

SENATE BILL 312

R3

7lr0148
CF 7lr0170

By: **The President (By Request – Administration) and Senators Bates, Brochin, Cassilly, Eckardt, Edwards, Ferguson, Jennings, Mathias, Norman, Ready, Salling, Serafini, Simonaire, and Waugh**

Introduced and read first time: January 20, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

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; and generally relating to drunk
9 and drugged driving.

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

15 BY adding to
16 Article – Courts and Judicial Proceedings
17 Section 4–301(b)(26)
18 Annotated Code of Maryland
19 (2013 Replacement Volume and 2016 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Transportation
22 Section 1–101(c)
23 Annotated Code of Maryland
24 (2015 Replacement Volume and 2016 Supplement)

25 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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)

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 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.**

4–302.

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

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

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

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

Article – Transportation

1–101.

(c) “Any state” means:

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

(2) The District of Columbia; and

(3) The Commonwealth of Puerto Rico.

27–101.

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

(i) A violation of § 14–103 of this article (“Possession of motor 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 [or 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 PERSON CONVICTED OF A VIOLATION OF § 21–902(B) OR (C) OF THIS ARTICLE WHO HAS THREE OR MORE PRIOR CONVICTIONS FOR VIOLATIONS OF

1 ANY PROVISION OF § 21-902 OF THIS ARTICLE IS SUBJECT TO THE PENALTIES
2 PROVIDED UNDER § 27-116 OF THIS TITLE.

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

7 (i) For a first offense, shall be subject to a fine of not more than
8 \$1,000, or imprisonment for not more than 1 year, or both;

9 (ii) For a second offense, shall be subject to a fine of not more than
10 \$2,000, or imprisonment for not more than 2 years, or both; and

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

13 (2) For the purpose of second or [subsequent] **THIRD** offender penalties for
14 violation of § 21-902(a) of this article provided under this subsection, a prior conviction
15 under § 21-902(b), (c), or (d) of this article, within 5 years of the conviction for a violation
16 of § 21-902(a) of this article, shall be considered a conviction under § 21-902(a) of this
17 article.

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

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

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

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

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

33 (iii) For a third [or subsequent] offense, a fine of not more than
34 \$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 [or 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 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 PERSON WHO VIOLATES 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.

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