

Department of Legislative Services  
Maryland General Assembly  
2024 Session

FISCAL AND POLICY NOTE  
Third Reader

House Bill 1406  
Judiciary

(Delegate Roberson)

Judicial Proceedings

---

Vehicle Laws - Drunk and Drugged Driving - Points Assessments

---

This bill specifies that the Motor Vehicle Administration (MVA) must assess 12 points against the driver's license of a person convicted of a violation of § 21-902(h) or § 21 902(i) of the Transportation Article. Accordingly, the bill requires MVA to revoke the driver's license of a person convicted of either offense, unless a specified exception applies. **The bill takes effect June 1, 2024.**

---

Fiscal Summary

**State Effect:** MVA can implement the bill with existing budgeted resources. Otherwise, the bill is not expected to materially affect State finances or operations.

**Local Effect:** The bill does not materially affect local government operations or finances.

**Small Business Effect:** Minimal.

---

Analysis

**Current Law:** Under § 21-902(a)-(d) of the Transportation Article, a person may not drive or attempt to drive any vehicle while (1) under the influence of alcohol or under the influence of alcohol *per se*; (2) impaired by alcohol; (3) impaired by a drug, any combination of drugs, or any combination of drugs and alcohol; or (4) impaired by a controlled dangerous substance (CDS). Additionally, a person may not commit any of these offenses while transporting a minor.

A person convicted of one of the above offenses is subject to higher maximum penalties when that person has specified prior convictions. **Exhibit 1** displays the maximum incarceration and monetary penalties that may be imposed for alcohol and drug-related driving offenses.

---

**Exhibit 1**  
**Current Maximum Penalties for Alcohol and/or Drug-related Driving Offenses**

**Driving Under the Influence of Alcohol, Under the Influence *Per Se*, or  
While Impaired by a CDS**

First Offense	1 year imprisonment and/or fine of \$1,000
Second Offense	2 years imprisonment and/or fine of \$2,000
Third Offense	5 years imprisonment and/or fine of \$5,000
Fourth or Subsequent Offense	10 years imprisonment and/or fine of \$10,000

**Driving Under the Influence of Alcohol, Under the Influence *Per Se*, or  
While Impaired by a CDS While Transporting a Minor**

First Offense	2 years imprisonment and/or fine of \$2,000
Second Offense	3 years imprisonment and/or fine of \$3,000
Third Offense	5 years imprisonment and/or fine of \$5,000
Fourth or Subsequent Offense	10 years imprisonment and/or fine of \$10,000

**Driving While Impaired by Alcohol or While Impaired by a Drug, a Combination of  
Drugs, or a Combination of One or More Drugs and Alcohol**

First Offense	2 months imprisonment and/or fine of \$500
Second Offense	1 year imprisonment and/or fine of \$500
Third Offense	5 years imprisonment and/or fine of \$5,000
Fourth or Subsequent Offense	10 years imprisonment and/or fine of \$10,000

**Driving While Impaired by Alcohol or While Impaired by a Drug, a Combination of  
Drugs, or a Combination of One or More Drugs and Alcohol While  
Transporting a Minor**

First Offense	1 year imprisonment and/or fine of \$1,000
Second Offense	2 years imprisonment and/or fine of \$2,000
Third Offense	5 years imprisonment and/or fine of \$5,000
Fourth or Subsequent Offense	10 years imprisonment and/or fine of \$10,000

CDS: controlled dangerous substance

Notes: All listed offenses are misdemeanors. Additionally, for the offense of driving under the influence of alcohol, under the influence *per se*, or while impaired by a CDS, a repeat conviction or convictions within five years requires a mandatory minimum penalty of imprisonment from 5 to 10 days.

Source: Department of Legislative Services

---

### *Transportation Article § 21-902(h)*

A person violates § 21-902(h) of the Transportation Article if the person commits any of the offenses set forth in § 21-902(a)-(d) and has two or more prior convictions under those provisions, § 8-738 of the Natural Resources Article (drunk or drugged boating), or equivalent federal offenses. A violator is guilty of a misdemeanor and on conviction is subject to imprisonment for up to five years and/or a maximum fine of \$5,000.

### *Transportation Article § 21-902(i)*

A person violates § 21-902(i) of the Transportation Article if the person commits any of the offenses set forth in § 21-902(a)-(d) and has three or more prior convictions under those provisions; § 8-738 of the Natural Resources Article (drunk or drugged boating); specified provisions addressing homicide, manslaughter, or life-threatening injury by motor vehicle or vessel; or equivalent federal offenses. A violator is guilty of a misdemeanor and on conviction is subject to imprisonment for up to 10 years and/or a maximum fine of \$10,000.

### *Subsequent Offenders*

Under Maryland Rule 4-245, when the law permits but does not mandate additional penalties because of a specified previous conviction, a court may not sentence a defendant as a subsequent offender unless the State's Attorney serves notice of the alleged prior conviction on the defendant or defendant's counsel. The notice must be served before the acceptance of a guilty plea or plea of *nolo contendere*, or at least 15 days before trial in circuit court or 5 days before trial in the District Court, whichever is earlier. Before sentencing and after giving the defendant a chance to be heard, the court must determine whether the defendant is a subsequent offender.

### *Administrative Penalties*

A person who commits an alcohol or drug-related driving offense is also subject to a points assessment by MVA on the person's driver's license. For a conviction of driving while under the influence of alcohol or under the influence of alcohol *per se* or while impaired by a CDS, MVA must assess 12 points against the driver's license, and the license is subject to revocation. For a conviction of driving while impaired by alcohol, a drug, combination of drugs, or combination of one or more drugs and alcohol, MVA must assess 8 points against the driver's license, and the license is subject to suspension. A driver who accumulates 8 or 12 points against their driver's license within a two-year period is subject to license suspension or revocation, respectively.

**Additional Comments:** As previously mentioned, a driver convicted of violating § 21 902(a)-(d) is subject to a points assessment by MVA of either 8 or 12 points,

depending on the offense committed. However, the Maryland State's Attorneys' Association advises that, due to a lack of specificity in statute regarding points assessments (which is addressed by this bill), MVA is unable to assess points to the driver's licenses of certain drivers convicted of violating § 21-902(h) or § 21-902(i) of the Transportation Article.

---

### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Maryland Department of Transportation; Maryland State's Attorneys' Association; Department of Legislative Services

**Fiscal Note History:** First Reader - February 28, 2024  
km/aad Third Reader - March 14, 2024

---

Analysis by: Ralph W. Kettell

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510