

HOUSE BILL 1364

R3

6lr2127
CF 6lr3455

By: **Delegates Smith, B. Wilson, Cluster, and Rosenberg**

Introduced and read first time: February 12, 2016

Assigned to: Judiciary

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.

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

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

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

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

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

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

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

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

31 1. **90 DAYS FOR A FIRST CONVICTION; AND**

32 2. **180 DAYS FOR A SECOND OR SUBSEQUENT**
33 **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.