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By: **Delegates Valderrama, Dembrow, and Giannetti**  
Introduced and read first time: February 7, 2001  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Drunk Driving - Repeat Offenders - Penalties**

3 FOR the purpose of altering the penalties for a person convicted of repeated offenses  
4 of driving while intoxicated and driving under the influence of alcohol, drugs, or  
5 a combination of alcohol and drugs under certain circumstances; requiring the  
6 use of an ignition interlock system under certain circumstances; requiring a  
7 court to require a certain person to use an ignition interlock system under  
8 certain circumstances; making conforming changes; and generally relating to  
9 penalties for repeat drunk driving offenses.

10 BY repealing and reenacting, with amendments,  
11 Article - Transportation  
12 Section 27-101(c)(23), (24), and (25), (f), (j), (k), and (q) and 27-107  
13 Annotated Code of Maryland  
14 (1999 Replacement Volume and 2000 Supplement)

15 BY repealing and reenacting, without amendments,  
16 Article - Transportation  
17 Section 27-101(c)(26) and 27-108  
18 Annotated Code of Maryland  
19 (1999 Replacement Volume and 2000 Supplement)

20 BY adding to  
21 Article - Transportation  
22 Section 27-101(v)  
23 Annotated Code of Maryland  
24 (1999 Replacement Volume and 2000 Supplement)

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

1

**Article - Transportation**

2 27-101.

3 (c) Any person who is convicted of a violation of any of the provisions of the  
4 following sections of this article is subject to a fine of not more than \$500 or  
5 imprisonment for not more than 2 months or both:

6 (23) Except as provided in subsections [(f) and] (q) AND (V) of this section,  
7 § 21-902(b) ("Driving while under the influence of alcohol");

8 (24) Except as provided in subsections [(f) and] (q) AND (V) of this section,  
9 § 21-902(c) ("Driving while under influence of drugs or drugs and alcohol");

10 (25) Except as provided in subsections [(f) and] (q) AND (V) of this section,  
11 § 21-902(d) ("Driving while under influence of controlled dangerous substance"); or

12 (26) § 27-107(d), (e), (f), or (g) ("Prohibited acts - Ignition interlock  
13 systems").

14 (f) [(1)] A person is subject to a fine not exceeding \$500 or imprisonment not  
15 exceeding 1 year or both, if the person is convicted of:

16 [(i)] (1) A violation of § 14-103 of this article ("Possession of motor  
17 vehicle master key"); or

18 [(ii)] (2) A second or subsequent violation of[:

19 1.] § 16-101 of this article ("Drivers must be licensed"); or

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

21 A. § 21-902(b) of this article ("Driving while under the  
22 influence of alcohol");

23 B. § 21-902(c) of this article ("Driving while under the  
24 influence of drugs or drugs and alcohol"); or

25 C. § 21-902(d) of this article ("Driving while under the  
26 influence of controlled dangerous substance").

27 (2) Except as provided in subsection (q) of this section, for the purpose of  
28 second or subsequent offender penalties for a violation of § 21-902(b) of this article  
29 provided under paragraph (1) of this subsection, a prior conviction of § 21-902(a), §  
30 21-902(c), or § 21-902(d) of this article shall be considered a conviction of § 21-902(b)  
31 of this article.

32 (3) Except as provided in subsection (q) of this section, for the purpose of  
33 second or subsequent offender penalties for a violation of § 21-902(c) of this article  
34 provided under paragraph (1) of this subsection, a prior conviction of § 21-902(a), §

1 21-902(b), or § 21-902(d) of this article shall be considered a conviction of § 21-902(c)  
2 of this article.

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

8 (j) (1) In this subsection, "imprisonment" includes confinement in an  
9 inpatient rehabilitation or treatment center.

10 (2) A person who is convicted of a violation of § 21-902(a) of this article  
11 within 3 years after a prior conviction under that subsection is subject to a mandatory  
12 minimum penalty of:

13 (i) REQUIRED USE OF AN IGNITION INTERLOCK SYSTEM  
14 CERTIFIED BY THE ADMINISTRATION, IN ANY MOTOR VEHICLE USED, FOR NOT MORE  
15 THAN 3 YEARS; AND

16 (II) 1. Imprisonment for not less than 48 consecutive hours; or

17 [(ii)] 2. Community service for not less than 80 hours.

18 (3) The penalties provided by this subsection are mandatory and are not  
19 subject to suspension or probation.

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

23 (i) For a first offense, shall be subject to a fine of not more than  
24 \$1,000, or imprisonment for not more than 1 year, or both;

25 (ii) For a second offense, shall be subject to a fine of not more than  
26 \$2,000, or imprisonment for not more than 2 years, or both; and

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

29 1. REQUIRED USE OF AN IGNITION INTERLOCK SYSTEM  
30 CERTIFIED BY THE ADMINISTRATION, IN ANY MOTOR VEHICLE USED, FOR NOT MORE  
31 THAN 3 YEARS; AND

32 2. A. IMPRISONMENT FOR NOT MORE THAN 3 YEARS;

33 B. COMMUNITY SERVICE FOR NOT LESS THAN 80 HOURS;

34 C. A FINE OF NOT MORE THAN \$3,000; OR

1 D. ANY COMBINATION OF THE PENALTIES SPECIFIED IN  
2 ITEMS A, B, AND C OF THIS ITEM.

3 (2) For the purpose of second or subsequent offender penalties for  
4 violation of § 21-902(a) of this article provided under this subsection, a prior  
5 conviction of § 21-902(b), (c), or (d) of this article, within 5 years of the conviction for  
6 a violation of § 21-902(a) of this article, shall be considered a conviction of § 21-902(a)  
7 of this article.

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[.];

15 1. REQUIRED USE OF AN IGNITION INTERLOCK SYSTEM  
16 CERTIFIED BY THE ADMINISTRATION, IN ANY MOTOR VEHICLE USED, FOR NOT MORE  
17 THAN 3 YEARS; AND

18 2. A. [a] A fine of not more than \$4,000; [or]

19 B. [imprisonment] IMPRISONMENT for not more than 4  
20 years; or

21 C. [both] BOTH A FINE AND IMPRISONMENT.

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

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

27 (ii) For a second [or subsequent] offense, a fine of not more than  
28 \$2,000 or imprisonment for not more than 1 year or both[.]; AND

29 (III) FOR A THIRD OR SUBSEQUENT OFFENSE:

30 1. REQUIRED USE OF AN IGNITION INTERLOCK SYSTEM  
31 CERTIFIED BY THE ADMINISTRATION, IN ANY MOTOR VEHICLE USED, FOR NOT MORE  
32 THAN 3 YEARS; AND

33 2. A. IMPRISONMENT FOR NOT MORE THAN 1 YEAR;

34 B. COMMUNITY SERVICE FOR NOT LESS THAN 80 HOURS;

1 C. A FINE NOT EXCEEDING \$500; OR

2 D. ANY COMBINATION OF THE PENALTIES SPECIFIED IN  
3 ITEMS A, B, AND C OF THIS ITEM.

4 (3) For the purpose of determining second or subsequent offender  
5 penalties provided under this subsection, a prior conviction of any provision of §  
6 21-902 of this article that subjected a person to the penalties under this subsection  
7 shall be considered a prior conviction.

8 (V) (1) EXCEPT AS PROVIDED IN SUBSECTION (Q) OF THIS SECTION, ANY  
9 PERSON CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF § 21-902(B) OF  
10 THIS ARTICLE ("DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL"), § 21-902(C)  
11 OF THIS ARTICLE ("DRIVING WHILE UNDER THE INFLUENCE OF DRUGS OR DRUGS  
12 AND ALCOHOL"), OR § 21-902(D) OF THIS ARTICLE ("DRIVING WHILE UNDER THE  
13 INFLUENCE OF CONTROLLED DANGEROUS SUBSTANCE") IS SUBJECT TO:

14 (I) FOR A SECOND OFFENSE, A FINE NOT EXCEEDING \$500 OR  
15 IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH; AND

16 (II) FOR A THIRD OR SUBSEQUENT OFFENSE:

17 1. REQUIRED USE OF AN IGNITION INTERLOCK SYSTEM  
18 CERTIFIED BY THE ADMINISTRATION, IN ANY MOTOR VEHICLE USED, FOR NOT MORE  
19 THAN 3 YEARS; AND

20 2. A. IMPRISONMENT FOR NOT MORE THAN 1 YEAR;

21 B. COMMUNITY SERVICE FOR NOT LESS THAN 80 HOURS;

22 C. A FINE NOT EXCEEDING \$500; OR

23 D. ANY COMBINATION OF THE PENALTIES SPECIFIED IN  
24 ITEMS A, B, AND C OF THIS ITEM.

25 (2) EXCEPT AS PROVIDED IN SUBSECTION (Q) OF THIS SECTION, FOR  
26 THE PURPOSE OF SECOND OR SUBSEQUENT OFFENDER PENALTIES FOR A  
27 VIOLATION OF § 21-902(B) OF THIS ARTICLE PROVIDED UNDER PARAGRAPH (1) OF  
28 THIS SUBSECTION, A PRIOR CONVICTION OF § 21-902(A), (C), OR (D) OF THIS ARTICLE  
29 SHALL BE CONSIDERED A CONVICTION OF § 21-902(B) OF THIS ARTICLE.

30 (3) EXCEPT AS PROVIDED IN SUBSECTION (Q) OF THIS SECTION, FOR  
31 THE PURPOSE OF SECOND OR SUBSEQUENT OFFENDER PENALTIES FOR A  
32 VIOLATION OF § 21-902(C) OF THIS ARTICLE PROVIDED UNDER PARAGRAPH (1) OF  
33 THIS SUBSECTION, A PRIOR CONVICTION OF § 21-902(A), (B), OR (D) OF THIS ARTICLE  
34 SHALL BE CONSIDERED A CONVICTION OF § 21-902(C) OF THIS ARTICLE.

35 (4) EXCEPT AS PROVIDED IN SUBSECTION (Q) OF THIS SECTION, FOR  
36 THE PURPOSE OF SECOND OR SUBSEQUENT OFFENDER PENALTIES FOR A  
37 VIOLATION OF § 21-902(D) OF THIS ARTICLE PROVIDED UNDER PARAGRAPH (1) OF

1 THIS SUBSECTION, A PRIOR CONVICTION OF § 21-902(A), (B), OR (C) OF THIS ARTICLE  
2 SHALL BE CONSIDERED A CONVICTION OF § 21-902(D) OF THIS ARTICLE.

3 27-107.

4 (a) In this section "ignition interlock system" means a device that:

5 (1) Connects a motor vehicle ignition system to a breath analyzer that  
6 measures a driver's blood alcohol level; and

7 (2) Prevents a motor vehicle ignition from starting if a driver's blood  
8 alcohol level exceeds the calibrated setting on the device.

9 (b) [In] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, IN  
10 addition to any other penalties provided in this title for a violation of any of the  
11 provisions of § 21-902(a) of this article ("Driving while intoxicated"), or § 21-902(b) of  
12 this article ("Driving while under the influence of alcohol"), or in addition to any other  
13 condition of probation, a court may prohibit a person who is convicted of, or granted  
14 probation under Article 27, § 641 of the Code for, a violation of § 21-902(a) or §  
15 21-902(b) of this article from operating for not more than 3 years a motor vehicle that  
16 is not equipped with an ignition interlock system.

17 (c) If the court imposes the use of an ignition interlock system as a sentence,  
18 part of a sentence, or a condition of probation, the court:

19 (1) Shall state on the record the requirement for, and the period of the  
20 use of the system, and so notify the Administration;

21 (2) Shall direct that the records of the Administration reflect:

22 (i) That the person may not operate a motor vehicle that is not  
23 equipped with an ignition interlock system; and

24 (ii) Whether the court has expressly permitted the person to  
25 operate a motor vehicle without an ignition interlock system under subsection (g)(2)  
26 of this section;

27 (3) Shall direct the Administration to note in an appropriate manner a  
28 restriction on the person's license imposed under paragraph (2)(i) or (ii) of this  
29 subsection;

30 (4) Shall require proof of the installation of the system and periodic  
31 reporting by the person for verification of the proper operation of the system;

32 (5) Shall require the person to have the system monitored for proper use  
33 and accuracy by an entity approved by the Administration at least semiannually, or  
34 more frequently as the circumstances may require; and

35 (6) (i) Shall require the person to pay the reasonable cost of leasing or  
36 buying, monitoring, and maintaining the system; and

1 (ii) May establish a payment schedule.

2 (d) A person prohibited under this section or Title 16 of this article from  
3 operating a motor vehicle that is not equipped with an ignition interlock system may  
4 not solicit or have another person attempt to start or start a motor vehicle equipped  
5 with an ignition interlock system.

6 (e) A person may not attempt to start or start a motor vehicle equipped with  
7 an ignition interlock system for the purpose of providing an operable motor vehicle to  
8 a person who is prohibited under this section or Title 16 of this article from operating  
9 a motor vehicle that is not equipped with an ignition interlock system.

10 (f) A person may not tamper with, or in any way attempt to circumvent, the  
11 operation of an ignition interlock system that has been installed in the motor vehicle  
12 of a person under this section or Title 16 of this article.

13 (g) (1) Subject to the provisions of paragraph (2) of this subsection, a person  
14 may not knowingly furnish a motor vehicle not equipped with a functioning ignition  
15 interlock system to another person who the person knows is prohibited under  
16 subsection (b) OR (H) of this section or Title 16 of this article from operating a motor  
17 vehicle not equipped with an ignition interlock system.

18 (2) If a person is required, in the course of the person's employment, to  
19 operate a motor vehicle owned or provided by the person's employer, the person may  
20 operate that motor vehicle in the course of the person's employment without  
21 installation of an ignition interlock system if the court or the Administration has  
22 expressly permitted the person to operate in the course of the person's employment a  
23 motor vehicle that is not equipped with an ignition interlock system.

24 (H) IN ADDITION TO ANY OTHER PENALTIES PROVIDED IN THIS TITLE FOR A  
25 THIRD OR SUBSEQUENT VIOLATION OF ANY OF THE PROVISIONS OF § 21-902(A) OF  
26 THIS ARTICLE ("DRIVING WHILE INTOXICATED") OR § 21-902(B) OF THIS ARTICLE  
27 ("DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL"), OR IN ADDITION TO ANY  
28 OTHER CONDITION OF PROBATION, A COURT SHALL PROHIBIT A PERSON WHO IS  
29 CONVICTED OF, OR GRANTED PROBATION UNDER ARTICLE 27, § 641 OF THE CODE  
30 FOR, A THIRD OR SUBSEQUENT VIOLATION OF § 21-902(A) OR (B) OF THIS ARTICLE  
31 FROM OPERATING FOR NOT MORE THAN 3 YEARS A MOTOR VEHICLE THAT IS NOT  
32 EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM.

33 27-108.

34 (a) (1) The Administration shall certify or cause to be certified ignition  
35 interlock systems for use in the State and adopt rules and regulations for the  
36 certification of the ignition interlock systems.

37 (2) The regulations adopted under paragraph (1) of this subsection shall  
38 include requirements that ignition interlock systems:

39 (i) Do not impede the safe operation of the vehicle;

- 1 (ii) Minimize opportunities to be bypassed;
- 2 (iii) Correlate accurately with established measures of blood alcohol  
3 levels;
- 4 (iv) Work accurately and reliably in an unsupervised environment;
- 5 (v) Require a proper and accurate measure of blood alcohol levels;
- 6 (vi) Are installed in a tamper proof manner and provide evidence of  
7 attempted tampering;
- 8 (vii) Are difficult to circumvent, and require premeditation to  
9 circumvent;
- 10 (viii) Minimize inconvenience to a sober user;
- 11 (ix) Are manufactured by a party responsible for installation, user  
12 training, service, and maintenance;
- 13 (x) Operate reliably over the range of motor vehicle environments  
14 or motor vehicle manufacturing standards;
- 15 (xi) Are manufactured by a person who is adequately insured for  
16 products liability;
- 17 (xii) Provide the option for an electronic log of the driver's experience  
18 with the system; and
- 19 (xiii) Are certified by a qualified laboratory approved by the  
20 Administration.
- 21 (3) (i) The Administration shall design and adopt a warning label to be  
22 affixed to an ignition interlock system on installation.
- 23 (ii) The warning label shall state that a person tampering with,  
24 circumventing, or otherwise misusing the ignition interlock system is guilty of a  
25 misdemeanor, and, on conviction, is subject to a fine or imprisonment or both.
- 26 (4) (i) The Administration shall publish a list of certified ignition  
27 interlock systems.
- 28 (ii) A manufacturer of an ignition interlock system that seeks to sell  
29 or lease the ignition interlock system to persons subject to the provisions of § 27-107  
30 of this subtitle in the State shall pay the costs of obtaining the required certification.
- 31 (b) A person may not sell or lease or offer to sell or lease an ignition interlock  
32 system to a person subject to the provisions of § 27-107 of this subtitle in the State  
33 unless:
- 34 (1) The system has been certified by the Administration; and



1           (2)     A warning label approved by the Administration is affixed to the  
2 system stating that a person who tampers, circumvents, or otherwise misuses the  
3 system is guilty of a misdemeanor, and, on conviction, is subject to a fine or  
4 imprisonment or both.

5       (c)     A person who sells or leases an ignition interlock system in the State shall:

6           (1)     Monitor the use of the system as required by the court; and

7           (2)     Issue a report of the results of the monitoring to the appropriate  
8 office of the Division of Parole and Probation.

9       (d)     The Administration shall adopt regulations establishing minimum  
10 standards for the certification of an approved service provider, including:

11           (1)     The minimum qualifications described under § 16-404.1 of this  
12 article; and

13           (2)     A requirement that an approved service provider shall maintain  
14 service and installation records and provide these records for inspection on the  
15 request of the Administration.

16     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2001.