

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

27-101.

(X) (1) IN THIS SECTION, "TEST" HAS THE MEANING STATED IN § 16-205.1 OF THIS ARTICLE.

(2) THE PENALTIES IN THIS SUBSECTION ARE IN ADDITION TO ANY OTHER PENALTY UNDER THIS TITLE IMPOSED FOR A VIOLATION OF § 21-902 OF THIS ARTICLE.

(3) ~~IF~~ SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, IF A PERSON IS CONVICTED OF A VIOLATION OF § 21-902 OF THIS ARTICLE AND THE TRIER OF FACT FINDS BEYOND A REASONABLE DOUBT THAT THE PERSON KNOWINGLY REFUSED TO TAKE A TEST ARISING OUT OF THE SAME CIRCUMSTANCES AS THE VIOLATION, THE PERSON IS SUBJECT TO A FINE OF NOT MORE THAN \$500 OR IMPRISONMENT FOR NOT MORE THAN ~~6~~ 2 MONTHS OR BOTH.

(4) A COURT MAY NOT IMPOSE AN ADDITIONAL PENALTY UNDER THIS SUBSECTION UNLESS THE STATE'S ATTORNEY SERVES NOTICE OF THE ALLEGED TEST REFUSAL 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, 2005.

Approved May 26, 2005.

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## CHAPTER 496

### (House Bill 103)

AN ACT concerning

#### **Drunk and Drugged Driving - Test Refusal - Enhanced Criminal Penalties**

FOR the purpose of providing for certain enhanced criminal penalties that may be imposed if a person is convicted of certain alcohol- or drug-related driving offenses and the trier of fact finds beyond a reasonable doubt that the person knowingly refused to take a certain test under certain circumstances; requiring a police officer to advise a person of the enhanced criminal penalties under this Act under certain circumstances; providing for certain procedures; providing that an initial refusal to take a certain test that is withdrawn under certain circumstances is not a refusal for certain purposes; defining a certain term; and generally relating to certain enhanced criminal penalties for a