

SENATE BILL 754

R5
SB 1073/06 – JPR

71r2451

By: **Senator Muse**

Introduced and read first time: February 12, 2007

Assigned to: Rules

Re-referred to: Judicial Proceedings, February 16, 2007

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2007

CHAPTER _____

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

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.



1 under certain circumstances; requiring the court to schedule a certain hearing;
 2 requiring that the registered owner of a certain motor vehicle be sent a certain
 3 notice; requiring the court to take certain actions after making certain
 4 determinations; requiring a lienholder to sell a motor vehicle in a certain
 5 manner under certain circumstances; providing for the distribution of the
 6 proceeds of a certain sale; authorizing a political subdivision to sell a certain
 7 vehicle if no claim is lodged by a lienholder and directing the distribution of the
 8 proceeds of the sale; defining certain terms; clarifying language; and generally
 9 relating to the offense of eluding a police officer.

10 BY repealing and reenacting, with amendments,
 11 Article – Transportation
 12 Section 21–904 and 27–101(p)
 13 Annotated Code of Maryland
 14 (2006 Replacement Volume and 2006 Supplement)

15 BY adding to
 16 Article – Transportation
 17 Section 27–114
 18 Annotated Code of Maryland
 19 (2006 Replacement Volume and 2006 Supplement)

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

22 **Article – Transportation**

23 21–904.

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

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

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

30 (2) Fleeing on foot; or

31 (3) Any other means.

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

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

5 (2) Fleeing on foot; or

6 (3) Any other means.

7 (d) (1) **A DRIVER MAY NOT COMMIT A VIOLATION OF SUBSECTION**
8 **(B)(1) OR (C)(1) OF THIS SECTION THAT RESULTS IN DAMAGE TO THE PROPERTY**
9 **OF ANOTHER PERSON.**

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

13 [(2)] (3) A driver may not [attempt to elude a police officer in]
14 **COMMIT A** violation of subsection (b)(1) or (c)(1) of this section that results in death of
15 another person.

16 (4) **A VIOLATION OF THIS SUBSECTION IS A ~~FELONY~~**
17 **MISDEMEANOR.**

18 (e) (1) **A DRIVER MAY NOT COMMIT A VIOLATION OF SUBSECTION**
19 **(B)(1) OR (C)(1) OF THIS SECTION WHILE THE DRIVER IS ATTEMPTING TO ELUDE**
20 **A POLICE OFFICER WHO IS SIGNALING FOR THE DRIVER TO STOP FOR THE**
21 **PURPOSE OF APPREHENDING THE DRIVER FOR THE COMMISSION OF A FELONY**
22 **OR A CRIME OF VIOLENCE.**

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

24 27-101.

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

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

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

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

6 (3) **ANY PERSON WHO IS CONVICTED OF A VIOLATION OF §**
7 **21-904(D)(2) OF THIS ARTICLE IS SUBJECT TO A FINE OF NOT MORE THAN**
8 **\$15,000, OR IMPRISONMENT FOR NOT MORE THAN 15 YEARS, OR BOTH.**

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

12 (5) **ANY PERSON WHO IS CONVICTED OF A VIOLATION OF §**
13 **21-904(E) OF THIS ARTICLE IS SUBJECT TO A FINE OF NOT MORE THAN \$5,000,**
14 **OR IMPRISONMENT FOR NOT MORE THAN 5 YEARS, OR BOTH.**

15 **27-114.**

16 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
17 **MEANINGS INDICATED.**

18 (2) **“CHIEF LAW ENFORCEMENT OFFICER” MEANS THE CHIEF**
19 **LAW ENFORCEMENT OFFICER OF THE SEIZING UNIT.**

20 (3) **“FORFEITING AUTHORITY” MEANS THE OFFICE OR PERSON**
21 **DESIGNATED BY AGREEMENT BETWEEN THE STATE’S ATTORNEY FOR A COUNTY**
22 **AND THE CHIEF EXECUTIVE OFFICER OF THE POLITICAL SUBDIVISION THAT**
23 **SEIZES A MOTOR VEHICLE.**

24 (4) **“SEIZING UNIT” MEANS THE LAW ENFORCEMENT UNIT THAT**
25 **SEIZES A MOTOR VEHICLE.**

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

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

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

9 **(E) (1) THE CHIEF LAW ENFORCEMENT OFFICER MAY RECOMMEND**
10 **FORFEITURE OF A MOTOR VEHICLE TO THE FORFEITING AUTHORITY ONLY**
11 **AFTER:**

12 **(I) THE CHIEF LAW ENFORCEMENT OFFICER:**

13 **1. DETERMINES FROM THE RECORDS OF THE**
14 **ADMINISTRATION THE NAMES AND ADDRESSES OF ALL REGISTERED OWNERS**
15 **AND SECURED PARTIES;**

16 **2. PERSONALLY REVIEWS THE FACTS AND**
17 **CIRCUMSTANCES OF THE SEIZURE; AND**

18 **3. WRITES TO THE FORFEITING AUTHORITY THAT**
19 **FORFEITURE IS WARRANTED; AND**

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

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

28 **(3) THE CHIEF LAW ENFORCEMENT OFFICER MAY NOT BE**
29 **SUBPOENAED OR COMPELLED TO TESTIFY IF ANOTHER LAW ENFORCEMENT**
30 **OFFICER WITH PERSONAL KNOWLEDGE OF THE FACTS AND CIRCUMSTANCES**

1 SURROUNDING THE SEIZURE AND THE RECOMMENDATION OF FORFEITURE
2 TESTIFIES AT THE PROCEEDING.

3 (4) IF THE FORFEITING AUTHORITY DETERMINES
4 INDEPENDENTLY OF THE DECISION OF THE SEIZING UNIT THAT THE MOTOR
5 VEHICLE FALLS WITHIN THE SCOPE OF SUBSECTION (D) OF THIS SECTION, THE
6 FORFEITING AUTHORITY SHALL SURRENDER THE MOTOR VEHICLE TO AN
7 OWNER.

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

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

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

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

18 (I) THAT THE MOTOR VEHICLE SHOULD NOT BE
19 FORFEITED, THE COURT SHALL ORDER THAT THE MOTOR VEHICLE BE
20 RELEASED TO A REGISTERED OWNER;

21 (II) THAT THE MOTOR VEHICLE SHOULD BE FORFEITED,
22 THE COURT SHALL ORDER THAT THE MOTOR VEHICLE BE FORFEITED TO THE
23 APPROPRIATE GOVERNING BODY; OR

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

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

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

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

5 **(II) TO THE BALANCE DUE THE LIENHOLDER, INCLUDING**
6 **ALL REASONABLE COSTS INCIDENT TO THE SALE;**

7 **(III) TO PAYMENT OF ALL OTHER EXPENSES OF THE**
8 **PROCEEDINGS FOR FORFEITURE, INCLUDING EXPENSES OF SEIZURE OR**
9 **MAINTENANCE OF CUSTODY; AND**

10 **(IV) TO THE GENERAL FUND OF THE STATE OR THE**
11 **POLITICAL SUBDIVISION THAT SEIZED THE MOTOR VEHICLE.**

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

13 **(1) THE POLITICAL SUBDIVISION IN WHICH THE VEHICLE WAS**
14 **SEIZED MAY SELL THE FORFEITED VEHICLE; AND**

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

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

19 **(II) TO THE GENERAL FUND OF THE POLITICAL**
20 **SUBDIVISION.**

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