

# SENATE BILL 1039

R3

6lr3455  
CF HB 1364

---

By: **Senator Muse**

Introduced and read first time: February 17, 2016

Assigned to: Rules

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Drugged Driving or Operation of Vessel – Polysubstance Abuse**

3 FOR the purpose of altering the elements of a certain drug-related driving offense and a  
4 certain drug-related operation of a vessel offense; eliminating a certain defense to  
5 certain offenses; altering certain criminal penalties for certain drug-related driving  
6 offenses and drug-related operation of a vessel offenses; requiring the Motor Vehicle  
7 Administration to suspend for certain periods the license of a person convicted of  
8 certain drug-related driving offenses; altering certain administrative penalties for  
9 certain drugged driving offenses; requiring a person who is convicted of certain  
10 drug-related driving offenses to undergo a mental health assessment and participate  
11 in certain programs under certain circumstances; making conforming changes to  
12 certain terminology; and generally relating to drugged driving and operation of a  
13 vessel.

14 BY repealing and reenacting, with amendments,  
15 Article – Courts and Judicial Proceedings  
16 Section 10–302, 10–303(b), 10–305(b), 10–306(a)(1)(ii), and 10–308  
17 Annotated Code of Maryland  
18 (2013 Replacement Volume and 2015 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article – Criminal Law  
21 Section 2–505(a) and (b), 2–507(a)(4), 3–211(e)(1) and (2), and 3–212(a)(4)  
22 Annotated Code of Maryland  
23 (2012 Replacement Volume and 2015 Supplement)

24 BY repealing  
25 Article – Criminal Law  
26 Section 2–505(d)  
27 Annotated Code of Maryland  
28 (2012 Replacement Volume and 2015 Supplement)

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
 2 Article – Natural Resources  
 3 Section 8–738  
 4 Annotated Code of Maryland  
 5 (2012 Replacement Volume and 2015 Supplement)

6 BY adding to  
 7 Article – Transportation  
 8 Section 11–109.1 and 27–101(j)(3) and (7)  
 9 Annotated Code of Maryland  
 10 (2012 Replacement Volume and 2015 Supplement)

11 BY repealing and reenacting, with amendments,  
 12 Article – Transportation  
 13 Section 16–205(a), (b)(1), and (c), 16–205.1(a)(2), (b)(2) and (3)(viii)1., (c)(1), (d)(1),  
 14 (f)(1)(i), (7)(i)1. and 2., and (8)(i)1. and 2., (ii)2. and 3., and (iii)3., (g)(2)(iii)2.B.  
 15 and (3)(i)2., and (i), 16–402(a)(28) and (37), 18–105, 21–902(c) and (d)(1),  
 16 26–202(a)(3)(ii), 26–404(f)(2)(ii), 26–405, and 27–101(c)(24) through (26),  
 17 (f)(1)(ii) and (2), (j)(3), (4), (5), and (6), (k), and (q)  
 18 Annotated Code of Maryland  
 19 (2012 Replacement Volume and 2015 Supplement)

20 BY repealing  
 21 Article – Transportation  
 22 Section 27–101(c)(23) and (f)(4)  
 23 Annotated Code of Maryland  
 24 (2012 Replacement Volume and 2015 Supplement)

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

27 **Article – Courts and Judicial Proceedings**

28 10–302.

29 In a prosecution for a violation of a law concerning a person who is driving or  
 30 attempting to drive a vehicle in violation of § 16–113, § 16–813, or § 21–902 of the  
 31 Transportation Article, or in violation of Title 2, Subtitle 5, § 2–209, or § 3–211 of the  
 32 Criminal Law Article, a test of the person’s breath or blood may be administered for the  
 33 purpose of determining alcohol concentration and a test or tests of 1 specimen of the  
 34 person’s blood may be administered for the purpose of determining the [drug or] controlled  
 35 dangerous substance content of the person’s blood.

36 10–303.

1 (b) (1) Only 1 specimen of blood may be taken for the purpose of a test or tests  
2 for determining the [drug or] controlled dangerous substance content of the person's blood.

3 (2) For the purpose of a test or tests for determining [drug or] controlled  
4 dangerous substance content of the person's blood, the specimen of blood shall be taken  
5 within 4 hours after the person accused is apprehended.

6 10-305.

7 (b) The type of specimen obtained from the defendant for the purpose of a test or  
8 tests to determine [drug or] controlled dangerous substance content shall be a blood  
9 specimen.

10 10-306.

11 (a) (1) (ii) Subject to the provisions of § 10-308(b) of this subtitle and  
12 paragraph (2) of this subsection, in any criminal trial in which a violation of § 21-902 of  
13 the Transportation Article or a violation of Title 2, Subtitle 5, § 2-209, or § 3-211 of the  
14 Criminal Law Article is charged, a copy of a report of the results of a test or tests of blood  
15 to determine [drug or] controlled dangerous substance content signed by the technician or  
16 analyst who performed the test, is admissible as substantive evidence without the presence  
17 or testimony of the technician or analyst who performed the test.

18 10-308.

19 (a) The evidence of the analysis does not limit the introduction of other evidence  
20 bearing upon whether the defendant was under the influence of alcohol or whether the  
21 defendant was driving while impaired by alcohol, while [so far impaired by any drug,]  
22 **IMPAIRED BY** any combination of [drugs,] **CONTROLLED DANGEROUS SUBSTANCES** or  
23 a combination of one or more [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and  
24 alcohol [that the person cannot drive a vehicle safely], or while impaired by a controlled  
25 dangerous substance.

26 (b) The results of a test or tests to determine the [drug or] controlled dangerous  
27 substance content of a person's blood:

28 (1) Are admissible as evidence in a criminal trial only in a prosecution for  
29 a violation of § 21-902 of the Transportation Article, § 8-738 of the Natural Resources  
30 Article, or Title 2, Subtitle 5, § 2-209, or § 3-211 of the Criminal Law Article and only if  
31 other admissible evidence is introduced that creates an inference that the person was:

32 (i) Driving or attempting to drive while [so far] impaired by [any  
33 drug,] any combination of [drugs,] **CONTROLLED DANGEROUS SUBSTANCES** or a  
34 combination of one or more [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and alcohol  
35 [that the person could not drive a vehicle safely,] or while impaired by a controlled  
36 dangerous substance; or

1 (ii) Operating or attempting to operate a vessel while the person was  
 2 [so far] impaired by [any drug,] any combination of [drugs,] **CONTROLLED DANGEROUS**  
 3 **SUBSTANCES** or a combination of one or more [drugs] **CONTROLLED DANGEROUS**  
 4 **SUBSTANCES** and alcohol [that the person could not operate a vessel safely,] or while  
 5 impaired by a controlled dangerous substance; and

6 (2) Are not admissible in a prosecution other than a prosecution for a  
 7 violation of § 21-902 of the Transportation Article, § 8-738 of the Natural Resources  
 8 Article, or Title 2, Subtitle 5, § 2-209, or § 3-211 of the Criminal Law Article.

### 9 **Article – Criminal Law**

10 2-505.

11 (a) A person may not cause the death of another as a result of the person's  
 12 negligently driving, operating, or controlling a motor vehicle or vessel while the person is  
 13 [so far] impaired by [a drug,] a combination of [drugs,] **CONTROLLED DANGEROUS**  
 14 **SUBSTANCES** or a combination of one or more [drugs] **CONTROLLED DANGEROUS**  
 15 **SUBSTANCES** and alcohol [that the person cannot drive, operate, or control a motor vehicle  
 16 or vessel safely].

17 (b) A violation of this section is homicide by motor vehicle or vessel while impaired  
 18 by [drugs] **A COMBINATION OF CONTROLLED DANGEROUS SUBSTANCES OR A**  
 19 **COMBINATION OF ONE OR MORE CONTROLLED DANGEROUS SUBSTANCES AND**  
 20 **ALCOHOL.**

21 [(d) It is not a defense to a charge of violating this section that the person is or was  
 22 entitled under the laws of this State to use a drug, combination of drugs, or combination of  
 23 one or more drugs and alcohol, unless the person was unaware that the drug, combination  
 24 of drugs, or combination of one or more drugs and alcohol would make the person incapable  
 25 of driving, operating, or controlling a motor vehicle or vessel in a safe manner.]

26 2-507.

27 (a) An indictment, information, or other charging document for a crime under this  
 28 subtitle is sufficient if it substantially states:

29 (4) “(name of defendant) on (date) in (county) committed homicide by motor  
 30 vehicle or vessel while impaired by [drugs] **CONTROLLED DANGEROUS SUBSTANCES OR**  
 31 **ONE OR MORE CONTROLLED DANGEROUS SUBSTANCES AND ALCOHOL** by killing  
 32 (name of victim) against the peace, government, and dignity of the State.”; or

33 3-211.

1 (e) (1) A person may not cause a life-threatening injury to another as a result  
2 of the person's negligently driving, operating, or controlling a motor vehicle or vessel while  
3 the person is [so far] impaired by [a drug,] a combination of [drugs,] **CONTROLLED**  
4 **DANGEROUS SUBSTANCES** or a combination of one or more [drugs] **CONTROLLED**  
5 **DANGEROUS SUBSTANCES** and alcohol [that the person cannot drive, operate, or control  
6 a motor vehicle or vessel safely].

7 (2) A violation of this subsection is life-threatening injury by motor vehicle  
8 or vessel while impaired by [drugs] **CONTROLLED DANGEROUS SUBSTANCES OR ONE**  
9 **OR MORE CONTROLLED DANGEROUS SUBSTANCES AND ALCOHOL.**

10 3-212.

11 (a) An indictment, information, or other charging document for a crime described  
12 in § 3-211 of this subtitle is sufficient if it substantially states:

13 (4) "(name of defendant) on (date) in (county) caused a life-threatening  
14 injury to (name of victim) while impaired by [drugs,] **CONTROLLED DANGEROUS**  
15 **SUBSTANCES OR ONE OR MORE CONTROLLED DANGEROUS SUBSTANCES AND**  
16 **ALCOHOL** in violation of § 3-211(e) of the Criminal Law Article against the peace,  
17 government, and dignity of the State."; or

#### 18 Article – Natural Resources

19 8-738.

20 (A) **IN THIS SECTION, "CONTROLLED DANGEROUS SUBSTANCE" HAS THE**  
21 **MEANING STATED IN § 5-101 OF THE CRIMINAL LAW ARTICLE.**

22 [(a)] (B) Subject to subsection (g) of this section, a person may not operate or  
23 attempt to operate a vessel while the person:

24 (1) Is under the influence of alcohol;

25 (2) Is impaired by alcohol;

26 (3) Is [so far] impaired by any [drug,] combination of [drugs,]  
27 **CONTROLLED DANGEROUS SUBSTANCES** or combination of one or more [drugs]  
28 **CONTROLLED DANGEROUS SUBSTANCES** and alcohol that the person cannot operate a  
29 vessel safely; or

30 (4) Is impaired by any controlled dangerous substance[, as defined in §  
31 5-101 of the Criminal Law Article, unless the person is entitled to use the controlled  
32 dangerous substance under the laws of the State].

1           **[(b)] (C)** (1) Except as provided under paragraph (2) of this subsection, the  
2 evidentiary presumptions and procedures established under §§ 10–302 through 10–309 of  
3 the Courts Article are applicable to any violation of this section.

4           (2) If at the time of testing an individual has an alcohol concentration that  
5 meets the definition of “under the influence of alcohol per se” in § 11–174.1 of the  
6 Transportation Article, as determined by an analysis of the individual’s blood or breath, it  
7 shall be prima facie evidence that the individual was operating a vessel while under the  
8 influence of alcohol.

9           (3) Any person who operates or attempts to operate a vessel on the waters  
10 of the State is deemed to have consented, subject to §§ 10–302 through 10–309 of the Courts  
11 Article, to take a test, as defined in § 16–205.1 of the Transportation Article, if the person  
12 is detained by a police officer who has reasonable grounds to believe that the person has  
13 been operating or attempting to operate a vessel while under the influence of alcohol, while  
14 impaired by alcohol, while **[so far] impaired by [any drug,] any combination of [drugs,]**  
15 **CONTROLLED DANGEROUS SUBSTANCES** or a combination of one or more **[drugs]**  
16 **CONTROLLED DANGEROUS SUBSTANCES** and alcohol **[that the person could not operate**  
17 **the vessel safely], or while impaired by a controlled dangerous substance.**

18           **[(c)] (D)** (1) Except as provided in § 8–738.1 of this subtitle, a person may not  
19 be compelled to take a test, as defined in § 16–205.1 of the Transportation Article.

20           (2) The detaining police officer shall advise a person who is requested to  
21 take a test that, on receipt of a sworn statement from the officer that the person was  
22 requested to take a test and refused or was tested and the result indicated an alcohol  
23 concentration of 0.08 or more, the court may, on conviction and in addition to other  
24 penalties, prohibit the person from operating a vessel on the waters of the State for up to 1  
25 year.

26           **[(d)]** It is not a defense to a charge of violating subsection (a)(3) of this section that  
27 the person charged is or was entitled under the laws of this State to use the drug,  
28 combination of drugs, or combination of one or more drugs and alcohol, unless the person  
29 was unaware that the drug or combination would make the person incapable of safely  
30 operating a vessel.]

31           (e) (1) Notwithstanding any other provision of this title, a person who violates  
32 subsection **[(a)(1)] (B)(1), (3), OR (4)** of this section is guilty of a misdemeanor and upon  
33 conviction:

34                   (i) For a first offense, shall be subject to a fine of not more than  
35 \$1,000 or imprisonment for not more than 1 year or both;

36                   (ii) For a second offense, shall be subject to a fine of not more than  
37 \$2,000 or imprisonment for not more than 2 years or both; and

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

3 (2) Notwithstanding any other provision of this title, a person who violates  
4 subsection [(a)(2), (3), or (4)] **(B)(2)** of this section is guilty of a misdemeanor and upon  
5 conviction:

6 (i) For a first offense, shall be subject to a fine of not more than \$500  
7 or imprisonment for not more than 2 months or both; and

8 (ii) For a second or subsequent offense, shall be subject to a fine of  
9 not more than \$1,000 or imprisonment of not more than 1 year or both.

10 (3) Notwithstanding any other provision of this title, the court may  
11 prohibit a person convicted of a violation of subsection [(a)(1)] **(B)(1)** of this section from  
12 operating a vessel on the waters of the State for up to 1 year if the person:

13 (i) Refused to take a test, as defined in § 16–205.1 of the  
14 Transportation Article, when requested by a police officer under subsection [(b)(3)] **(C)(3)**  
15 of this section; or

16 (ii) Was tested and the result indicated an alcohol concentration of  
17 0.08 or more.

18 (f) If a person is charged with a violation of this section, the court may find the  
19 person guilty of any lesser included offense under any subsection of this section.

20 (g) This section applies to the following:

21 (1) A vessel required to be registered with the Department under this  
22 subtitle;

23 (2) A vessel required to have a valid number awarded in accordance with a  
24 federal law or a federally approved numbering system of another state; and

25 (3) A vessel from a foreign country using the waters of this State.

## 26 Article – Transportation

### 27 11–109.1.

28 “CONTROLLED DANGEROUS SUBSTANCE” HAS THE MEANING STATED IN §  
29 5–101 OF THE CRIMINAL LAW ARTICLE.

30 16–205.

(a) (1) The Administration may revoke the license of any person who:

[(1)] (I) Is convicted under § 21–902(a), (C), or (d) of this article of driving or attempting to drive a motor vehicle while under the influence of alcohol, while under the influence of alcohol per se, **WHILE IMPAIRED BY CONTROLLED DANGEROUS SUBSTANCES OR ONE OR MORE CONTROLLED DANGEROUS SUBSTANCES AND ALCOHOL**, or while impaired by a controlled dangerous substance; or

[(2)] (II) Within a 3–year period, is convicted under § 21–902(b) [or (c)] of this article of driving or attempting to drive a motor vehicle while impaired by alcohol [or while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a vehicle safely] and who was previously convicted of any combination of two or more violations under:

[(i)] 1. § 21–902(a) of this article of driving or attempting to drive a motor vehicle while under the influence of alcohol or while under the influence of alcohol per se;

[(ii)] 2. § 21–902(b) of this article of driving or attempting to drive a motor vehicle while impaired by alcohol;

[(iii)] 3. § 21–902(c) of this article of driving or attempting to drive a motor vehicle while [so far] impaired by [any drug,] any combination of [drugs,] **CONTROLLED DANGEROUS SUBSTANCES** or a combination of one or more [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and alcohol [that the person cannot drive a vehicle safely]; or

[(iv)] 4. § 21–902(d) of this article of driving or attempting to drive a motor vehicle while impaired by a controlled dangerous substance.

(2) (I) **THE ADMINISTRATION SHALL SUSPEND THE LICENSE OF ANY PERSON WHO IS CONVICTED UNDER § 21–902(C) OF THIS ARTICLE OF DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WHILE IMPAIRED BY A COMBINATION OF CONTROLLED DANGEROUS SUBSTANCES OR ONE OR MORE CONTROLLED DANGEROUS SUBSTANCES AND ALCOHOL OR § 21–902(D) OF THIS ARTICLE OF DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE FOR:**

1. **90 DAYS FOR A FIRST CONVICTION; AND**

2. **180 DAYS FOR A SECOND OR SUBSEQUENT CONVICTION.**



1                   **(II) FOR THE PURPOSE OF THE SUBSEQUENT OFFENDER**  
2 **PENALTIES UNDER THIS PARAGRAPH, A PRIOR CONVICTION FOR § 21-902(C) OR (D)**  
3 **OF THIS ARTICLE SHALL BE CONSIDERED A PRIOR CONVICTION FOR § 21-902(C) OR**  
4 **(D) OF THIS ARTICLE.**

5                   **(III) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS**  
6 **PARAGRAPH, A SUSPENSION UNDER THIS PARAGRAPH SHALL REMAIN IN EFFECT**  
7 **UNTIL THE PERSON SUBMITS PROOF OF SUCCESSFUL COMPLETION OF THE MENTAL**  
8 **HEALTH ASSESSMENT AND THE SUBSTANCE ABUSE EDUCATION PROGRAM OR AN**  
9 **APPROPRIATE DRUG TREATMENT PROGRAM REQUIRED BY A COURT UNDER §**  
10 **27-101(J)(6) OF THIS ARTICLE.**

11           (b)     The Administration:

12                   (1)     Shall revoke the license of any person who has been convicted, under  
13 Title 2, Subtitle 5 of the Criminal Law Article, of homicide by a motor vehicle while under  
14 the influence of alcohol, impaired by alcohol, or impaired by [any drug,] any combination  
15 of [drugs,] **CONTROLLED DANGEROUS SUBSTANCES OR** a combination of one or more  
16 [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and alcohol, or **IMPAIRED BY** a  
17 controlled dangerous substance; and

18                   (c)     Subject to subsection (d-1) of this section, the Administration may suspend  
19 for not more than 60 days the license of any person who is convicted under § 21-902(b) [or  
20 (c)] of this article [of driving or attempting to drive a motor vehicle while impaired by  
21 alcohol or while so far impaired by any drug, any combination of drugs, or a combination of  
22 one or more drugs and alcohol that the person cannot drive a vehicle safely].

23     16-205.1.

24                   (a)     (2)     Any person who drives or attempts to drive a motor vehicle on a  
25 highway or on any private property that is used by the public in general in this State is  
26 deemed to have consented, subject to the provisions of §§ 10-302 through 10-309, inclusive,  
27 of the Courts and Judicial Proceedings Article, to take a test if the person should be  
28 detained on suspicion of driving or attempting to drive while under the influence of alcohol,  
29 while impaired by alcohol, while [so far] impaired by [any drug,] any combination of  
30 [drugs,] **CONTROLLED DANGEROUS SUBSTANCES** or a combination of one or more  
31 [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and alcohol [that the person could not  
32 drive a vehicle safely], while impaired by a controlled dangerous substance, in violation of  
33 an alcohol restriction, or in violation of § 16-813 of this title.

34                   (b)     (2)     Except as provided in subsection (c) of this section, if a police officer  
35 stops or detains any person who the police officer has reasonable grounds to believe is or  
36 has been driving or attempting to drive a motor vehicle while under the influence of alcohol,  
37 while impaired by alcohol, while [so far] impaired by [any drug,] any combination of  
38 [drugs,] **CONTROLLED DANGEROUS SUBSTANCES** or a combination of one or more

1 [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and alcohol [that the person could not  
2 drive a vehicle safely], while impaired by a controlled dangerous substance, in violation of  
3 an alcohol restriction, or in violation of § 16–813 of this title, and who is not unconscious or  
4 otherwise incapable of refusing to take a test, the police officer shall:

5 (i) Detain the person;

6 (ii) Request that the person permit a test to be taken;

7 (iii) Advise the person of the administrative sanctions that shall be  
8 imposed for test results indicating an alcohol concentration of at least 0.08 but less than  
9 0.15 at the time of testing;

10 (iv) Advise the person of the administrative sanctions, including  
11 ineligibility for modification of a suspension or issuance of a restrictive license unless the  
12 person participates in the Ignition Interlock System Program under § 16–404.1 of this title,  
13 that shall be imposed for refusal to take the test and for test results indicating an alcohol  
14 concentration of 0.15 or more at the time of testing; and

15 (v) Advise the person of the additional criminal penalties that may  
16 be imposed under § 27–101(x) of this article on conviction of a violation of § 21–902 of this  
17 article if the person knowingly refused to take a test arising out of the same circumstances  
18 as the violation.

19 (3) If the person refuses to take the test or takes a test which results in an  
20 alcohol concentration of 0.08 or more at the time of testing, the police officer shall:

21 (viii) Within 72 hours after the issuance of the order of suspension,  
22 send any confiscated driver's license, copy of the suspension order, and a sworn statement  
23 to the Administration, that states:

24 1. The officer had reasonable grounds to believe that the  
25 person had been driving or attempting to drive a motor vehicle on a highway or on any  
26 private property that is used by the public in general in this State while under the influence  
27 of alcohol, while impaired by alcohol, while [so far] impaired by [any drug,] any  
28 combination of [drugs,] **CONTROLLED DANGEROUS SUBSTANCES** or a combination of one  
29 or more [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and alcohol [that the person  
30 could not drive a vehicle safely], while impaired by a controlled dangerous substance, in  
31 violation of an alcohol restriction, or in violation of § 16–813 of this title;

32 (c) (1) If a person is involved in a motor vehicle accident that results in the  
33 death of, or a life threatening injury to, another person and the person is detained by a  
34 police officer who has reasonable grounds to believe that the person has been driving or  
35 attempting to drive while under the influence of alcohol, while impaired by alcohol, while  
36 [so far] impaired by [any drug,] any combination of [drugs,] **CONTROLLED DANGEROUS**  
37 **SUBSTANCES** or a combination of one or more [drugs] **CONTROLLED DANGEROUS**

1 **SUBSTANCES** and alcohol [that the person could not drive a vehicle safely], while impaired  
2 by a controlled dangerous substance, or in violation of § 16–813 of this title, the person shall  
3 be required to submit, as directed by the officer, to a test of:

4 (i) The person’s breath to determine alcohol concentration;

5 (ii) One specimen of the person’s blood, to determine alcohol  
6 concentration or to determine the [drug or] controlled dangerous substance content of the  
7 person’s blood; or

8 (iii) Both the person’s breath under item (i) of this paragraph and one  
9 specimen of the person’s blood under item (ii) of this paragraph.

10 (d) (1) If a police officer has reasonable grounds to believe that a person has  
11 been driving or attempting to drive a motor vehicle while under the influence of alcohol,  
12 while impaired by alcohol, while [so far] impaired by [any drug,] any combination of  
13 [drugs,] **CONTROLLED DANGEROUS SUBSTANCES** or a combination of one or more  
14 [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and alcohol [that the person could not  
15 drive a vehicle safely], while impaired by a controlled dangerous substance, or in violation  
16 of § 16–813 of this title, and if the police officer determines that the person is unconscious  
17 or otherwise incapable of refusing to take a test, the police officer shall:

18 (i) Obtain prompt medical attention for the person;

19 (ii) If necessary, arrange for removal of the person to a nearby  
20 medical facility; and

21 (iii) If a test would not jeopardize the health or well-being of the  
22 person, direct a qualified medical person to withdraw blood for a test.

23 (f) (1) Subject to the provisions of this subsection, at the time of, or within 30  
24 days from the date of, the issuance of an order of suspension, a person may submit a written  
25 request for a hearing before an officer of the Administration if:

26 (i) The person is arrested for driving or attempting to drive a motor  
27 vehicle while under the influence of alcohol, while impaired by alcohol, while [so far]  
28 impaired by [any drug,] any combination of [drugs,] **CONTROLLED DANGEROUS**  
29 **SUBSTANCES** or a combination of one or more [drugs] **CONTROLLED DANGEROUS**  
30 **SUBSTANCES** and alcohol [that the person could not drive a vehicle safely], while impaired  
31 by a controlled dangerous substance, in violation of an alcohol restriction, or in violation of  
32 § 16–813 of this title; and

33 (7) (i) At a hearing under this section, the person has the rights  
34 described in § 12–206 of this article, but at the hearing the only issues shall be:

1                   1.       Whether the police officer who stops or detains a person  
2 had reasonable grounds to believe the person was driving or attempting to drive while  
3 under the influence of alcohol, while impaired by alcohol, while [so far] impaired by [any  
4 drug,] any combination of [drugs,] **CONTROLLED DANGEROUS SUBSTANCES** or a  
5 combination of one or more [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and alcohol  
6 [that the person could not drive a vehicle safely], while impaired by a controlled dangerous  
7 substance, in violation of an alcohol restriction, or in violation of § 16–813 of this title;

8                   2.       Whether there was evidence of the use by the person of  
9 alcohol, [any drug,] any combination of [drugs,] **CONTROLLED DANGEROUS**  
10 **SUBSTANCES OR** a combination of one or more [drugs] **CONTROLLED DANGEROUS**  
11 **SUBSTANCES** and alcohol, or a controlled dangerous substance;

12                   (8)   (i)     After a hearing, the Administration shall suspend or revoke the  
13 driver’s license or privilege to drive of the person charged under subsection (b) or (c) of this  
14 section if:

15                   1.       The police officer who stopped or detained the person had  
16 reasonable grounds to believe the person was driving or attempting to drive while under  
17 the influence of alcohol, while impaired by alcohol, while [so far] impaired by [any drug,]  
18 any combination of [drugs,] **CONTROLLED DANGEROUS SUBSTANCES** or a combination  
19 of one or more [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and alcohol [that the  
20 person could not drive a vehicle safely], while impaired by a controlled dangerous  
21 substance, in violation of an alcohol restriction, or in violation of § 16–813 of this title;

22                   2.       There was evidence of the use by the person of alcohol,  
23 [any drug,] any combination of [drugs,] **CONTROLLED DANGEROUS SUBSTANCES**, a  
24 combination of one or more [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and  
25 alcohol, or a controlled dangerous substance;

26                   (ii)    After a hearing, the Administration shall disqualify the person  
27 from driving a commercial motor vehicle if:

28                   2.       The police officer who stopped or detained the person had  
29 reasonable grounds to believe that the person was driving or attempting to drive while  
30 under the influence of alcohol, while impaired by alcohol, while [so far] impaired by [any  
31 drug,] any combination of [drugs,] **CONTROLLED DANGEROUS SUBSTANCES** or a  
32 combination of one or more [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and alcohol  
33 [that the person could not drive a vehicle safely], while impaired by a controlled dangerous  
34 substance, in violation of an alcohol restriction, or in violation of § 16–813 of this title;

35                   3.       There was evidence of the use by the person of alcohol,  
36 [any drug,] any combination of [drugs] **CONTROLLED DANGEROUS SUBSTANCES**, a  
37 combination of one or more [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and  
38 alcohol, or a controlled dangerous substance;

1 (iii) If the person is licensed to drive a commercial motor vehicle or  
2 holds a commercial instructional permit, the Administration shall disqualify the person in  
3 accordance with subparagraph (ii) of this paragraph, but may not impose a suspension  
4 under subparagraph (i) of this paragraph, if:

5 3. The police officer did not have reasonable grounds to  
6 believe the driver was driving while under the influence of alcohol, driving while impaired  
7 by alcohol, while [so far] impaired by [any drug,] any combination of [drugs,]  
8 **CONTROLLED DANGEROUS SUBSTANCES** or a combination of one or more [drugs]  
9 **CONTROLLED DANGEROUS SUBSTANCES** and alcohol [that the person could not drive a  
10 vehicle safely], or while impaired by a controlled dangerous substance; and

11 (g) (2) A person who initially refuses to take a test may withdraw the initial  
12 refusal and subsequently consent to take the test if the subsequent consent:

13 (iii) Is given by the person:

14 2. B. For the purpose of a test for determining the [drug  
15 or] controlled dangerous substance content of the person's blood, within 4 hours of the  
16 person's apprehension.

17 (3) In determining whether a person has withdrawn an initial refusal for  
18 the purposes of paragraph (1) of this subsection, among the factors that the Administration  
19 shall consider are the following:

20 (i) Whether the test would have been administered properly:

21 2. For the purpose of a test for determining the [drug or]  
22 controlled dangerous substance content of the person's blood, within 4 hours of the person's  
23 apprehension;

24 (i) Notwithstanding any other provision of this section, a test for [drug or]  
25 controlled dangerous substance content under this section:

26 (1) May not be requested as described under subsection (b) of this section,  
27 required as described under subsection (c) of this section, or directed as described under  
28 subsection (d) of this section, by a police officer unless the law enforcement agency of which  
29 the officer is a member has the capacity to have such tests conducted;

30 (2) May only be requested as described under subsection (b) of this section,  
31 required as described under subsection (c) of this section, or directed as described under  
32 subsection (d) of this section, by a police officer who is a trainee, has been trained, or is  
33 participating directly or indirectly in a program of training that is:

1 (i) Designed to train and certify police officers as drug recognition  
2 experts; and

3 (ii) Conducted by a law enforcement agency of the State, or any  
4 county, municipal, or other law enforcement agency in the State described in items (3)(i)  
5 through 12 of this subsection:

6 1. In conjunction with the National Highway Traffic Safety  
7 Administration; or

8 2. As a program of training of police officers as drug  
9 recognition experts that contains requirements for successful completion of the training  
10 program that are the substantial equivalent of the requirements of the Drug Recognition  
11 Training Program developed by the National Highway Traffic Safety Administration; and

12 (3) May only be requested as described under subsection (b) of this section,  
13 required as described under subsection (c) of this section, or directed as described under  
14 subsection (d) of this section:

15 (i) In the case of a police officer who is a trainee, or who is  
16 participating directly or indirectly in a program of training described in paragraph (2) of  
17 this subsection, if the police officer is a member of, and is designated as a trainee or a  
18 participant by the head of:

19 1. The Department of State Police;

20 2. The Baltimore City Police Department;

21 3. A police department, bureau, or force of a county;

22 4. A police department, bureau, or force of an incorporated  
23 city or town;

24 5. The Maryland Transit Administration Police Force;

25 6. The Maryland Port Administration Police Force of the  
26 Department of Transportation;

27 7. The Maryland Transportation Authority Police Force;

28 8. The Police Force of the University of Maryland or Morgan  
29 State University;

30 9. The police force for a State university or college under the  
31 direction and control of the University System of Maryland;

32 10. A sheriff's department of any county or Baltimore City;

1 11. The Natural Resources Police Force or the Forest and Park  
2 Service Police Force of the Department of Natural Resources; or

3 12. The Maryland Capitol Police of the Department of General  
4 Services; or

5 (ii) In the case of a police officer who has been trained as a drug  
6 recognition expert, if the police officer is a member of, and certified as a drug recognition  
7 expert by the head of one of the law enforcement agencies described in items (3)(i)1 through  
8 12 of this subsection.

9 16-402.

10 (a) After the conviction of an individual for a violation of Title 2, Subtitle 5, §  
11 2-209, § 3-211, or § 10-110 of the Criminal Law Article, or of the vehicle laws or regulations  
12 of this State or of any local authority, points shall be assessed against the individual as of  
13 the date of violation and as follows:

14 (28) Driving while impaired by alcohol [or while impaired by a drug,  
15 combination of drugs, or a combination of one or more drugs and alcohol,] or driving within  
16 12 hours after arrest under § 21-902.1 of this article..... 8 points

17 (37) Driving while under the influence of alcohol, while under the influence  
18 of alcohol per se, **WHILE IMPAIRED BY A COMBINATION OF CONTROLLED DANGEROUS**  
19 **SUBSTANCES OR A COMBINATION OF ONE OR MORE CONTROLLED DANGEROUS**  
20 **SUBSTANCES AND ALCOHOL**, or while impaired by an illegally used controlled dangerous  
21 substance.....12 points

22 18-105.

23 (a) A person may not rent a motor vehicle to any other person if he knows that  
24 the other person is under the influence of alcohol, impaired by alcohol, impaired by [a drug,]  
25 a combination of [drugs,] **CONTROLLED DANGEROUS SUBSTANCES** or a combination of  
26 one or more [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and alcohol, or impaired  
27 by a controlled dangerous substance.

28 (b) A person may not rent a motor vehicle to any other person if the person knows  
29 that an individual who will drive the rented vehicle is under the influence of alcohol,  
30 impaired by alcohol, impaired by [a drug,] a combination of [drugs,] **CONTROLLED**  
31 **DANGEROUS SUBSTANCES** or a combination of one or more [drugs] **CONTROLLED**  
32 **DANGEROUS SUBSTANCES** and alcohol, or impaired by a controlled dangerous substance.

33 21-902.

1 (c) (1) A person may not drive or attempt to drive any vehicle while [he] **THE**  
2 **PERSON** is [so far] impaired by [any drug,] any combination of [drugs,] **CONTROLLED**  
3 **DANGEROUS SUBSTANCES** or a combination of one or more [drugs] **CONTROLLED**  
4 **DANGEROUS SUBSTANCES** and alcohol [that he cannot drive a vehicle safely].

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

9 (3)] A person may not violate paragraph (1) of this subsection while  
10 transporting a minor.

11 (d) (1) A person may not drive or attempt to drive any vehicle while the person  
12 is impaired by any controlled dangerous substance, as that term is defined in § 5–101 of  
13 the Criminal Law Article[, if the person is not entitled to use the controlled dangerous  
14 substance under the laws of this State].

15 26–202.

16 (a) A police officer may arrest without a warrant a person for a violation of the  
17 Maryland Vehicle Law, including any rule or regulation adopted under it, or for a violation  
18 of any traffic law or ordinance of any local authority of this State, if:

19 (3) The officer has probable cause to believe that the person has committed  
20 the violation, and the violation is any of the following offenses:

21 (ii) Driving or attempting to drive while impaired by [any drug,] any  
22 combination of [drugs,] **CONTROLLED DANGEROUS SUBSTANCES** or any combination of  
23 one or more [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and alcohol or while  
24 impaired by any controlled dangerous substance;

25 26–404.

26 (f) A guaranteed arrest bond certificate may not be accepted:

27 (2) To guarantee the appearance of any person in a court of this State, if  
28 the offense charged is:

29 (ii) Driving or attempting to drive while impaired by [any drug,] any  
30 combination of [drugs,] **CONTROLLED DANGEROUS SUBSTANCES** or any combination of  
31 one or more [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and alcohol or while  
32 impaired by any controlled dangerous substance; or

33 26–405.



1 If a person is charged with a violation of § 21–901.1 of this article (“Reckless and  
2 negligent driving”) or § 21–902 of this article (“Driving while under the influence of alcohol,  
3 while under the influence of alcohol per se, while impaired by alcohol, or while impaired by  
4 [a drug,] a combination of [drugs] **CONTROLLED DANGEROUS SUBSTANCES**, a  
5 combination of one or more [drugs] **CONTROLLED DANGEROUS SUBSTANCES** and  
6 alcohol, or while impaired by a controlled dangerous substance”), the court may find the  
7 person guilty of any lesser included offense under any subsection of the respective section.

8 27–101.

9 (c) Any person who is convicted of a violation of any of the provisions of the  
10 following sections of this article is subject to a fine of not more than \$500 or imprisonment  
11 for not more than 2 months or both:

12 [(23) Except as provided in subsections (f) and (q) of this section, § 21–902(c)  
13 (“Driving while impaired by drugs or drugs and alcohol”);]

14 [(24) **(23)** § 21–902.1 (“Driving within 12 hours after arrest”);

15 [(25) **(24)** Title 21, Subtitle 10A (“Towing or Removal of Vehicles from  
16 Parking Lots”); or

17 [(26) **(25)** § 27–107(d), (e), (f), or (g) (“Prohibited acts — Ignition interlock  
18 systems”).

19 (f) (1) A person is subject to a fine not exceeding \$500 or imprisonment not  
20 exceeding 1 year or both, if the person is convicted of:

21 (ii) Except as provided in subsection (q) of this section, a second  
22 violation of[:

23 1.] § 21–902(b) of this article (“Driving while impaired by  
24 alcohol”)[; or

25 2. § 21–902(c) of this article (“Driving while impaired by  
26 drugs or drugs and alcohol”)].

27 (2) Except as provided in subsection (q) of this section, a person who is  
28 convicted of a third or subsequent violation of § 21–902(b) [or (c)] of this article is subject  
29 to a fine not exceeding \$3,000 or imprisonment not exceeding 3 years or both.

30 [(4) Except as provided in subsection (q) of this section, for the purpose of  
31 second or subsequent offender penalties for a violation of § 21–902(c) of this article provided  
32 under paragraphs (1) and (2) of this subsection, a prior conviction of § 21–902(a), (b), or (d)  
33 of this article shall be considered a conviction of § 21–902(c) of this article.]

1           (j)    **(3) (I)**    A PERSON WHO IS CONVICTED OF A VIOLATION OF §  
2 **21-902(C)** OF THIS ARTICLE WITHIN 5 YEARS AFTER A PRIOR CONVICTION UNDER  
3 THAT SUBSECTION IS SUBJECT TO A MANDATORY MINIMUM PENALTY OF  
4 IMPRISONMENT FOR NOT LESS THAN 5 DAYS.

5                               **(II)**    A PERSON WHO IS CONVICTED OF A THIRD OR SUBSEQUENT  
6 OFFENSE UNDER § **21-902(C)** OF THIS ARTICLE WITHIN 5 YEARS IS SUBJECT TO A  
7 MANDATORY MINIMUM PENALTY OF IMPRISONMENT FOR NOT LESS THAN 10 DAYS.

8           **[(3)] (4)**    (i)    A person who is convicted of a violation of § 21-902(d) of  
9 this article within 5 years after a prior conviction under that subsection is subject to a  
10 mandatory minimum penalty of imprisonment for not less than 5 days.

11                               (ii)    A person who is convicted of a third or subsequent offense under  
12 § 21-902(d) of this article within 5 years is subject to a mandatory minimum penalty of  
13 imprisonment for not less than 10 days.

14           **[(4)] (5)**    A person who is convicted of an offense under § 21-902(a) of this  
15 article within 5 years of a prior conviction of any offense under that subsection shall be  
16 required by the court to:

17                               (i)    Undergo a comprehensive alcohol abuse assessment; and

18                               (ii)    If recommended at the conclusion of the assessment, participate  
19 in an alcohol program as ordered by the court that is:

20                                       1.    Certified by the Department of Health and Mental  
21 Hygiene;

22                                       2.    Certified by an agency in an adjacent state that has  
23 powers and duties similar to the Department of Health and Mental Hygiene; or

24                                       3.    Approved by the court.

25           **[(5)] (6)**    A person who is convicted of an offense under § **[21-902(d)]**  
26 **21-902(C) OR (D)** of this article **[within 5 years of a prior conviction of any offense under**  
27 **that subsection]** shall be required by the court to:

28                               (i)    Undergo a comprehensive drug abuse assessment **AND MENTAL**  
29 **HEALTH ASSESSMENT**; and

30                               (ii)    If recommended at the conclusion of the assessment, participate  
31 in a **SUBSTANCE ABUSE EDUCATION PROGRAM OR AN APPROPRIATE** drug  
32 **TREATMENT** program as ordered by the court that is:

- 1                   1.     Certified by the Department of Health and Mental  
2 Hygiene;
- 3                   2.     Certified by an agency in an adjacent state that has  
4 powers and duties similar to the Department of Health and Mental Hygiene; or
- 5                   3.     Approved by the court.

6                   **(7) FOR THE PURPOSE OF THE SUBSEQUENT OFFENDER PENALTIES**  
7 **FOR A VIOLATION OF § 21-902(C) OR (D) OF THIS ARTICLE PROVIDED UNDER THIS**  
8 **SUBSECTION, A PRIOR CONVICTION FOR § 21-902(C) OR (D) OF THIS ARTICLE SHALL**  
9 **BE CONSIDERED A PRIOR CONVICTION.**

10                   **[(6)] (8)**     The penalties provided by this subsection are mandatory and are  
11 not subject to suspension or probation.

12                   (k)    (1)     Except as provided in subsection (q) of this section, any person who is  
13 convicted of a violation of any of the provisions of § 21-902(a) of this article (“Driving while  
14 under the influence of alcohol or under the influence of alcohol per se”), **§ 21-902(C) OF**  
15 **THIS ARTICLE (“DRIVING WHILE IMPAIRED BY CONTROLLED DANGEROUS**  
16 **SUBSTANCES OR CONTROLLED DANGEROUS SUBSTANCES AND ALCOHOL”),** or §  
17 21-902(d) of this article (“Driving while impaired by controlled dangerous substance”):

18                           (i)     For a first offense, shall be subject to a fine of not more than  
19 \$1,000, or imprisonment for not more than 1 year, or both;

20                           (ii)    For a second offense, shall be subject to a fine of not more than  
21 \$2,000, or imprisonment for not more than 2 years, or both; and

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

24                   (2)     For the purpose of second or subsequent offender penalties for violation  
25 of § 21-902(a) of this article provided under this subsection, a prior conviction under §  
26 **[21-902(b)] 21-902(A), (B), (c), or (d)** of this article, within 5 years of the conviction for a  
27 violation of § 21-902(a) of this article, shall be considered a conviction under § 21-902(a) of  
28 this article.

29                   **(3) FOR THE PURPOSE OF SECOND OR SUBSEQUENT OFFENDER**  
30 **PENALTIES FOR A VIOLATION OF § 21-902(C) OF THIS ARTICLE PROVIDED UNDER**  
31 **THIS SUBSECTION, A PRIOR CONVICTION UNDER § 21-902(A), (B), (C), OR (D) OF THIS**  
32 **ARTICLE, WITHIN 5 YEARS OF THE CONVICTION FOR A VIOLATION OF § 21-902(C) OF**  
33 **THIS ARTICLE, SHALL BE CONSIDERED A PRIOR CONVICTION.**

34                   **[(3)] (4)**     For the purpose of second or subsequent offender penalties for  
35 violation of § 21-902(d) of this article provided under this subsection, a prior conviction

1 under § 21-902(a), (b), [or] (c), **OR (D)** of this article, within 5 years of the conviction for a  
2 violation of § 21-902(d) of this article, shall be considered a conviction under § 21-902(d) of  
3 this article.

4 (q) (1) Any person who is convicted of a violation of § 21-902(a)(3), **(C)(2)**, or  
5 (d)(2) of this article is subject to:

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

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

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

12 (2) Any person who is convicted of a violation of § 21-902(b)(2) [or (c)(3)] of  
13 this article is subject to:

14 (i) For a first offense, a fine of not more than \$1,000 or  
15 imprisonment for not more than 6 months or both;

16 (ii) For a second offense, a fine of not more than \$2,000 or  
17 imprisonment for not more than 1 year or both; and

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

20 (3) For the purpose of determining second or subsequent offender penalties  
21 provided under this subsection, a prior conviction of any provision of § 21-902 of this article  
22 that subjected a person to the penalties under this subsection shall be considered a prior  
23 conviction.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2016.