

# SENATE BILL 754

R5

(7lr2451)

## ENROLLED BILL

— Judicial Proceedings / Judiciary —

Introduced by **Senator Muse**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Vehicle Laws - Eluding a Police Officer - ~~Offenses, Penalties, and Forfeiture~~**  
3 **Crimes of Violence**

4 FOR the purpose of ~~establishing the offense of eluding a police officer in a motor~~  
5 ~~vehicle and causing damage to the property of another person; establishing the~~  
6 ~~offense of eluding a police officer in a motor vehicle~~ prohibiting a driver of a  
7 motor vehicle from attempting to elude a police officer if the officer is attempting  
8 to apprehend the driver for the commission of ~~a felony or~~ a crime of violence for  
9 which the driver is subsequently convicted; ~~making it a felony to commit certain~~  
10 ~~offenses of eluding a police officer; establishing and altering certain penalties;~~  
11 ~~authorizing a law enforcement officer to seize a motor vehicle that is used by an~~

---

#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber / conference committee amendments.*



~~individual in the commission of certain violations of eluding a police officer; prohibiting a motor vehicle from being forfeited if it was used to commit the violation without the knowledge of the registered owner of the vehicle; authorizing a certain chief law enforcement officer to recommend forfeiture to a certain forfeiting authority only after the officer takes certain actions and after the individual accused of committing the violation is convicted; providing that a sworn affidavit from a certain law enforcement officer is admissible into evidence in a certain proceeding for a certain purpose; prohibiting the chief law enforcement officer from being subpoenaed under certain circumstances; requiring a certain forfeiting authority to surrender a certain motor vehicle under certain circumstances; requiring a certain forfeiting authority to file a certain complaint with the court under certain circumstances; requiring the court to schedule a certain hearing; requiring that the registered owner of a certain motor vehicle be sent a certain notice; requiring the court to take certain actions after making certain determinations; requiring a lienholder to sell a motor vehicle in a certain manner under certain circumstances; providing for the distribution of the proceeds of a certain sale; authorizing a political subdivision to sell a certain vehicle if no claim is lodged by a lienholder and directing the distribution of the proceeds of the sale; defining certain terms; clarifying language; and generally relating to the offense of eluding a police officer. defining a certain term; clarifying language; and generally relating to a driver attempting to elude a police officer under certain circumstances and convictions for certain crimes of violence.~~

BY repealing and reenacting, with amendments,  
 Article – Transportation  
 Section 21–904 and 27–101(p)  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2006 Supplement)

~~BY adding to  
 Article – Transportation  
 Section 27–114  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2006 Supplement)~~

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

### Article – Transportation

21–904.

1 (a) In this section, “visual or audible signal” includes a signal by hand, voice,  
2 emergency light or siren.

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

6 (1) Willfully failing to stop the driver’s vehicle;

7 (2) Fleeing on foot; or

8 (3) Any other means.

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

12 (1) Willfully failing to stop the driver’s vehicle;

13 (2) Fleeing on foot; or

14 (3) Any other means.

15 (d) (1) ~~A DRIVER MAY NOT COMMIT A VIOLATION OF SUBSECTION~~  
16 ~~(B)(1) OR (C)(1) OF THIS SECTION THAT RESULTS IN DAMAGE TO THE PROPERTY~~  
17 ~~OF ANOTHER PERSON.~~

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

21 ~~[(2)] (3)~~ A driver may not [attempt to elude a police officer in]  
22 COMMIT A violation of subsection (b)(1) or (c)(1) of this section that results in death of  
23 another person.

24 ~~(4) A VIOLATION OF THIS SUBSECTION IS A FELONY~~  
25 ~~MISDEMEANOR.~~

26 (E) (1) IN THIS SUBSECTION, “CRIME OF VIOLENCE” HAS THE  
27 MEANING STATED IN § 14-101 OF THE CRIMINAL LAW ARTICLE.

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

7           ~~**(2) A VIOLATION OF THIS SUBSECTION IS A FELONY.**~~

8 27-101.

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

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

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

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

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

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

25           ~~**(5)**~~ **(4) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF §**  
 26 **21-904(E) OF THIS ARTICLE IS SUBJECT TO A FINE OF NOT MORE THAN \$5,000,**  
 27 **OR IMPRISONMENT FOR NOT MORE THAN ~~5~~ 3 YEARS, OR BOTH.**

28 ~~**27-114.**~~

29           ~~**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**~~  
 30 ~~**MEANINGS INDICATED.**~~

1           ~~(2) "CHIEF LAW ENFORCEMENT OFFICER" MEANS THE CHIEF~~  
2 ~~LAW ENFORCEMENT OFFICER OF THE SEIZING UNIT.~~

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

7           ~~(4) "SEIZING UNIT" MEANS THE LAW ENFORCEMENT UNIT THAT~~  
8 ~~SEIZES A MOTOR VEHICLE.~~

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

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

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

20           ~~(E) (1) THE CHIEF LAW ENFORCEMENT OFFICER MAY RECOMMEND~~  
21 ~~FORFEITURE OF A MOTOR VEHICLE TO THE FORFEITING AUTHORITY ONLY~~  
22 ~~AFTER:~~

23                   ~~(1) THE CHIEF LAW ENFORCEMENT OFFICER:~~

24                           ~~1. DETERMINES FROM THE RECORDS OF THE~~  
25 ~~ADMINISTRATION THE NAMES AND ADDRESSES OF ALL REGISTERED OWNERS~~  
26 ~~AND SECURED PARTIES;~~

27                           ~~2. PERSONALLY REVIEWS THE FACTS AND~~  
28 ~~CIRCUMSTANCES OF THE SEIZURE; AND~~

1                   ~~3. WRITES TO THE FORFEITING AUTHORITY THAT~~  
2 ~~FORFEITURE IS WARRANTED; AND~~

3                   ~~(H) THE INDIVIDUAL ARRESTED OR CITED FOR THE~~  
4 ~~COMMISSION OF A VIOLATION UNDER § 21-904(D) OR (E) OF THIS ARTICLE~~  
5 ~~DURING WHICH THE MOTOR VEHICLE WAS SEIZED IS CONVICTED OF THE~~  
6 ~~VIOLATION.~~

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

11                   ~~(3) THE CHIEF LAW ENFORCEMENT OFFICER MAY NOT BE~~  
12 ~~SUBPOENAED OR COMPELLED TO TESTIFY IF ANOTHER LAW ENFORCEMENT~~  
13 ~~OFFICER WITH PERSONAL KNOWLEDGE OF THE FACTS AND CIRCUMSTANCES~~  
14 ~~SURROUNDING THE SEIZURE AND THE RECOMMENDATION OF FORFEITURE~~  
15 ~~TESTIFIES AT THE PROCEEDING.~~

16                   ~~(4) IF THE FORFEITING AUTHORITY DETERMINES~~  
17 ~~INDEPENDENTLY OF THE DECISION OF THE SEIZING UNIT THAT THE MOTOR~~  
18 ~~VEHICLE FALLS WITHIN THE SCOPE OF SUBSECTION (D) OF THIS SECTION, THE~~  
19 ~~FORFEITING AUTHORITY SHALL SURRENDER THE MOTOR VEHICLE TO AN~~  
20 ~~OWNER.~~

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

25                   ~~(2) THE COURT SHALL SCHEDULE A HEARING ON THE~~  
26 ~~FORFEITURE AT WHICH THE REGISTERED OWNER OF THE MOTOR VEHICLE~~  
27 ~~SHALL BE GIVEN THE OPPORTUNITY TO TESTIFY.~~

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

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

1           ~~(I) THAT THE MOTOR VEHICLE SHOULD NOT BE~~  
2 ~~FORFEITED, THE COURT SHALL ORDER THAT THE MOTOR VEHICLE BE~~  
3 ~~RELEASED TO A REGISTERED OWNER;~~

4           ~~(II) THAT THE MOTOR VEHICLE SHOULD BE FORFEITED,~~  
5 ~~THE COURT SHALL ORDER THAT THE MOTOR VEHICLE BE FORFEITED TO THE~~  
6 ~~APPROPRIATE GOVERNING BODY; OR~~

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

12           ~~(C) (1) IF THE MOTOR VEHICLE IS RELEASED TO THE LIENHOLDER~~  
13 ~~UNDER SUBSECTION (F)(4)(III) OF THIS SECTION, THE LIENHOLDER SHALL SELL~~  
14 ~~THE MOTOR VEHICLE IN A COMMERCIALY REASONABLE MANNER.~~

15           ~~(2) THE PROCEEDS OF THE SALE OF THE MOTOR VEHICLE SHALL~~  
16 ~~BE APPLIED IN THE FOLLOWING ORDER:~~

17           ~~(I) TO THE COURT COSTS OF THE FORFEITURE~~  
18 ~~PROCEEDING;~~

19           ~~(II) TO THE BALANCE DUE THE LIENHOLDER, INCLUDING~~  
20 ~~ALL REASONABLE COSTS INCIDENT TO THE SALE;~~

21           ~~(III) TO PAYMENT OF ALL OTHER EXPENSES OF THE~~  
22 ~~PROCEEDINGS FOR FORFEITURE, INCLUDING EXPENSES OF SEIZURE OR~~  
23 ~~MAINTENANCE OF CUSTODY; AND~~

24           ~~(IV) TO THE GENERAL FUND OF THE STATE OR THE~~  
25 ~~POLITICAL SUBDIVISION THAT SEIZED THE MOTOR VEHICLE.~~

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

27           ~~(1) THE POLITICAL SUBDIVISION IN WHICH THE VEHICLE WAS~~  
28 ~~SEIZED MAY SELL THE FORFEITED VEHICLE; AND~~

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

3                   ~~(I) TO THE COURT COSTS OF THE FORFEITURE~~  
4 ~~PROCEEDING; AND~~

5                   ~~(II) TO THE GENERAL FUND OF THE POLITICAL~~  
6 ~~SUBDIVISION.~~

7                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8                   October 1, 2007.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
President of the Senate.

\_\_\_\_\_  
Speaker of the House of Delegates.