ARTICLE IS SUBJECT TO A FINE OF NOT MORE THAN
23 \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR BOTH.

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