

SENATE BILL 405

Unofficial Copy
R3

2003 Regular Session
(31r1674)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by ~~Senator Jimeno~~ **Senators Jimeno and Forehand**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER 246

1 AN ACT concerning

2 **Drunk and Drugged Driving - Subsequent Offenders - Penalties**

3 FOR the purpose of ~~expanding the types of alcohol and drug related driving offenses~~
4 ~~for which certain persons convicted of certain subsequent offenses are subject to~~
5 ~~certain mandatory minimum penalties of imprisonment for certain periods of~~
6 ~~time; limiting the circumstances under which certain home detention is included~~
7 ~~within the meaning of "imprisonment"; repealing certain mandatory minimum~~
8 ~~penalty options for community service for certain persons convicted of certain~~
9 ~~subsequent *alcohol-related driving* offenses; ~~expanding the types of alcohol~~~~
10 ~~and drug related driving offenses for which a court is required to order certain~~
11 ~~persons convicted of certain subsequent offenses to undergo a certain alcohol or~~
12 ~~drug abuse assessment and to participate in a certain alcohol or drug abuse~~
13 ~~program under certain circumstances *altering certain provisions authorizing*~~
14 ~~*certain court ordered alcohol programs to include certain alcohol programs*~~
15 ~~*certified by certain agencies in adjacent states or approved by the court;* and~~
16 generally relating to penalties for certain persons convicted of certain
17 subsequent ~~alcohol and drug related~~ *alcohol-related driving* offenses under

1 certain circumstances.

2 BY repealing and reenacting, without amendments,

3 Article - Transportation

4 Section 21-902

5 Annotated Code of Maryland

6 (2002 Replacement Volume)

7 BY repealing and reenacting, with amendments,

8 Article - Transportation

9 Section 27-101(j)

10 Annotated Code of Maryland

11 (2002 Replacement Volume)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Transportation**

15 21-902.

16 (a) (1) A person may not drive or attempt to drive any vehicle while under
17 the influence of alcohol.

18 (2) A person may not drive or attempt to drive any vehicle while the
19 person is under the influence of alcohol per se.

20 (b) A person may not drive or attempt to drive any vehicle while impaired by
21 alcohol.

22 (c) (1) A person may not drive or attempt to drive any vehicle while he is so
23 far impaired by any drug, any combination of drugs, or a combination of one or more
24 drugs and alcohol that he cannot drive a vehicle safely.

25 (2) It is not a defense to any charge of violating this subsection that the
26 person charged is or was entitled under the laws of this State to use the drug,
27 combination of drugs, or combination of one or more drugs and alcohol, unless the
28 person was unaware that the drug or combination would make the person incapable
29 of safely driving a vehicle.

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

34 27-101.

35 (j) (1) In this subsection, "imprisonment" includes confinement in:

- 1 (i) An inpatient rehabilitation or treatment center; or
- 2 (ii) Home detention that includes electronic monitoring FOR THE
- 3 PURPOSE OF PARTICIPATING IN A ~~DRUG OR~~ AN ALCOHOL TREATMENT PROGRAM
- 4 THAT IS:

5 1. CERTIFIED BY THE DEPARTMENT OF HEALTH AND

6 MENTAL HYGIENE;

7 2. CERTIFIED BY AN AGENCY IN AN ADJACENT STATE THAT

8 HAS POWERS AND DUTIES SIMILAR TO THE DEPARTMENT OF HEALTH AND MENTAL

9 HYGIENE; OR

10 3. APPROVED BY THE COURT.

11 (2) A person who is convicted of a violation of [§ 21-902(a)] ~~§ 21-902~~ of

12 ~~§ 21-902(A) OF~~ this article within 5 years after a prior conviction under that

13 {subsection} ~~SECTION~~ is subject to a mandatory minimum penalty of[:]

14 IMPRISONMENT FOR NOT LESS THAN 5 DAYS.

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

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

17 (3) A person who is convicted of a third or subsequent offense under

18 [§ 21-902(a)] ~~§ 21-902~~ of ~~§ 21-902(A) OF~~ this article within 5 years is subject to a

19 mandatory minimum penalty of[:] IMPRISONMENT FOR NOT LESS THAN 10 DAYS.

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

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

22 (4) A person who is convicted of an offense under [§ 21-902(a)] ~~§ 21-902~~

23 ~~of § 21-902(A) OF~~ this article within 5 years of a prior conviction of any offense under

24 that {subsection} ~~SECTION~~ shall be required by the court to:

25 (i) Undergo a comprehensive alcohol ~~OR DRUG~~ abuse assessment;

26 and

27 (ii) If recommended at the conclusion of the assessment, participate

28 in an alcohol ~~OR DRUG ABUSE~~ program certified by the Department of Health and

29 Mental Hygiene as ordered by the court THAT IS:

30 1. CERTIFIED BY THE DEPARTMENT OF HEALTH AND

31 MENTAL HYGIENE;

32 2. CERTIFIED BY AN AGENCY IN AN ADJACENT STATE THAT

33 POWERS AND DUTIES SIMILAR TO THE DEPARTMENT OF HEALTH AND MENTAL

34 HYGIENE; OR

35 3. APPROVED BY THE COURT.

1 (5) The penalties provided by this subsection are mandatory and are not
2 subject to suspension or probation.

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