

1 AN ACT concerning

2 **Vehicle Laws-Operating a non-motor vehicle while under the**
3 **influence**

4 FOR the purpose of changing the penalty that may be imposed again for operating a non-motor
5 vehicle while under the influence of alcohol or other controlled substances.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section 11-139
7 and Section 21-905 of Article-Transportation of the Annotated Code of Maryland be added.

8 AND BE IT FURTHER ENACTED, That Section 27-101 of Article-Transportation be amended.

9 AND BE IT FURTHER ENACTED, That Section(s) 11-139 through 11-206, respectively, of
10 Article-Transportation of the Annotated Code of Maryland be renumbered to be Section(s) 11-
11 140 through 11-207, respectively.

12 AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

13 **Article-Transportation**

14 11-139

15 (a) "NON-MOTOR VEHICLE" MEANS:

16 (1) ANY DEVICE IN,ON, OR BY WHICH AN INDIVIDUAL OR PROPERTY
17 IS OR MIGHT BE TRANSPORTED THAT DOES NOT USE ANY FORM
18 OF MOTOR.

19 (2) "NON-MOTOR VEHICLE" INCLUDED BICYCLES AS DEFINED IN §11-
20 104-BICYCLE AND SCOOTERS AS DEFINED IN §11-154.1-SCOOTER.

21 21-905

22 (a) (1) A PERSON MAY NOT OPERATE OR ATTEMPT TO OPERATE ANY
23 NON-MOTOR VEHICLE UNDER THE INFLUENCE OF ALCOHOL.

24 (2) A PERSON MAY NOT OPERATE OF ATTEMPT TO OPERATE ANY
25 NON-MOTOT VEHICLE WHILE THE PERSON IS UNDER THE
26 INFLUENCE OF ALCOHOL PER SE.

27 (3) A PERSON MAY NOT VIOLATE PARAGRAPH (1) OR (2) OF THIS
28 SUBSECTION WHILE TRANSPORTING A MINOR.

- 29 (b) (1) A PERSON MAY NOT OPERATE OR ATTEMPT TO OPERATE ANY
30 NON-MOTOT VEHICLE WHILE IMPAIRED BY ALCOHOL.
- 31 (3) A PERSON MAY NOT VIOLATE PARAGRAPH (1) OF THIS
32 SUBSECTION WHILE TRANSPORTING A MINOR.
- 33 (c) (1) A PERSON MAY NOT OPERATE OR ATTEMPT TO OPERATE ANY
34 NON-MOTOR VEHICLE WHILE HE IS SO FAR IMPAIRED BY ANY
35 DRUG, ANY COMBINATION OF DRUGS, OR A COMBINATION OF ONE
36 OF MORE DRUGS AND ALCOHOL THAT HE CANNOT OPERATE A NON-
37 MOTOT VEHICLE SAFELY.
- 38 (2) IT IS NOT A DEFENSE TO ANY CHARGE OF VIOLATING THIS
39 SUBSECTION THAT THE PERSON CHARGED IS OR WAS ENTITLED
40 UNDER THE LAWS OF THIS STATE TO USE THE DRUG, COMBINATION
41 OF DRUGS, OR COMBINATION OF ONE OT MORE DRUGS AND
42 ALCOHOL, UNLESS THE PERSON WAS UNAWARE THAT THE DRUG OR
43 COMBINATION WOULD MAKE THE PERSON INCAPABLE OF SAFELY
44 OPERATING A NON-MOTOR VEHICLE.
- 45 (3) A PERSON MAY NOT VIOLATE PARAGRAPH (1) OR (2) OF THIS
46 SUBSECTION WHILE TRANSPORTING A MINOR.
- 47 (d) (1) A PERSON MAY NOT OPERATE OR ATTEMPT TO OPERATE ANY
48 NON-MOTOR VEHICLE WHILE THE PERSON IS IMPAIRED BY ANY
49 CONTROLLED DANGEROUS SUBSTANCE, AS THAT TERM IS DEFINED
50 IN § 5-101 OF THE CRIMINAL LAW ARTICLE, IF THE PERSON IS NOT
51 ENTITLED TO USE THE CONTROLLED DANGEROUS SUBSTANCE
52 UNDER THE LAWS OF THIS STATE.
- 53 (2) A PERSON MAY NOT VIOLATE PARAGRAPH (1) OF THIS
54 SUBSECTION WHILE TRANSPORTING A MINOR.
- 55 (e) FOR PURPOSES OF THE APPLICATION OF SUBSEQUENT OFFENDER
56 PENALTIES UNDER § 27-101 OF THIS ARTICLE, A CONVICTION FOR A CRIME
57 COMMITTED IN ANOTHER STATE OR FEDERAL JURISDICTION THAT, IF
58 COMMITTED IN THIS STATE, WOULD CONSTITUTE A VIOLATION OF
59 SUBSECTION (a), (b), (c), OR (d) OF THIS SECTION SHALL BE CONSIDERED A
60 VIOLATION OF SUBSECTION (a), (b), (c), OR (d) OF THIS SECTION.

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61 27-101

62 (a-bb)

63 (cc) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF § 21-905 OF
64 THIS ARTICLE IS SUBJECT TO:

65 (1) FOR A FIRST OFFENSE, A FINE OF NOT LESS THAN \$100 AND
66 NOT MORE THAN \$500, AND/OR UP TO 6 HOURS OF COMMUNITY
67 SERVICE.

68 (2) FOR A SECOND OFFENSE, A FINE OF NOT LESS THAN \$250 AND
69 NOT MORE THAN \$1,000, AND/OR UP TO 25 HOURS OF COMMUNITY
70 SERVICE.

71 (3) FOR A THIRD OR SUBSEQUENT OFFENSE, A FINE OF NOT LESS
72 THAN \$500 AND NOT MORE THAN \$2,500, AND/OR UP TO 2 MONTHS
73 IMPRISONMENT.

74 (4) ANY SUBSEQUENT VIOLATIONS OF § 21-905(a), (b), (c), OR (d) OF
75 THIS ARTICLE WITHIN 1 YEAR OF A PRIOR CONVICTION OF ANY
76 OFFENSE UNDER THAT SUBSECTION IS SUBJECT TO A MINIMUM
77 MANDATORY SENTENCE OF 5 DAY IMPRISONMENT.

78 (5) ANY VIOLATION OF § 21-905(a), (b), (c), OR (d) OF THIS ARTICLE
79 WITH A MINOR IS SUBJECT TO AN ADDITIONAL FINE OF NOT LESS
80 THAN \$500 AND NOT MORE THAN \$1,000, AN/OR UP TO 1 MONTH
81 IMPRISONMENT.

82 AND BE IT FURTHER ENACTED, that this law shall take effect June 1, 2009.

83 Mandates:

84 Martin O'Malley, Governor of Maryland

85 Anthony G. Brown, Lieutenant Governor of Maryland

86 Thomas V. "Mike" Miller, Jr., President of the Maryland Senate

87 Michael E. Busch, Speaker of the Maryland House of Delegates

88 Edward J. Kasemeyer, Majority Leader of the Maryland Senate

89 David R. Brinkley, Minority Leader of the Maryland Senate

Sponsor

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