

# SENATE BILL 163

R3, E1

9lr0154  
CF 9lr0155

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By: **The President (By Request – Administration) and Senators Bailey, Carozza, Cassilly, Eckardt, Edwards, Gallion, Hershey, Hough, Jennings, Ready, Salling, Serafini, Simonaire, and West**  
Introduced and read first time: January 21, 2019  
Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Drunk and Drugged Driving – Subsequent Offenders – Felonies**  
3 **(Repeat Drunk Driving Offenders Act of 2019)**

4 FOR the purpose of prohibiting an individual from committing a certain drunk or drugged  
5 driving offense if the individual has been convicted previously for certain other  
6 crimes under certain circumstances; making a violation of this Act a felony;  
7 establishing certain penalties; establishing that the District Court and circuit courts  
8 have concurrent jurisdiction over certain drunk and drugged driving offenses;  
9 making certain conforming changes; and generally relating to drunk and drugged  
10 driving.

11 BY repealing and reenacting, with amendments,  
12 Article – Courts and Judicial Proceedings  
13 Section 4–301(b)(24) and (25) and 4–302(a) and (d)(1)  
14 Annotated Code of Maryland  
15 (2013 Replacement Volume and 2018 Supplement)

16 BY adding to  
17 Article – Courts and Judicial Proceedings  
18 Section 4–301(b)(26)  
19 Annotated Code of Maryland  
20 (2013 Replacement Volume and 2018 Supplement)

21 BY repealing and reenacting, without amendments,  
22 Article – Transportation  
23 Section 1–101(a) and (c)  
24 Annotated Code of Maryland  
25 (2015 Replacement Volume and 2018 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – Transportation  
3 Section 21–902  
4 Annotated Code of Maryland  
5 (2012 Replacement Volume and 2018 Supplement)

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

8 **Article – Courts and Judicial Proceedings**

9 4–301.

10 (b) Except as provided in § 4–302 of this subtitle, the District Court also has  
11 exclusive original jurisdiction in a criminal case in which a person at least 18 years old or  
12 a corporation is charged with:

13 (24) Violation of § 11–721 of the Criminal Procedure Article as a second or  
14 subsequent offense; [or]

15 (25) Violation of § 11–303(b) of the Criminal Law Article; **OR**

16 **(26) VIOLATION OF § 21–902(H) OF THE TRANSPORTATION ARTICLE.**

17 4–302.

18 (a) Except as provided in § 4–301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13), (14),  
19 (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), [and] (25), **AND (26)** of this subtitle, the  
20 District Court does not have jurisdiction to try a criminal case charging the commission of  
21 a felony.

22 (d) (1) Except as provided in paragraph (2) of this subsection, the jurisdiction  
23 of the District Court is concurrent with that of the circuit court in a criminal case:

24 (i) In which the penalty may be confinement for 3 years or more or  
25 a fine of \$2,500 or more; or

26 (ii) That is a felony, as provided in § 4–301(b)(2), (6), (7), (8), (9), (10),  
27 (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), [and] (25), **AND (26)**  
28 of this subtitle.

29 **Article – Transportation**

30 1–101.

1 (a) In this article the following words have the meanings indicated.

2 (c) "Any state" means:

3 (1) Any state, possession, or territory of the United States;

4 (2) The District of Columbia; and

5 (3) The Commonwealth of Puerto Rico.

6 21-902.

7 (a) (1) (i) A person may not drive or attempt to drive any vehicle while  
8 under the influence of alcohol.

9 (ii) A person may not drive or attempt to drive any vehicle while the  
10 person is under the influence of alcohol per se.

11 (iii) A person convicted of a violation of this paragraph is subject to:

12 1. For a first offense, imprisonment not exceeding 1 year or  
13 a fine not exceeding \$1,000 or both;

14 2. For a second offense, imprisonment not exceeding 2 years  
15 or a fine not exceeding \$2,000 or both; and

16 3. For a third or subsequent offense, imprisonment not  
17 exceeding 3 years or a fine not exceeding \$3,000 or both.

18 (iv) For the purpose of determining subsequent offender penalties for  
19 a violation of this paragraph, a prior conviction under this subsection or subsection (b), (c),  
20 or (d) of this section, within 5 years before the conviction for a violation of this paragraph,  
21 shall be considered a prior conviction.

22 (2) (i) A person may not violate paragraph (1) of this subsection while  
23 transporting a minor.

24 (ii) A person convicted of a violation of this paragraph is subject to:

25 1. For a first offense, imprisonment not exceeding 2 years or  
26 a fine not exceeding \$2,000 or both;

27 2. For a second offense, imprisonment not exceeding 3 years  
28 or a fine not exceeding \$3,000 or both; and

29 3. For a third or subsequent offense, imprisonment not  
30 exceeding 4 years or a fine not exceeding \$4,000 or both.

1 (iii) For the purpose of determining subsequent offender penalties for  
2 a violation of this paragraph, a prior conviction under this paragraph or subsection (b)(2),  
3 (c)(2), or (d)(2) of this section shall be considered a prior conviction.

4 (b) (1) (i) A person may not drive or attempt to drive any vehicle while  
5 impaired by alcohol.

6 (ii) A person convicted of a violation of this paragraph is subject to:

7 1. For a first offense, imprisonment not exceeding 2 months  
8 or a fine not exceeding \$500 or both;

9 2. For a second offense, imprisonment not exceeding 1 year  
10 or a fine not exceeding \$500 or both; and

11 3. For a third or subsequent offense, imprisonment not  
12 exceeding 3 years or a fine not exceeding \$3,000 or both.

13 (iii) For the purpose of determining subsequent offender penalties for  
14 a violation of this paragraph, a prior conviction under this subsection or subsection (a), (c),  
15 or (d) of this section shall be considered a prior conviction.

16 (2) (i) A person may not violate paragraph (1) of this subsection while  
17 transporting a minor.

18 (ii) A person convicted of a violation of this paragraph is subject to:

19 1. For a first offense, imprisonment not exceeding 6 months  
20 or a fine not exceeding \$1,000 or both;

21 2. For a second offense, imprisonment not exceeding 1 year  
22 or a fine not exceeding \$2,000 or both; and

23 3. For a third or subsequent offense, imprisonment not  
24 exceeding 4 years or a fine not exceeding \$4,000 or both.

25 (iii) For the purpose of determining subsequent offender penalties for  
26 a violation of this paragraph, a prior conviction under this paragraph or subsection (a)(2),  
27 (c)(2), or (d)(2) of this section shall be considered a prior conviction.

28 (c) (1) (i) A person may not drive or attempt to drive any vehicle while so  
29 far impaired by any drug, any combination of drugs, or a combination of one or more drugs  
30 and alcohol that the person cannot drive a vehicle safely.

31 (ii) A person convicted of a violation of this paragraph is subject to:

1                   1.     For a first offense, imprisonment not exceeding 2 months  
2 or a fine not exceeding \$500 or both;

3                   2.     For a second offense, imprisonment not exceeding 1 year  
4 or a fine not exceeding \$500 or both; and

5                   3.     For a third or subsequent offense, imprisonment not  
6 exceeding 3 years or a fine not exceeding \$3,000 or both.

7                   (iii)   For the purpose of determining subsequent offender penalties for  
8 a violation of this paragraph, a prior conviction under this subsection or subsection (a), (b),  
9 or (d) of this section shall be considered a prior conviction.

10                  (iv)   It is not a defense to any charge of violating this subsection that  
11 the person charged is or was entitled under the laws of this State to use the drug,  
12 combination of drugs, or combination of one or more drugs and alcohol, unless the person  
13 was unaware that the drug or combination would make the person incapable of safely  
14 driving a vehicle.

15                  (2)   (i)     A person may not violate paragraph (1) of this subsection while  
16 transporting a minor.

17                  (ii)    A person convicted of a violation of this paragraph is subject to:

18                   1.     For a first offense, imprisonment not exceeding 6 months  
19 or a fine not exceeding \$1,000 or both;

20                   2.     For a second offense, imprisonment not exceeding 1 year  
21 or a fine not exceeding \$2,000 or both; and

22                   3.     For a third or subsequent offense, imprisonment not  
23 exceeding 4 years or a fine not exceeding \$4,000 or both.

24                  (iii)   For the purpose of determining subsequent offender penalties for  
25 a violation of this paragraph, a prior conviction under this paragraph or subsection (a)(2),  
26 (b)(2), or (d)(2) of this section shall be considered a prior conviction.

27                  (d)   (1)   (i)     A person may not drive or attempt to drive any vehicle while the  
28 person is impaired by any controlled dangerous substance, as that term is defined in §  
29 5–101 of the Criminal Law Article, if the person is not entitled to use the controlled  
30 dangerous substance under the laws of this State.

31                  (ii)    A person convicted of a violation of this paragraph is subject to:

32                   1.     For a first offense, imprisonment not exceeding 1 year or  
33 a fine not exceeding \$1,000 or both;

1                                   2.     For a second offense, imprisonment not exceeding 2 years  
2 or a fine not exceeding \$2,000 or both; and

3                                   3.     For a third or subsequent offense, imprisonment not  
4 exceeding 3 years or a fine not exceeding \$3,000 or both.

5                                   (iii)   For the purpose of determining subsequent offender penalties for  
6 a violation of this paragraph, a prior conviction under this subsection or subsection (a), (b),  
7 or (c) of this section, within 5 years before the conviction for a violation of this paragraph,  
8 shall be considered a prior conviction.

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

11                                   (ii)   A person convicted of a violation of this paragraph is subject to:

12                                   1.     For a first offense, imprisonment not exceeding 2 years or  
13 a fine not exceeding \$2,000 or both;

14                                   2.     For a second offense, imprisonment not exceeding 3 years  
15 or a fine not exceeding \$3,000 or both; and

16                                   3.     For a third or subsequent offense, imprisonment not  
17 exceeding 4 years or a fine not exceeding \$4,000 or both.

18                                   (iii)   For the purpose of determining subsequent offender penalties for  
19 a violation of this paragraph, a prior conviction under this paragraph or subsection (a)(2),  
20 (b)(2), or (c)(2) of this section shall be considered a prior conviction.

21                                   (e)    For purposes of the application of subsequent offender penalties under this  
22 section, a conviction for a crime committed in another state or federal jurisdiction that, if  
23 committed in this State, would constitute a violation of subsection (a)(1) or (2), (b)(1) or (2),  
24 (c)(1) or (2), or (d)(1) or (2) of this section shall be considered a violation of subsection (a)(1)  
25 or (2), (b)(1) or (2), (c)(1) or (2), or (d)(1) or (2) of this section.

26                                   (f)    (1)    In this subsection, "imprisonment" includes confinement in:

27                                   (i)    An inpatient rehabilitation or treatment center; or

28                                   (ii)   Home detention that includes electronic monitoring for the  
29 purpose of participating in an alcohol treatment program that is:

30                                   1.     Certified by the Maryland Department of Health;

31                                   2.     Certified by an agency in an adjacent state that has  
32 powers and duties similar to the Maryland Department of Health; or







1 October 1, 2019.