SENATE BILL 296

R3, E1 8lr0123 CF HB 349

By: The President (By Request - Administration) and Senators Bates, Cassilly, Eckardt, Edwards, Hershey, Hough, Jennings, Klausmeier, Mathias, Norman, Ready, Reilly, Serafini, and Simonaire

Introduced and read first time: January 22, 2018

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 27, 2018

1 AN ACT concerning

Vehicle Laws – Drunk and Drugged Driving – Subsequent Offenders – Felonies
 (Repeat Drunk Driving Offenders Act of 2018)

- 4 FOR the purpose of increasing certain penalties for drunk and drugged driving offenses for individuals who have been convicted previously of certain other crimes under certain 5 circumstances; making certain drunk and drugged driving offenses felonies; 6 7 establishing that the District Court and circuit courts have concurrent jurisdiction 8 over certain drunk and drugged driving offenses; requiring certain procedures; 9 prohibiting an individual from committing a certain drunk or drugged driving offense if the individual has been convicted previously for certain other crimes under 10 certain circumstances; making a violation of this Act a felony; establishing certain 11 penalties; making certain conforming changes; and generally relating to drunk and 12 13 drugged driving.
- 14 BY repealing and reenacting, with amendments,
- 15 Article Courts and Judicial Proceedings
- 16 Section 4-301(b)(24) and (25) and 4-302(a) and (d)(1)
- 17 Annotated Code of Maryland
- 18 (2013 Replacement Volume and 2017 Supplement)
- 19 BY adding to
- 20 Article Courts and Judicial Proceedings
- 21 Section 4-301(b)(26)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

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



$\frac{1}{2}$	Annotated Code of Maryland (2013 Replacement Volume and 2017 Supplement)			
3	BY repealing and reenacting, without amendments,			
4	Article – Transportation			
5	Section 1–101(c)			
6	Annotated Code of Maryland			
7	(2015 Replacement Volume and 2017 Supplement)			
8	BY repealing and reenacting, with amendments,			
9	Article - Transportation			
0	Section 21–902			
1	Annotated Code of Maryland			
12	(2012 Replacement Volume and 2017 Supplement)			
13 14	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:			
5	Article - Courts and Judicial Proceedings			
6	4-301.			
17	(b) Except as provided in § 4-302 of this subtitle, the District Court also has			
8	exclusive original jurisdiction in a criminal case in which a person at least 18 years old or			
9	a corporation is charged with:			
20	(24) Violation of § 11–721 of the Criminal Procedure Article as a second or			
21	subsequent offense; [or]			
22	(25) Violation of § 11–303(b) of the Criminal Law Article; OR			
23	(26) VIOLATION OF § 21 902 OF THE TRANSPORTATION ARTICLE			
24	THAT IS PUNISHABLE UNDER § 21–902(H) OF THE TRANSPORTATION ARTICLE.			
25	4–302.			
26	(a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13), (14),			
27	(15), (16), (17), (18), (19), (20), (21), (22), (23), (24), [and] (25), AND (26) of this subtitle, the			
28	District Court does not have jurisdiction to try a criminal case charging the commission of			
29	a felony.			
30	(d) (1) Except as provided in paragraph (2) of this subsection, the jurisdiction			
31	of the District Court is concurrent with that of the circuit court in a criminal case:			
32	(i) In which the penalty may be confinement for 3 years or more or			
33	a fine of \$2.500 or more: or			

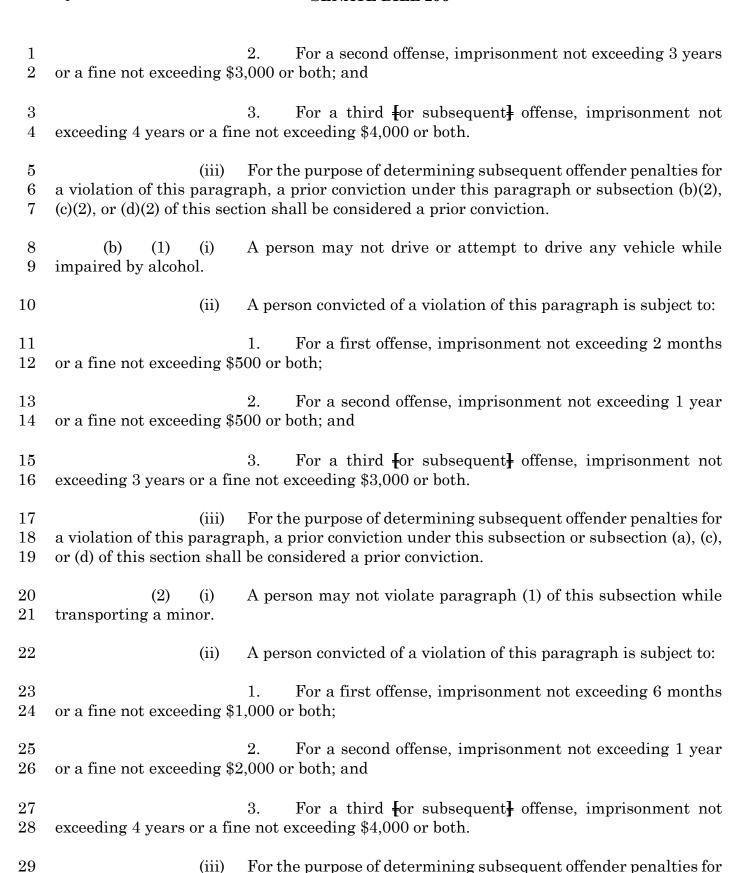
1 2 3	(ii) (11), (12), (13), (14), (15) of this subtitle.	That is a felony, as provided in § 4–301(b)(2), (6), (7), (8), (9), (10), (16), (17), (18), (19), (20), (21), (22), (23), (24), [and] (25), AND (26)
4		Article - Transportation
5	1–101.	
6	(c) "Any state	" means:
7	(1) Any	state, possession, or territory of the United States;
8	(2) The	District of Columbia; and
9	(3) The	Commonwealth of Puerto Rico.
10	21–902.	
11 12	(a) (1) (i) under the influence of a	A person may not drive or attempt to drive any vehicle while llcohol.
13 14	(ii) person is under the infl	A person may not drive or attempt to drive any vehicle while the uence of alcohol per se.
15	(iii)	A person convicted of a violation of this paragraph is subject to:
16 17	a fine not exceeding \$1,	1. For a first offense, imprisonment not exceeding 1 year or 000 or both;
18 19	or a fine not exceeding	2. For a second offense, imprisonment not exceeding 2 years \$2,000 or both; and
20 21	exceeding 3 years or a f	3. For a third for subsequent offense, imprisonment not ine not exceeding \$3,000 or both.
22 23 24 25		For the purpose of determining subsequent offender penalties for graph, a prior conviction under this subsection or subsection (b), (c), thin 5 years before the conviction for a violation of this paragraph, itor conviction.
26 27	(2) (i) transporting a minor.	A person may not violate paragraph (1) of this subsection while
28	(ii)	A person convicted of a violation of this paragraph is subject to:
29		1. For a first offense, imprisonment not exceeding 2 years or

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a fine not exceeding \$2,000 or both;

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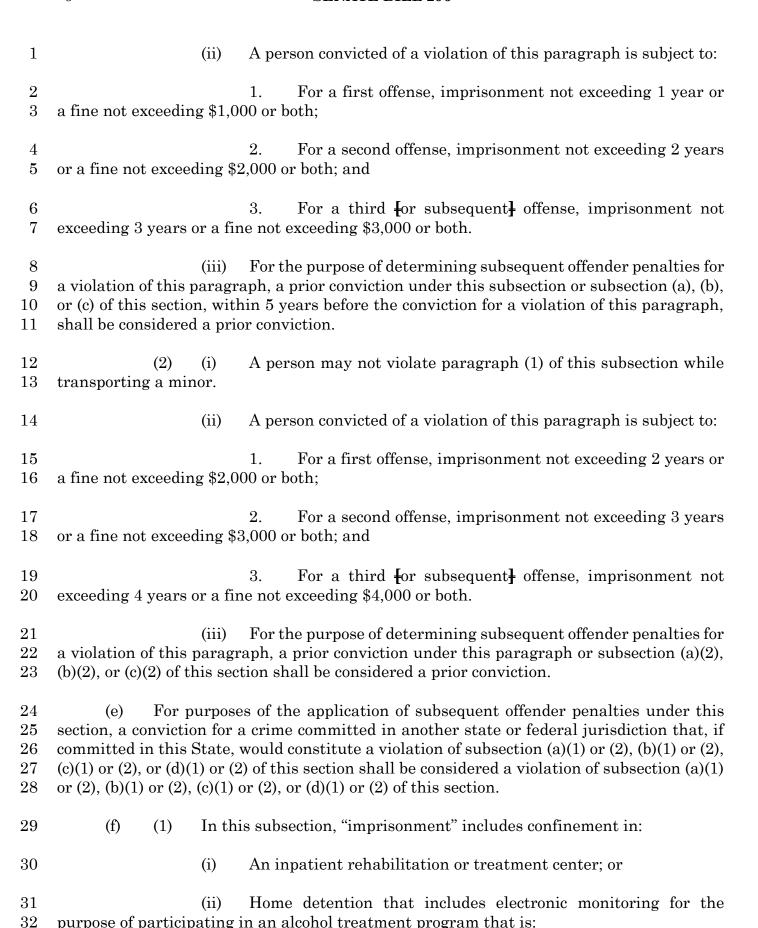
a violation of this paragraph, a prior conviction under this paragraph or subsection (a)(2),

(c)(2), or (d)(2) of this section shall be considered a prior conviction.

- 1 (c) (1) A person may not drive or attempt to drive any vehicle while so (i) 2 far impaired by any drug, any combination of drugs, or a combination of one or more drugs 3 and alcohol that the person cannot drive a vehicle safely. 4 (ii) A person convicted of a violation of this paragraph is subject to: 5 For a first offense, imprisonment not exceeding 2 months or a fine not exceeding \$500 or both; 6 7 For a second offense, imprisonment not exceeding 1 year or a fine not exceeding \$500 or both; and 8 9 3. For a third for subsequent offense, imprisonment not 10 exceeding 3 years or a fine not exceeding \$3,000 or both. 11 (iii) For the purpose of determining subsequent offender penalties for 12 a violation of this paragraph, a prior conviction under this subsection or subsection (a), (b), 13 or (d) of this section shall be considered a prior conviction. 14 It is not a defense to any charge of violating this subsection that the person charged is or was entitled under the laws of this State to use the drug, 15 combination of drugs, or combination of one or more drugs and alcohol, unless the person 16 17 was unaware that the drug or combination would make the person incapable of safely 18 driving a vehicle. 19 (2)(i) A person may not violate paragraph (1) of this subsection while 20transporting a minor. 21A person convicted of a violation of this paragraph is subject to: (ii) 22For a first offense, imprisonment not exceeding 6 months 1. 23or a fine not exceeding \$1,000 or both; 24For a second offense, imprisonment not exceeding 1 year or a fine not exceeding \$2,000 or both; and 2526 3. For a third for subsequent offense, imprisonment not exceeding 4 years or a fine not exceeding \$4,000 or both. 27 28 (iii) For the purpose of determining subsequent offender penalties for 29 a violation of this paragraph, a prior conviction under this paragraph or subsection (a)(2),
- 31 (d) (1) (i) A person may not drive or attempt to drive any vehicle while the 32 person is impaired by any controlled dangerous substance, as that term is defined in § 33 5–101 of the Criminal Law Article, if the person is not entitled to use the controlled 34 dangerous substance under the laws of this State.

(b)(2), or (d)(2) of this section shall be considered a prior conviction.

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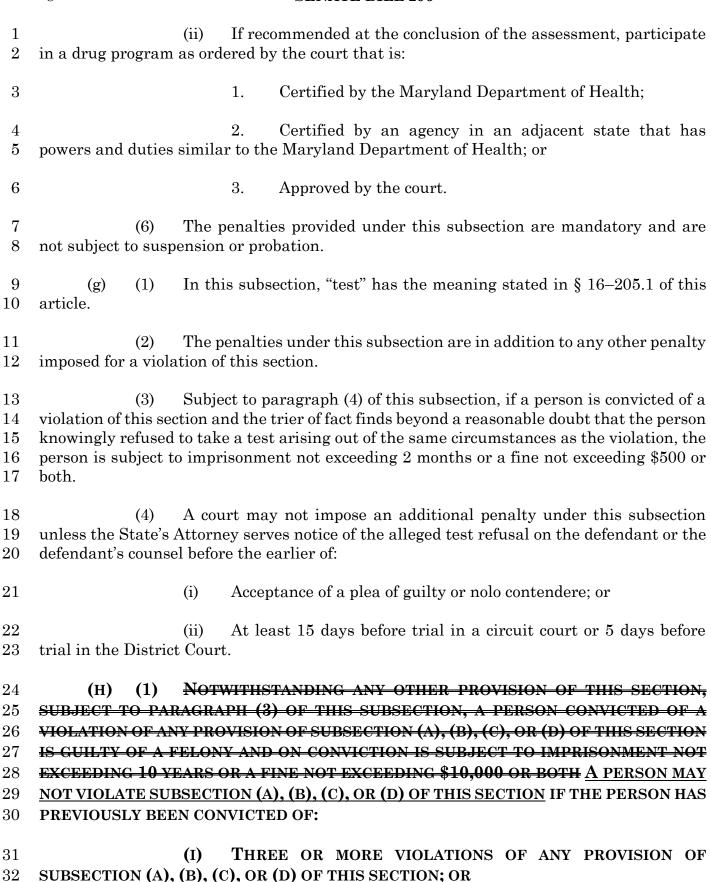


1	1. Certified by the Maryland Department of Health;
2 3	2. Certified by an agency in an adjacent state that has powers and duties similar to the Maryland Department of Health; or
4	3. Approved by the court.
5 6 7	(2) (i) A person who is convicted of a violation of subsection (a) of this section within 5 years after a prior conviction under that subsection is subject to a mandatory minimum penalty of imprisonment for not less than 5 days.
8 9 10	(ii) A person who is convicted of a third or subsequent offense under subsection (a) of this section within 5 years after a prior conviction under that subsection is subject to a mandatory minimum penalty of imprisonment for not less than 10 days.
11 12 13	(3) (i) A person who is convicted of a violation of subsection (d) of this section within 5 years after a prior conviction under that subsection is subject to a mandatory minimum penalty of imprisonment for not less than 5 days.
14 15 16	(ii) A person who is convicted of a third or subsequent offense under subsection (d) of this section within 5 years after a prior conviction under that subsection is subject to a mandatory minimum penalty of imprisonment for not less than 10 days.
17 18 19	(4) A person who is convicted of an offense under subsection (a) of this section within 5 years after a prior conviction under that subsection shall be required by the court to:
20	(i) Undergo a comprehensive alcohol abuse assessment; and
21 22	(ii) If recommended at the conclusion of the assessment, participate in an alcohol program as ordered by the court that is:
23	1. Certified by the Maryland Department of Health;
24 25	2. Certified by an agency in an adjacent state that has powers and duties similar to the Maryland Department of Health; or
26	3. Approved by the court.
27 28 29	(5) A person who is convicted of an offense under subsection (d) of this section within 5 years after a prior conviction under that subsection shall be required by the court to:

Undergo a comprehensive drug abuse assessment; and

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(i)



1 2	(II) A VIOLATION OF § 2–209, § 2–210, § 2–503, § 2–504, § 2–505, § 2–506, OR § 3–211 OF THE CRIMINAL LAW ARTICLE.
3	(2) FOR PURPOSES OF THIS SUBSECTION, A CONVICTION FOR A
4	CRIME UNDER THE LAWS OF ANY STATE OR THE UNITED STATES THAT WOULD BE A
5	CRIME INCLUDED IN PARAGRAPH (1) OF THIS SUBSECTION IF COMMITTED IN THIS
6	STATE SHALL BE CONSIDERED A PRIOR CONVICTION UNDER THIS SUBSECTION.
7	(3) IF A PROSECUTING ATTORNEY INTENDS TO SEEK THE
8	ADDITIONAL PENALTIES PROVIDED IN THIS SUBSECTION, THE PROSECUTING
9	ATTORNEY SHALL HAVE THE DEFENDANT CHARGED BY INFORMATION OR
10	INDICTMENT.
11	(4) A COURT MAY NOT IMPOSE THE ADDITIONAL PENALTIES UNDER
12	THIS SUBSECTION UNLESS THE PROSECUTING ATTORNEY SERVES NOTICE OF THE
13	ALLEGED PRIOR CONVICTIONS ON THE DEFENDANT OR THE DEFENDANT'S COUNSEL
14	BEFORE THE EARLIER OF:
15	(I) ACCEPTANCE OF A PLEA OF GUILTY OR NOLO CONTENDERE
16	Θ R
17	(II) AT LEAST 15 DAYS BEFORE TRIAL IN A CIRCUIT COURT OR 5
18	DAYS BEFORE TRIAL IN THE DISTRICT COURT A PERSON WHO VIOLATES THIS
19	SUBSECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO
20	IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR
21	BOTH.
22 23	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.
	Approved:
	Governor.
	President of the Senate.
	Speaker of the House of Delegates.