

HOUSE BILL 94

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2003 Regular Session
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By: **Delegates Boutin, Bates, Costa, Elliott, Murray, Nathan-Pulliam, Oaks, Smigiel, and Weldon**

Introduced and read first time: January 23, 2003

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 25, 2003

CHAPTER 244

1 AN ACT concerning

2 **Drunk and Drugged Driving - Subsequent Offender Penalties - Out-of-State**
3 **Crimes**

4 FOR the purpose of providing that, for application of certain subsequent offender
5 penalties for certain alcohol- and drug-related driving offenses, a conviction for
6 a crime committed in another state or federal jurisdiction that would be a
7 violation of certain drunk and drugged driving laws if committed in this State
8 constitutes a prior offense; and generally relating to subsequent offender
9 penalties for drunk and drugged driving.

10 BY repealing and reenacting, with amendments,
11 Article - Transportation
12 Section 21-902
13 Annotated Code of Maryland
14 (2002 Replacement Volume)

15 BY repealing and reenacting, without amendments,
16 Article - Transportation
17 Section 27-101(f), (j)(2), (3), and (4), (k)(1)(ii) and (iii), and (q)
18 Annotated Code of Maryland
19 (2002 Replacement Volume)

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

1 **Article - Transportation**

2 21-902.

3 (a) (1) A person may not drive or attempt to drive any vehicle while under
4 the influence of alcohol.5 (2) A person may not drive or attempt to drive any vehicle while the
6 person is under the influence of alcohol per se.7 (b) A person may not drive or attempt to drive any vehicle while impaired by
8 alcohol.9 (c) (1) A person may not drive or attempt to drive any vehicle while he is so
10 far impaired by any drug, any combination of drugs, or a combination of one or more
11 drugs and alcohol that he cannot drive a vehicle safely.12 (2) It is not a defense to any charge of violating this subsection that the
13 person charged is or was entitled under the laws of this State to use the drug,
14 combination of drugs, or combination of one or more drugs and alcohol, unless the
15 person was unaware that the drug or combination would make the person incapable
16 of safely driving a vehicle.17 (d) A person may not drive or attempt to drive any vehicle while the person is
18 impaired by any controlled dangerous substance, as that term is defined in § 5-101 of
19 the Criminal Law Article, if the person is not entitled to use the controlled dangerous
20 substance under the laws of this State.21 (E) FOR PURPOSES OF THE APPLICATION OF SUBSEQUENT OFFENDER
22 PENALTIES UNDER § 27-101 OF THIS ARTICLE, A CONVICTION FOR A CRIME
23 COMMITTED IN ANOTHER STATE OR FEDERAL JURISDICTION THAT, IF COMMITTED
24 IN THIS STATE, WOULD CONSTITUTE A VIOLATION OF SUBSECTION (A), (B), (C), OR (D)
25 OF THIS SECTION SHALL BE CONSIDERED A VIOLATION OF SUBSECTION (A), (B), (C),
26 OR (D) OF THIS SECTION.

27 27-101.

28 (f) (1) A person is subject to a fine not exceeding \$500 or imprisonment not
29 exceeding 1 year or both, if the person is convicted of:30 (i) A violation of § 14-103 of this article ("Possession of motor
31 vehicle master key"); or

32 (ii) A second or subsequent violation of:

33 1. § 16-101 of this article ("Drivers must be licensed"); or

34 2. Except as provided in subsection (q) of this section:

35 A. § 21-902(b) of this article ("Driving while impaired by
36 alcohol");

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

3 C. § 21-902(d) of this article ("Driving while impaired by a
4 controlled dangerous substance").

5 (2) Except as provided in subsection (q) of this section, for the purpose of
6 second or subsequent offender penalties for a violation of § 21-902(b) of this article
7 provided under paragraph (1) of this subsection, a prior conviction of § 21-902(a), §
8 21-902(c), or § 21-902(d) of this article shall be considered a conviction of § 21-902(b)
9 of this article.

10 (3) Except as provided in subsection (q) of this section, for the purpose of
11 second or subsequent offender penalties for a violation of § 21-902(c) of this article
12 provided under paragraph (1) of this subsection, a prior conviction of § 21-902(a), §
13 21-902(b), or § 21-902(d) of this article shall be considered a conviction of § 21-902(c)
14 of this article.

15 (4) Except as provided in subsection (q) of this section, for the purpose of
16 second or subsequent offender penalties for a violation of § 21-902(d) of this article
17 provided under paragraph (1) of this subsection, a prior conviction of § 21-902(a), §
18 21-902(b), or § 21-902(c) of this article shall be considered a conviction of § 21-902(d)
19 of this article.

20 (j) (2) A person who is convicted of a violation of § 21-902(a) of this article
21 within 5 years after a prior conviction under that subsection is subject to a mandatory
22 minimum penalty of:

23 (i) Imprisonment for not less than 5 days; or

24 (ii) Community service for not less than 30 days.

25 (3) A person who is convicted of a third or subsequent offense under §
26 21-902(a) of this article within 5 years is subject to a mandatory minimum penalty of:

27 (i) Imprisonment for not less than 10 days; or

28 (ii) Community service for not less than 60 days.

29 (4) A person who is convicted of an offense under § 21-902(a) of this
30 article within 5 years of a prior conviction of any offense under that subsection shall
31 be required by the court to:

32 (i) Undergo a comprehensive alcohol abuse assessment; and

33 (ii) If recommended at the conclusion of the assessment, participate
34 in an alcohol program certified by the Department of Health and Mental Hygiene as
35 ordered by the court.

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

4 (ii) For a second offense, shall be subject to a fine of not more than
5 \$2,000, or imprisonment for not more than 2 years, or both; and

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

8 (q) (1) Any person who is convicted of a violation of § 21-902(a) of this
9 article and who, at the time of the offense, was transporting a minor is subject to:

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

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

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

16 (2) Any person who is convicted of a violation of § 21-902(b), § 21-902(c),
17 or § 21-902(d) of this article and who, at the time of the offense, was transporting a
18 minor is subject to:

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

21 (ii) For a second or subsequent offense, a fine of not more than
22 \$2,000 or imprisonment for not more than 1 year or both.

23 (3) For the purpose of determining second or subsequent offender
24 penalties provided under this subsection, a prior conviction of any provision of §
25 21-902 of this article that subjected a person to the penalties under this subsection
26 shall be considered a prior conviction.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2003.