

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 388
Judiciary

(Delegates Roberson and Crutchfield)

Judicial Proceedings

Vehicle Laws - Drunk and Drugged Driving - Points Assessments

This bill requires the Motor Vehicle Administration (MVA) to 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 also requires MVA to revoke the driver's license of a person convicted of either offense. **The bill takes effect June 1, 2025.**

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 finances or operations.

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 \$1,200
Second Offense	2 years imprisonment and/or fine of \$2,400
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 \$1,200
Second Offense	2 years imprisonment and/or fine of \$2,400
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.

Although MVA must revoke a person's driver's license if the person accumulates 12 points, a limited exception to this requirement exists. When a person's license is

revoked, MVA is required to provide notice of the revocation by mail and advise the person of their right to file, within 10 days of the notice being sent, a written request for an administrative hearing. With specified exceptions, at the time a hearing is held, §16-405 of the Transportation Article authorizes a hearing officer to decline, cancel, or modify a revocation if the revocation would adversely affect the person's employment or opportunities for employment.

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 advised in a July 2023 memorandum 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 been introduced within the last three years. See HB 1406 of 2024.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Transportation; Department of Legislative Services

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