

# HOUSE BILL 1445

R3

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CF SB 698

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By: **Delegates Shewell, Elliott, Krebs, and Stocksdale**

Introduced and read first time: February 25, 2010

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Controlled Dangerous Substances – Per Se Driving Offenses**

3 FOR the purpose of prohibiting a person from driving or attempting to drive if there is  
4 in the person's blood a certain controlled dangerous substance or its metabolite  
5 under certain circumstances; providing that a certain defense is not available  
6 for certain charges; providing for certain penalties; making a conforming  
7 change; and generally relating to a prohibition on driving or attempting to drive  
8 with a certain controlled dangerous substance or its metabolite in a person's  
9 blood under certain circumstances.

10 BY repealing and reenacting, with amendments,

11 Article – Transportation

12 Section 16–402(a)(34), 21–902(d), and 27–101(k) and (q)(1)

13 Annotated Code of Maryland

14 (2009 Replacement Volume and 2009 Supplement)

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

17 **Article – Transportation**

18 16–402.

19 (a) After the conviction of an individual for a violation of Title 2, Subtitle 5, §  
20 2–209, or § 3–211 of the Criminal Law Article, or of the vehicle laws or regulations of  
21 this State or of any local authority, points shall be assessed against the individual as  
22 of the date of violation and as follows:

23 (34) [Driving while under the influence of alcohol, while  
24 under the influence of alcohol per se, or while

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1                   impaired by an illegally used controlled dangerous  
 2                   substance] **ANY VIOLATION OF § 21-902(A) OR (D)**  
 3                   **OF THIS ARTICLE** ..... 12 points

4 21-902.

5           (d)   (1)   A person may not drive or attempt to drive any vehicle while the  
 6 person is impaired by any controlled dangerous substance, as that term is defined in §  
 7 5-101 of the Criminal Law Article, if the person is not entitled to use the controlled  
 8 dangerous substance under the laws of this State.

9                   **(2) A PERSON MAY NOT DRIVE OR ATTEMPT TO DRIVE ANY**  
 10 **VEHICLE IF THERE IS IN THE PERSON’S BLOOD ANY AMOUNT OF A SCHEDULE I**  
 11 **CONTROLLED DANGEROUS SUBSTANCE OR ITS METABOLITE.**

12                   **(3) (I) A PERSON MAY NOT DRIVE OR ATTEMPT TO DRIVE ANY**  
 13 **VEHICLE IF THERE IS IN THE PERSON’S BLOOD ANY AMOUNT OF A SCHEDULE II**  
 14 **OR SCHEDULE III CONTROLLED DANGEROUS SUBSTANCE OR ITS METABOLITE**  
 15 **IF THE SCHEDULE II OR SCHEDULE III CONTROLLED DANGEROUS SUBSTANCE**  
 16 **WAS NOT MEDICALLY PRESCRIBED FOR THE PERSON.**

17                   **(II) A DEFENSE TO A CHARGE UNDER THIS PARAGRAPH**  
 18 **THAT THE SCHEDULE II OR SCHEDULE III CONTROLLED DANGEROUS**  
 19 **SUBSTANCE WAS MEDICALLY PRESCRIBED DOES NOT PRECLUDE PROSECUTION**  
 20 **UNDER ANY OTHER LAWS OF THIS STATE.**

21                   **(III) IT IS NOT A DEFENSE TO ANY CHARGE UNDER THIS**  
 22 **PARAGRAPH THAT THE PERSON IS OR WAS ENTITLED UNDER THE LAWS OF THIS**  
 23 **STATE TO USE THE SCHEDULE II OR SCHEDULE III CONTROLLED DANGEROUS**  
 24 **SUBSTANCE UNLESS THE PERSON WAS UNAWARE THAT THE SCHEDULE II OR**  
 25 **SCHEDULE III CONTROLLED DANGEROUS SUBSTANCE WOULD MAKE THE**  
 26 **PERSON INCAPABLE OF SAFELY DRIVING A VEHICLE.**

27                   **[(2)] (4)**   A person may not violate paragraph (1), **(2), OR (3)** of this  
 28 subsection while transporting a minor.

29 27-101.

30           (k)   (1)   Except as provided in subsection (q) of this section, any person who  
 31 is convicted of a violation of any of the provisions of § 21-902(a) of this article  
 32 (“Driving while under the influence of alcohol or under the influence of alcohol per se”)  
 33 or § 21-902(d) of this article (“Driving while impaired by controlled dangerous  
 34 substance **OR WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER**  
 35 **SE**):

1 (i) For a first offense, shall be subject to a fine of not more than  
2 \$1,000, or imprisonment for not more than 1 year, or both;

3 (ii) For a second offense, shall be subject to a fine of not more  
4 than \$2,000, or imprisonment for not more than 2 years, or both; and

5 (iii) For a third or subsequent offense, shall be subject to a fine of  
6 not more than \$3,000, or imprisonment for not more than 3 years, or both.

7 (2) For the purpose of second or subsequent offender penalties for  
8 violation of § 21-902(a) of this article provided under this subsection, a prior  
9 conviction under § 21-902(b), (c), or (d) of this article, within 5 years of the conviction  
10 for a violation of § 21-902(a) of this article, shall be considered a conviction under §  
11 21-902(a) of this article.

12 (3) For the purpose of second or subsequent offender penalties for  
13 violation of § 21-902(d) of this article provided under this subsection, a prior  
14 conviction under § 21-902(a), (b), or (c) of this article, within 5 years of the conviction  
15 for a violation of § 21-902(d) of this article, shall be considered a conviction under §  
16 21-902(d) of this article.

17 (q) (1) Any person who is convicted of a violation of § 21-902(a)(3) or  
18 [(d)(2)] **(D)(4)** of this article is subject to:

19 (i) For a first offense, a fine of not more than \$2,000 or  
20 imprisonment for not more than 2 years or both;

21 (ii) For a second offense, a fine of not more than \$3,000 or  
22 imprisonment for not more than 3 years or both; and

23 (iii) For a third or subsequent offense, a fine of not more than  
24 \$4,000 or imprisonment for not more than 4 years or both.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2010.