

---

By: **Senators Miller, DeGrange, Stone, Astle, Jimeno, Dyson, and Forehand**

Introduced and read first time: March 6, 2006

Assigned to: Rules

---

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Eluding a Police Officer - Offenses, Penalties, and Forfeiture**

3 FOR the purpose of establishing the offense of eluding a police officer in a motor  
4 vehicle and causing damage to the property of another person; establishing the  
5 offense of eluding a police officer in a motor vehicle if the officer is attempting to  
6 apprehend the driver for the commission of a felony or a crime of violence;  
7 making it a felony to commit certain offenses of eluding a police officer;  
8 establishing and altering certain penalties; authorizing a law enforcement  
9 officer to seize a motor vehicle that is used by an individual in the commission of  
10 certain violations of eluding a police officer; prohibiting a motor vehicle from  
11 being forfeited if it was used to commit the violation without the knowledge of  
12 the registered owner of the vehicle; authorizing a certain chief law enforcement  
13 officer to recommend forfeiture to a certain forfeiting authority only after the  
14 officer takes certain actions and after the individual accused of committing the  
15 violation is convicted; providing that a sworn affidavit from a certain law  
16 enforcement officer is admissible into evidence in a certain proceeding for a  
17 certain purpose; prohibiting the chief law enforcement officer from being  
18 subpoenaed under certain circumstances; requiring a certain forfeiting  
19 authority to surrender a certain motor vehicle under certain circumstances;  
20 requiring a certain forfeiting authority to file a certain complaint with the court  
21 under certain circumstances; requiring the court to schedule a certain hearing;  
22 requiring that the registered owner of a certain motor vehicle be sent a certain  
23 notice; requiring the court to take certain actions after making certain  
24 determinations; requiring a lienholder to sell a motor vehicle in a certain  
25 manner under certain circumstances; providing for the distribution of the  
26 proceeds of a certain sale; authorizing a political subdivision to sell a certain  
27 vehicle if no claim is lodged by a lienholder and directing the distribution of the  
28 proceeds of the sale; defining certain terms; clarifying language; and generally  
29 relating to the offense of eluding a police officer.

30 BY repealing and reenacting, with amendments,  
31 Article - Transportation  
32 Section 21-904 and 27-101(p)  
33 Annotated Code of Maryland  
34 (2002 Replacement Volume and 2005 Supplement)

1 BY adding to  
2 Article - Transportation  
3 Section 27-114  
4 Annotated Code of Maryland  
5 (2002 Replacement Volume and 2005 Supplement)

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

8 **Article - Transportation**

9 21-904.

10 (a) In this section, "visual or audible signal" includes a signal by hand, voice,  
11 emergency light or siren.

12 (b) If a police officer gives a visual or audible signal to stop and the police  
13 officer is in uniform, prominently displaying the police officer's badge or other  
14 insignia of office, a driver of a vehicle may not attempt to elude the police officer by:

15 (1) Willfully failing to stop the driver's vehicle;

16 (2) Fleeing on foot; or

17 (3) Any other means.

18 (c) If a police officer gives a visual or audible signal to stop and the police  
19 officer, whether or not in uniform, is in a vehicle appropriately marked as an official  
20 police vehicle, a driver of a vehicle may not attempt to elude the police officer by:

21 (1) Willfully failing to stop the driver's vehicle;

22 (2) Fleeing on foot; or

23 (3) Any other means.

24 (d) (1) A DRIVER MAY NOT COMMIT A VIOLATION OF SUBSECTION (B)(1) OR  
25 (C)(1) OF THIS SECTION THAT RESULTS IN DAMAGE TO THE PROPERTY OF ANOTHER  
26 PERSON.

27 (2) A driver may not [attempt to elude a police officer in] COMMIT A  
28 violation of subsection (b)(1) or (c)(1) of this section that results in bodily injury to  
29 another person.

30 [(2)] (3) A driver may not [attempt to elude a police officer in] COMMIT  
31 A violation of subsection (b)(1) or (c)(1) of this section that results in death of another  
32 person.

33 (4) A VIOLATION OF THIS SUBSECTION IS A FELONY.

1 (E) (1) A DRIVER MAY NOT COMMIT A VIOLATION OF SUBSECTION (B)(1) OR  
2 (C)(1) OF THIS SECTION WHILE THE DRIVER IS ATTEMPTING TO ELUDE A POLICE  
3 OFFICER WHO IS SIGNALING FOR THE DRIVER TO STOP FOR THE PURPOSE OF  
4 APPREHENDING THE DRIVER FOR THE COMMISSION OF A FELONY OR A CRIME OF  
5 VIOLENCE.

6 (2) A VIOLATION OF THIS SUBSECTION IS A FELONY.

7 27-101.

8 (p) (1) Except as [provided in paragraphs (2) and (3) of] OTHERWISE  
9 PROVIDED IN this subsection, any person who is convicted of a violation of any of the  
10 provisions of § 21-904 of this article ("Fleeing or eluding police") is subject to:

11 (i) For a first offense, a fine of not more than \$1,000, or  
12 imprisonment for not more than 1 year, or both; and

13 (ii) For any subsequent offense, a fine of not more than \$1,000, or  
14 imprisonment for not more than 2 years, or both.

15 (2) Any person who is convicted of a violation of § 21-904(d)(1) of this  
16 article is subject to a fine of not more than [\$5,000] \$10,000, or imprisonment for not  
17 more than [3] 10 years, or both.

18 (3) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF § 21-904(D)(2)  
19 OF THIS ARTICLE IS SUBJECT TO A FINE OF NOT MORE THAN \$15,000, OR  
20 IMPRISONMENT FOR NOT MORE THAN 15 YEARS, OR BOTH.

21 (4) Any person who is convicted of a violation of [§ 21-904(d)(2)] §  
22 21-904(D)(3) of this article is subject to a fine of not more than [\$5,000] \$20,000, or  
23 imprisonment for not more than [10] 20 years, or both.

24 (5) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF § 21-904(E) OF  
25 THIS ARTICLE IS SUBJECT TO A FINE OF NOT MORE THAN \$5,000, OR IMPRISONMENT  
26 FOR NOT MORE THAN 5 YEARS, OR BOTH.

27 27-114.

28 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
29 INDICATED.

30 (2) "CHIEF LAW ENFORCEMENT OFFICER" MEANS THE CHIEF LAW  
31 ENFORCEMENT OFFICER OF THE SEIZING UNIT.

32 (3) "FORFEITING AUTHORITY" MEANS THE OFFICE OR PERSON  
33 DESIGNATED BY AGREEMENT BETWEEN THE STATE'S ATTORNEY FOR A COUNTY AND  
34 THE CHIEF EXECUTIVE OFFICER OF THE POLITICAL SUBDIVISION THAT SEIZES A  
35 MOTOR VEHICLE.

1           (4)     "SEIZING UNIT" MEANS THE LAW ENFORCEMENT UNIT THAT SEIZES  
2 A MOTOR VEHICLE.

3     (B)     THIS SECTION APPLIES ONLY TO A MOTOR VEHICLE THAT IS USED BY AN  
4 INDIVIDUAL IN THE COMMISSION OF A VIOLATION UNDER § 21-904(D) OR (E) OF THIS  
5 ARTICLE.

6     (C)     AN AUTHORIZED LAW ENFORCEMENT OFFICER MAY SEIZE AND  
7 RECOMMEND FORFEITURE OF A MOTOR VEHICLE WHEN MAKING AN ARREST OR  
8 ISSUING A CITATION FOR A VIOLATION UNDER § 21-904(D) OR (E) OF THIS ARTICLE.

9     (D)     A MOTOR VEHICLE MAY NOT BE FORFEITED IF, WITHOUT THE  
10 KNOWLEDGE OF THE REGISTERED OWNER OF THE MOTOR VEHICLE, AN INDIVIDUAL  
11 WHO IS NOT THE REGISTERED OWNER USED THE VEHICLE TO COMMIT A VIOLATION  
12 UNDER § 21-904(D) OR (E) OF THIS ARTICLE.

13     (E)     (1)     THE CHIEF LAW ENFORCEMENT OFFICER MAY RECOMMEND  
14 FORFEITURE OF A MOTOR VEHICLE TO THE FORFEITING AUTHORITY ONLY AFTER:

15                     (I)     THE CHIEF LAW ENFORCEMENT OFFICER:

16                             1.     DETERMINES FROM THE RECORDS OF THE  
17 ADMINISTRATION THE NAMES AND ADDRESSES OF ALL REGISTERED OWNERS AND  
18 SECURED PARTIES;

19                             2.     PERSONALLY REVIEWS THE FACTS AND CIRCUMSTANCES  
20 OF THE SEIZURE; AND

21                             3.     WRITES TO THE FORFEITING AUTHORITY THAT  
22 FORFEITURE IS WARRANTED; AND

23                     (II)     THE INDIVIDUAL ARRESTED OR CITED FOR THE COMMISSION  
24 OF A VIOLATION UNDER § 21-904(D) OR (E) OF THIS ARTICLE DURING WHICH THE  
25 MOTOR VEHICLE WAS SEIZED IS CONVICTED OF THE VIOLATION.

26             (2)     IN A PROCEEDING FOR FORFEITURE OF A MOTOR VEHICLE, A SWORN  
27 AFFIDAVIT BY THE CHIEF LAW ENFORCEMENT OFFICER THAT THE REQUIREMENTS  
28 OF THIS SUBSECTION HAVE BEEN FOLLOWED IS ADMISSIBLE INTO EVIDENCE.

29             (3)     THE CHIEF LAW ENFORCEMENT OFFICER MAY NOT BE SUBPOENAED  
30 OR COMPELLED TO TESTIFY IF ANOTHER LAW ENFORCEMENT OFFICER WITH  
31 PERSONAL KNOWLEDGE OF THE FACTS AND CIRCUMSTANCES SURROUNDING THE  
32 SEIZURE AND THE RECOMMENDATION OF FORFEITURE TESTIFIES AT THE  
33 PROCEEDING.

34             (4)     IF THE FORFEITING AUTHORITY DETERMINES INDEPENDENTLY OF  
35 THE DECISION OF THE SEIZING UNIT THAT THE MOTOR VEHICLE FALLS WITHIN THE  
36 SCOPE OF SUBSECTION (D) OF THIS SECTION, THE FORFEITING AUTHORITY SHALL  
37 SURRENDER THE MOTOR VEHICLE TO AN OWNER.

1 (F) (1) IF THE FORFEITING AUTHORITY DETERMINES THAT FORFEITURE IS  
2 APPROPRIATE, THE FORFEITING AUTHORITY SHALL FILE A COMPLAINT WITH THE  
3 CIRCUIT COURT FOR THE COUNTY IN WHICH THE MOTOR VEHICLE WAS SEIZED.

4 (2) THE COURT SHALL SCHEDULE A HEARING ON THE FORFEITURE AT  
5 WHICH THE REGISTERED OWNER OF THE MOTOR VEHICLE SHALL BE GIVEN THE  
6 OPPORTUNITY TO TESTIFY.

7 (3) THE REGISTERED OWNER OF THE MOTOR VEHICLE SHALL BE  
8 SERVED NOTICE AT LEAST 10 DAYS BEFORE THE FORFEITURE HEARING.

9 (4) IF, AFTER A FULL HEARING, THE COURT DETERMINES:

10 (I) THAT THE MOTOR VEHICLE SHOULD NOT BE FORFEITED, THE  
11 COURT SHALL ORDER THAT THE MOTOR VEHICLE BE RELEASED TO A REGISTERED  
12 OWNER;

13 (II) THAT THE MOTOR VEHICLE SHOULD BE FORFEITED, THE  
14 COURT SHALL ORDER THAT THE MOTOR VEHICLE BE FORFEITED TO THE  
15 APPROPRIATE GOVERNING BODY; OR

16 (III) THAT THE MOTOR VEHICLE IS SUBJECT TO A LIEN CREATED  
17 WITHOUT ACTUAL KNOWLEDGE THAT THE MOTOR VEHICLE WAS USED IN A  
18 VIOLATION UNDER § 21-904(D) OR (E) OF THIS ARTICLE, THE COURT SHALL ORDER  
19 THAT THE MOTOR VEHICLE BE RELEASED WITHIN 5 DAYS TO THE FIRST PRIORITY  
20 LIENHOLDER.

21 (G) (1) IF THE MOTOR VEHICLE IS RELEASED TO THE LIENHOLDER UNDER  
22 SUBSECTION (F)(4)(III) OF THIS SECTION, THE LIENHOLDER SHALL SELL THE MOTOR  
23 VEHICLE IN A COMMERCIALY REASONABLE MANNER.

24 (2) THE PROCEEDS OF THE SALE OF THE MOTOR VEHICLE SHALL BE  
25 APPLIED IN THE FOLLOWING ORDER:

26 (I) TO THE COURT COSTS OF THE FORFEITURE PROCEEDING;

27 (II) TO THE BALANCE DUE THE LIENHOLDER, INCLUDING ALL  
28 REASONABLE COSTS INCIDENT TO THE SALE;

29 (III) TO PAYMENT OF ALL OTHER EXPENSES OF THE PROCEEDINGS  
30 FOR FORFEITURE, INCLUDING EXPENSES OF SEIZURE OR MAINTENANCE OF  
31 CUSTODY; AND

32 (IV) TO THE GENERAL FUND OF THE STATE OR THE POLITICAL  
33 SUBDIVISION THAT SEIZED THE MOTOR VEHICLE.

34 (H) IF A CLAIM IS NOT LODGED BY A LIENHOLDER:

35 (1) THE POLITICAL SUBDIVISION IN WHICH THE VEHICLE WAS SEIZED  
36 MAY SELL THE FORFEITED VEHICLE; AND

1 (2) THE PROCEEDS OF SALE SHALL BE APPLIED IN THE FOLLOWING  
2 ORDER:

- 3 (I) TO THE COURT COSTS OF THE FORFEITURE PROCEEDING; AND
- 4 (II) TO THE GENERAL FUND OF THE POLITICAL SUBDIVISION.

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