
By: **Delegates Valderrama, Dembrow, and Giannetti**
Introduced and read first time: February 8, 2002
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of altering the penalties for a person convicted of certain repeated
4 alcohol- or drug-related driving offenses under certain circumstances; requiring
5 the use of an ignition interlock system under certain circumstances; providing
6 that a third or subsequent conviction of driving while under the influence of
7 alcohol or under the influence of alcohol per se is a felony; making conforming
8 changes; and generally relating to penalties for certain repeat alcohol-related or
9 drug-related 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 2001 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 2001 Supplement)

20 BY adding to
21 Article - Transportation
22 Section 27-101(v)
23 Annotated Code of Maryland
24 (1999 Replacement Volume and 2001 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 impaired by alcohol");

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

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

25 C. § 21-902(d) of this article ("Driving while impaired by a
26 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 EACH MOTOR VEHICLE DRIVEN BY THE
15 DEFENDANT, FOR NOT MORE 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 under the influence of alcohol or under the influence of alcohol 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 EACH MOTOR VEHICLE DRIVEN BY THE
31 PERSON, FOR NOT MORE 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) ANY PERSON WHO IS CONVICTED OF A THIRD OR SUBSEQUENT
4 VIOLATION OF ANY OF THE PROVISIONS OF § 21-902(A) OF THIS ARTICLE ("DRIVING
5 WHILE UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE INFLUENCE OF
6 ALCOHOL PER SE") IS GUILTY OF A FELONY.

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

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

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

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

18 (iii) For a third or subsequent offense[.];

19 1. REQUIRED USE OF AN IGNITION INTERLOCK SYSTEM
20 CERTIFIED BY THE ADMINISTRATION, IN EACH MOTOR VEHICLE DRIVEN BY THE
21 PERSON, FOR NOT MORE THAN 3 YEARS; AND

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

23 B. [imprisonment] IMPRISONMENT for not more than 4
24 years; or

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

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

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

31 (ii) For a second [or subsequent] offense, a fine of not more than
32 \$2,000 or imprisonment for not more than 1 year or both[.]; AND

33 (III) FOR A THIRD OR SUBSEQUENT OFFENSE:

34 1. REQUIRED USE OF AN IGNITION INTERLOCK SYSTEM
35 CERTIFIED BY THE ADMINISTRATION, IN EACH MOTOR VEHICLE DRIVEN BY THE
36 PERSON, FOR NOT MORE THAN 3 YEARS; AND

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

6 27-107.

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

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

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

12 (b) [In] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, IN
13 addition to any other penalties provided in this title for a violation of any of the
14 provisions of § 21-902(a) of this article ("Driving while under the influence of alcohol
15 or under the influence of alcohol per se"), or § 21-902(b) of this article ("Driving while
16 impaired by alcohol"), or in addition to any other condition of probation, a court may
17 prohibit a person who is convicted of, or granted probation under § 6-220 of the
18 Criminal Procedure Article for, a violation of § 21-902(a) or § 21-902(b) of this article
19 from operating for not more than 3 years a motor vehicle that is not equipped with an
20 ignition interlock system.

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

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

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

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

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

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

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

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

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

6 (ii) May establish a payment schedule.

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

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

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

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

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

29 (H) IN ADDITION TO ANY OTHER PENALTIES PROVIDED IN THIS TITLE FOR A
30 THIRD OR SUBSEQUENT VIOLATION OF ANY OF THE PROVISIONS OF § 21-902(A) OF
31 THIS ARTICLE ("DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL OR UNDER
32 THE INFLUENCE OF ALCOHOL PER SE") OR § 21-902 (B) OF THIS ARTICLE ("DRIVING
33 WHILE IMPAIRED BY ALCOHOL"), OR IN ADDITION TO ANY OTHER CONDITION OF
34 PROBATION, A COURT SHALL PROHIBIT A PERSON WHO IS CONVICTED OF, OR
35 GRANTED PROBATION UNDER § 6-220 OF THE CRIMINAL PROCEDURE ARTICLE FOR, A
36 THIRD OR SUBSEQUENT VIOLATION OF § 21-902 (A) OR (B) OF THIS ARTICLE FROM
37 DRIVING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK
38 SYSTEM FOR NOT MORE THAN 3 YEARS.

1 27-108.

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

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

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

8 (ii) Minimize opportunities to be bypassed;

9 (iii) Correlate accurately with established measures of blood alcohol
10 levels;

11 (iv) Work accurately and reliably in an unsupervised environment;

12 (v) Require a proper and accurate measure of blood alcohol levels;

13 (vi) Are installed in a tamper proof manner and provide evidence of
14 attempted tampering;

15 (vii) Are difficult to circumvent, and require premeditation to
16 circumvent;

17 (viii) Minimize inconvenience to a sober user;

18 (ix) Are manufactured by a party responsible for installation, user
19 training, service, and maintenance;

20 (x) Operate reliably over the range of motor vehicle environments
21 or motor vehicle manufacturing standards;

22 (xi) Are manufactured by a person who is adequately insured for
23 products liability;

24 (xii) Provide the option for an electronic log of the driver's experience
25 with the system; and

26 (xiii) Are certified by a qualified laboratory approved by the
27 Administration.

28 (3) (i) The Administration shall design and adopt a warning label to be
29 affixed to an ignition interlock system on installation.

30 (ii) The warning label shall state that a person tampering with,
31 circumventing, or otherwise misusing the ignition interlock system is guilty of a
32 misdemeanor, and, on conviction, is subject to a fine or imprisonment or both.

1 (4) (i) The Administration shall publish a list of certified ignition
2 interlock systems.

3 (ii) A manufacturer of an ignition interlock system that seeks to sell
4 or lease the ignition interlock system to persons subject to the provisions of § 27-107
5 of this subtitle in the State shall pay the costs of obtaining the required certification.

6 (b) A person may not sell or lease or offer to sell or lease an ignition interlock
7 system to a person subject to the provisions of § 27-107 of this subtitle in the State
8 unless:

9 (1) The system has been certified by the Administration; and

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

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

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

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

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

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

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

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2002.