

HOUSE BILL 371

R3

7lr0170
CF SB 312

By: **The Speaker (By Request – Administration) and Delegates Adams, Afzali, Arentz, Aumann, Beitzel, Carozza, Cassilly, Ciliberti, Clark, Cluster, Flanagan, Folden, Ghrist, Grammer, Hornberger, Jacobs, Kipke, Kittleman, Krebs, Long, Malone, Mautz, McComas, McConkey, McKay, McMillan, Metzgar, Miele, Parrott, Reilly, Rey, Rose, Saab, Simonaire, Szeliga, Vogt, West, B. Wilson, and Wivell**

Introduced and read first time: January 25, 2017

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2017

CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws – Drunk and Drugged Driving – Subsequent Offenders – ~~Felonies~~**
3 **(Repeat Drunk Driving Offenders Act of 2017)**

4 FOR the purpose of increasing certain penalties for drunk and drugged driving offenses for
5 individuals who have been convicted previously for certain other crimes under
6 certain circumstances; ~~making certain drunk and drugged driving offenses felonies;~~
7 ~~establishing that the District Court and circuit courts have concurrent jurisdiction~~
8 ~~over certain drunk and drugged driving offenses~~ requiring a certain notice; making
9 certain conforming changes; providing for the application of certain provisions of this
10 Act; providing for the effective date of this Act; and generally relating to drunk and
11 drugged driving.

12 BY repealing and reenacting, with amendments,
13 Article – Courts and Judicial Proceedings
14 Section 4–301(b)(24) and (25) and 4–302(a) and (d)(1)
15 Annotated Code of Maryland
16 (2013 Replacement Volume and 2016 Supplement)

17 BY adding to
18 Article – Courts and Judicial Proceedings

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

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



Section 4–301(b)(26)
Annotated Code of Maryland
(2013 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 1–101(c)
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 27–101(f), (k), and (q)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

BY adding to
Article – Transportation
Section 27–116
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

BY adding to
Article – Transportation
Section 21–902(h)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)
(As enacted by Chapter (S.B. 165) of the Acts of the General Assembly of 2017)

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

Article – Courts and Judicial Proceedings

4–301.

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

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

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

**(26) VIOLATION OF § 21–902 OF THE TRANSPORTATION ARTICLE
THAT IS PUNISHABLE UNDER § 27–116 OF THE TRANSPORTATION ARTICLE.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
2 as follows:

3 **Article – Courts and Judicial Proceedings**

4 4–302.

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

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

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

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

16 **Article – Transportation**

17 1–101.

18 (c) “Any state” means:

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

20 (2) The District of Columbia; and

21 (3) The Commonwealth of Puerto Rico.

22 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
23 as follows:

24 **Article – Transportation**

25 27–101.

26 (f) (1) A person is subject to a fine not exceeding \$500 or imprisonment not
27 exceeding 1 year or both, if the person is convicted of:

28 (i) A violation of § 14–103 of this article (“Possession of motor
29 vehicle master key”); or

(ii) Except as provided in subsection (q) of this section, a second violation of:

1. § 21-902(b) of this article ("Driving while impaired by alcohol"); or

2. § 21-902(c) of this article ("Driving while impaired by drugs or drugs and alcohol").

(2) Except as provided in subsection (q) of this section, a person who is convicted of a third ~~for subsequent~~ violation of § 21-902(b) or (c) of this article is subject to a fine not exceeding \$3,000 or imprisonment not exceeding 3 years or both.

(3) Except as provided in subsection (q) of this section, for the purpose of second or ~~subsequent~~ ~~THIRD~~ offender penalties for a violation of § 21-902(b) of this article provided under paragraphs (1) and (2) of this subsection, a prior conviction of § 21-902(a), (c), or (d) of this article shall be considered a conviction of § 21-902(b) of this article.

(4) Except as provided in subsection (q) of this section, for the purpose of second or ~~subsequent~~ ~~THIRD~~ offender penalties for a violation of § 21-902(c) of this article provided under paragraphs (1) and (2) of this subsection, a prior conviction of § 21-902(a), (b), or (d) of this article shall be considered a conviction of § 21-902(c) of this article.

(5) ~~A~~ NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, A PERSON CONVICTED OF A VIOLATION OF § 21-902(B) OR (C) OF THIS ARTICLE WHO HAS THREE OR MORE PRIOR CONVICTIONS FOR VIOLATIONS OF ANY PROVISION OF § 21-902 OF THIS ARTICLE IS SUBJECT TO THE PENALTIES PROVIDED UNDER § 27-116 OF THIS TITLE.

(k) (1) Except as provided in subsection (q) of this section, any person who is convicted of a violation of any of the provisions of § 21-902(a) of this article ("Driving while under the influence of alcohol or under the influence of alcohol per se") or § 21-902(d) of this article ("Driving while impaired by controlled dangerous substance"):

(i) For a first offense, shall be subject to a fine of not more than \$1,000, or imprisonment for not more than 1 year, or both;

(ii) For a second offense, shall be subject to a fine of not more than \$2,000, or imprisonment for not more than 2 years, or both; and

(iii) For a third ~~for subsequent~~ offense, shall be subject to a fine of not more than \$3,000, or imprisonment for not more than 3 years, or both.

(2) For the purpose of second or ~~subsequent~~ ~~THIRD~~ offender penalties for violation of § 21-902(a) of this article provided under this subsection, a prior conviction

under § 21-902(b), (c), or (d) of this article, within 5 years of the conviction for a violation of § 21-902(a) of this article, shall be considered a conviction under § 21-902(a) of this article.

(3) For the purpose of second or ~~subsequent~~ ~~THIRD~~ offender penalties for violation of § 21-902(d) of this article provided under this subsection, a prior conviction under § 21-902(a), (b), or (c) of this article, within 5 years of the conviction for a violation of § 21-902(d) of this article, shall be considered a conviction under § 21-902(d) of this article.

(4) ~~A~~ NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, A PERSON CONVICTED OF A VIOLATION OF § 21-902(A) OR (D) OF THIS ARTICLE WHO HAS THREE OR MORE PRIOR CONVICTIONS FOR VIOLATIONS OF ANY PROVISION OF § 21-902 OF THIS ARTICLE IS SUBJECT TO THE PENALTIES PROVIDED UNDER § 27-116 OF THIS TITLE.

(q) (1) Any person who is convicted of a violation of § 21-902(a)(3) or (d)(2) of this article is subject to:

(i) For a first offense, a fine of not more than \$2,000 or imprisonment for not more than 2 years or both;

(ii) For a second offense, a fine of not more than \$3,000 or imprisonment for not more than 3 years or both; and

(iii) For a third ~~for subsequent~~ offense, a fine of not more than \$4,000 or imprisonment for not more than 4 years or both.

(2) Any person who is convicted of a violation of § 21-902(b)(2) or (c)(3) of this article is subject to:

(i) For a first offense, a fine of not more than \$1,000 or imprisonment for not more than 6 months or both;

(ii) For a second offense, a fine of not more than \$2,000 or imprisonment for not more than 1 year or both; and

(iii) For a third ~~for subsequent~~ offense, a fine of not more than \$4,000 or imprisonment for not more than 4 years or both.

(3) For the purpose of determining second or ~~subsequent~~ ~~THIRD~~ offender penalties provided under this subsection, a prior conviction of any provision of § 21-902 of this article that subjected a person to the penalties under this subsection shall be considered a prior conviction.

(4) ~~A~~ NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, A PERSON CONVICTED OF A VIOLATION OF § 21-902(A)(3), (B)(2), (C)(3), OR (D)(2) OF THIS ARTICLE WHO HAS THREE OR MORE PRIOR CONVICTIONS UNDER § 21-902 OF THIS ARTICLE IS SUBJECT TO THE PENALTIES PROVIDED UNDER § 27-116 OF THIS TITLE.

27-116.

(A) ~~A SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PERSON WHO VIOLATES~~ CONVICTED OF A VIOLATION OF ANY PROVISION OF § 21-902 OF THIS ARTICLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH IF THE PERSON HAS PREVIOUSLY BEEN CONVICTED OF:

(1) THREE OR MORE VIOLATIONS OF ANY PROVISION OF § 21-902 OF THIS ARTICLE; OR

(2) A VIOLATION OF § 2-209, § 2-210, § 2-503, § 2-504, § 2-505, § 2-506, OR § 3-211 OF THE CRIMINAL LAW ARTICLE.

(B) FOR THE PURPOSES OF THIS SECTION, A CONVICTION FOR A CRIME UNDER THE LAWS OF ANY STATE OR THE UNITED STATES THAT WOULD BE A CRIME INCLUDED IN SUBSECTION (A) OF THIS SECTION IF COMMITTED IN THIS STATE SHALL BE CONSIDERED A PRIOR CONVICTION UNDER SUBSECTION (A) OF THIS SECTION.

(C) A COURT MAY NOT IMPOSE AN ADDITIONAL PENALTY UNDER THIS SUBSECTION UNLESS THE STATE'S ATTORNEY SERVES NOTICE OF THE ALLEGED PRIOR CONVICTIONS ON THE DEFENDANT OR THE DEFENDANT'S COUNSEL BEFORE THE ACCEPTANCE OF A PLEA OF GUILTY OR NOLO CONTENDERE OR AT LEAST 15 DAYS BEFORE TRIAL IN A CIRCUIT COURT OR 5 DAYS BEFORE TRIAL IN THE DISTRICT COURT, WHICHEVER IS EARLIER.

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

4-301.

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

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

(25) Violation of § 11-303(b) of the Criminal Law Article; OR

(26) VIOLATION OF § 21-902 OF THE TRANSPORTATION ARTICLE THAT IS PUNISHABLE UNDER § 21-902(H) OF THE TRANSPORTATION ARTICLE.

Article – Transportation

21-902.

(H) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A PERSON CONVICTED OF A VIOLATION OF ANY PROVISION OF SUBSECTION (A), (B), (C), OR (D) OF THIS SECTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH IF THE PERSON HAS PREVIOUSLY BEEN CONVICTED OF:

(I) THREE OR MORE VIOLATIONS OF ANY PROVISION OF SUBSECTION (A), (B), (C), OR (D) OF THIS SECTION; OR

(II) A VIOLATION OF § 2-209, § 2-210, § 2-503, § 2-504, § 2-505, § 2-506, OR § 3-211 OF THE CRIMINAL LAW ARTICLE.

(2) FOR PURPOSES OF THIS SUBSECTION, A CONVICTION FOR A CRIME UNDER THE LAWS OF ANY STATE OR THE UNITED STATES THAT WOULD BE A CRIME INCLUDED IN PARAGRAPH (1) OF THIS SUBSECTION IF COMMITTED IN THIS STATE SHALL BE CONSIDERED A PRIOR CONVICTION UNDER THIS SUBSECTION.

(3) A COURT MAY NOT IMPOSE AN ADDITIONAL PENALTY UNDER THIS SUBSECTION UNLESS THE STATE'S ATTORNEY SERVES NOTICE OF THE ALLEGED PRIOR CONVICTIONS ON THE DEFENDANT OR THE DEFENDANT'S COUNSEL BEFORE THE ACCEPTANCE OF A PLEA OF GUILTY OR NOLO CONTENDERE OR AT LEAST 15 DAYS BEFORE TRIAL IN A CIRCUIT COURT OR 5 DAYS BEFORE TRIAL IN THE DISTRICT COURT, WHICHEVER IS EARLIER.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect on the taking effect of Chapter (S.B. 165) of the Acts of the General Assembly of 2017. If Chapter (S.B.165) does not take effect, Section 4 of this Act shall be null and void without the necessity of further action by the General Assembly. If Section 4 of this~~

1 Act takes effect, Sections 1 and 3 shall be null and void without the necessity of further
2 action by the General Assembly.

3 SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of
4 Section 5 of this Act, this Act shall take effect October 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.