

(5) A PERSON WHO IS CONVICTED OF AN OFFENSE UNDER § 21-902(D) OF THIS ARTICLE WITHIN 5 YEARS OF A PRIOR CONVICTION OF ANY OFFENSE UNDER THAT SUBSECTION SHALL BE REQUIRED BY THE COURT TO:

- (I) UNDERGO A COMPREHENSIVE DRUG ABUSE ASSESSMENT; AND
- (II) IF RECOMMENDED AT THE CONCLUSION OF THE ASSESSMENT, PARTICIPATE IN A DRUG PROGRAM AS ORDERED BY THE COURT THAT IS:
 - 1. CERTIFIED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;
 - 2. CERTIFIED BY AN AGENCY IN AN ADJACENT STATE THAT HAS POWERS AND DUTIES SIMILAR TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE; OR
 - 3. APPROVED BY THE COURT.

[(5)](6) The penalties provided by this subsection are mandatory and are not subject to suspension or probation.

(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 or 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 offender penalties for violation of § 21-902(a) of this article provided under this subsection, a prior conviction of § 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 of § 21-902(a) of this article.

(3) FOR THE PURPOSE OF SECOND OR SUBSEQUENT OFFENDER PENALTIES FOR VIOLATION OF § 21-902(D) OF THIS ARTICLE PROVIDED UNDER THIS SUBSECTION, A PRIOR CONVICTION OF § 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 OF § 21-902(D) OF THIS ARTICLE.

(q) (1) Any person who is convicted of a violation of § 21-902(a) OR (D) of this article and who, at the time of the offense, was transporting a minor 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;