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

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 26, 2002

CHAPTER _____

1 AN ACT concerning

2 **~~Drunk and Drugged Driving - Repeat Offenders - Penalties~~ Homicide or Life**
3 **Threatening Injury**

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

11 FOR the purpose of providing that a court may prohibit a person from operating a
12 motor vehicle that is not equipped with an ignition interlock system for a certain
13 period on a finding that the person violated certain alcohol-related offenses; and
14 generally relating to authorizing a court to prohibit a person from operating a
15 motor vehicle that is not equipped with an ignition interlock system for a certain
16 period under certain circumstances.

17 BY repealing and reenacting, with amendments,
18 Article - Transportation
19 Section 27-101(e)(23), (24), and (25), (f), (j), (k), and (q), and 27-107
20 Section 27-107
21 Annotated Code of Maryland
22 (1999 Replacement Volume and 2001 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article - Transportation

1 Section ~~27-101(e)(26)~~ and 27-108
 2 Annotated Code of Maryland
 3 (1999 Replacement Volume and 2001 Supplement)

4 ~~BY adding to~~
 5 ~~Article Transportation~~
 6 ~~Section 27-101(v)~~
 7 ~~Annotated Code of Maryland~~
 8 ~~(1999 Replacement Volume and 2001 Supplement)~~

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

11 **Article - Transportation**

12 ~~27-101.~~

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

16 (23) Except as provided in subsections [(f) and] (q) AND (V) of this section,
 17 § 21-902(b) ("Driving while impaired by alcohol");

18 (24) Except as provided in subsections [(f) and] (q) AND (V) of this section,
 19 § 21-902(e) ("Driving while impaired by drugs or drugs and alcohol");

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

22 (26) § 27-107(d), (e), (f), or (g) ("Prohibited acts – Ignition interlock
 23 systems").

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

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

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

29 1.] § 16-101 of this article ("Drivers must be licensed"); or

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

31 A.] § 21-902(b) of this article ("Driving while impaired by
 32 alcohol");

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

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

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

8 2. A. ~~IMPRISONMENT FOR NOT MORE THAN 3 YEARS;~~

9 B. ~~COMMUNITY SERVICE FOR NOT LESS THAN 80 HOURS;~~

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

11 D. ~~ANY COMBINATION OF THE PENALTIES SPECIFIED IN~~
12 ~~ITEMS A, B, AND C OF THIS ITEM.~~

13 (2) ~~ANY PERSON WHO IS CONVICTED OF A THIRD OR SUBSEQUENT~~
14 ~~VIOLATION OF ANY OF THE PROVISIONS OF § 21-902(A) OF THIS ARTICLE ("DRIVING~~
15 ~~WHILE UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE INFLUENCE OF~~
16 ~~ALCOHOL PER SE") IS GUILTY OF A FELONY.~~

17 [(2)] (3) For the purpose of [second or] subsequent offender penalties
18 for violation of § 21-902(a) of this article provided under this subsection, a prior
19 conviction of § 21-902(b), (c), or (d) of this article, within 5 years of the conviction for
20 a violation of § 21-902(a) of this article, shall be considered a conviction of § 21-902(a)
21 of this article.

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

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

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

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

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

33 B. ~~[imprisonment] IMPRISONMENT for not more than 4~~
34 ~~years; or~~

35 C. ~~[both] BOTH A FINE AND IMPRISONMENT.~~

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

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

6 (ii) For a second [or subsequent] offense, a fine of not more than
7 \$2,000 or imprisonment for not more than 1 year or both[.]; AND

8 (III) ~~FOR A THIRD OR SUBSEQUENT OFFENSE:~~

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

12 2. A. ~~IMPRISONMENT FOR NOT MORE THAN 1 YEAR;~~

13 B. ~~COMMUNITY SERVICE FOR NOT LESS THAN 80 HOURS;~~

14 C. ~~A FINE NOT EXCEEDING \$500; OR~~

15 D. ~~ANY COMBINATION OF THE PENALTIES SPECIFIED IN~~
16 ~~ITEMS A, B, AND C OF THIS ITEM.~~

17 (3) For the purpose of determining second or subsequent offender
18 penalties provided under this subsection, a prior conviction of any provision of §
19 21-902 of this article that subjected a person to the penalties under this subsection
20 shall be considered a prior conviction.

21 (V) (1) ~~EXCEPT AS PROVIDED IN SUBSECTION (Q) OF THIS SECTION, ANY~~
22 ~~PERSON CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF § 21-902(B) OF~~
23 ~~THIS ARTICLE ("DRIVING WHILE IMPAIRED BY ALCOHOL"), § 21-902(C) OF THIS~~
24 ~~ARTICLE ("DRIVING WHILE IMPAIRED BY DRUGS OR DRUGS AND ALCOHOL"), OR §~~
25 ~~21-902(D) OF THIS ARTICLE ("DRIVING WHILE IMPAIRED BY A CONTROLLED~~
26 ~~DANGEROUS SUBSTANCE") IS SUBJECT TO:~~

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

29 (II) ~~FOR A THIRD OR SUBSEQUENT OFFENSE:~~

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

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

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

35 C. ~~A FINE NOT EXCEEDING \$500; OR~~

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

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

8 (3) ~~EXCEPT AS PROVIDED IN SUBSECTION (Q) OF THIS SECTION, FOR THE~~
9 ~~PURPOSE OF SECOND OR SUBSEQUENT OFFENDER PENALTIES FOR A VIOLATION OF~~
10 ~~§ 21-902 (C) OF THIS ARTICLE UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PRIOR~~
11 ~~CONVICTION OF § 21-902(A), (B), OR (D) OF THIS ARTICLE SHALL BE CONSIDERED A~~
12 ~~CONVICTION OF § 21-902 (C) OF THIS ARTICLE.~~

13 (4) ~~EXCEPT AS PROVIDED IN SUBSECTION (Q) OF THIS SECTION, FOR THE~~
14 ~~PURPOSE OF SECOND OR SUBSEQUENT OFFENDER PENALTIES FOR A VIOLATION OF~~
15 ~~§ 21-902 (D) OF THIS ARTICLE UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PRIOR~~
16 ~~CONVICTION OF § 21-902(A), (B), OR (C) OF THIS ARTICLE SHALL BE CONSIDERED A~~
17 ~~CONVICTION OF § 21-902 (D) OF THIS ARTICLE.~~

18 27-107.

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

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

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

24 (b) (1) ~~[In] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, IN~~
25 addition to any other penalties provided in this title for a violation of any of the
26 provisions of § 21-902(a) of this article ("Driving while under the influence of alcohol
27 or under the influence of alcohol per se"), or § 21-902(b) of this article ("Driving while
28 impaired by alcohol"), or in addition to any other condition of probation, a court may
29 prohibit a person who is convicted of, or granted probation under § 6-220 of the
30 Criminal Procedure Article for, a violation of § 21-902(a) or § 21-902(b) of this article
31 from operating for not more than 3 years a motor vehicle that is not equipped with an
32 ignition interlock system.

33 (2) IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW FOR A
34 VIOLATION OF ANY OF THE PROVISIONS OF § 2-503, § 2-504, OR § 3-211(C) OR (D) OF
35 THE CRIMINAL LAW ARTICLE OR ANY OTHER CONDITION OF PROBATION, ON A
36 FINDING THAT A PERSON VIOLATED § 2-503, § 2-504, OR § 3-211(C) OR (D) OF THE
37 CRIMINAL LAW ARTICLE A COURT MAY PROHIBIT A PERSON FROM OPERATING A
38 MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM
39 FOR NOT MORE THAN 5 YEARS.

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

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

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

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

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

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

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

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

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

21 (ii) May establish a payment schedule.

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

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

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

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

1 (2) If a person is required, in the course of the person's employment, to
 2 operate a motor vehicle owned or provided by the person's employer, the person may
 3 operate that motor vehicle in the course of the person's employment without
 4 installation of an ignition interlock system if the court or the Administration has
 5 expressly permitted the person to operate in the course of the person's employment a
 6 motor vehicle that is not equipped with an ignition interlock system.

7 ~~(H) IN ADDITION TO ANY OTHER PENALTIES PROVIDED IN THIS TITLE FOR A
 8 THIRD OR SUBSEQUENT VIOLATION OF ANY OF THE PROVISIONS OF § 21-902(A) OF
 9 THIS ARTICLE ("DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL OR UNDER
 10 THE INFLUENCE OF ALCOHOL PER SE") OR § 21-902 (B) OF THIS ARTICLE ("DRIVING
 11 WHILE IMPAIRED BY ALCOHOL"), OR IN ADDITION TO ANY OTHER CONDITION OF
 12 PROBATION, A COURT SHALL PROHIBIT A PERSON WHO IS CONVICTED OF, OR
 13 GRANTED PROBATION UNDER § 6-220 OF THE CRIMINAL PROCEDURE ARTICLE FOR, A
 14 THIRD OR SUBSEQUENT VIOLATION OF § 21-902 (A) OR (B) OF THIS ARTICLE FROM
 15 DRIVING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK
 16 SYSTEM FOR NOT MORE THAN 3 YEARS.~~

17 27-108.

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

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

- 23 (i) Do not impede the safe operation of the vehicle;
- 24 (ii) Minimize opportunities to be bypassed;
- 25 (iii) Correlate accurately with established measures of blood alcohol
 26 levels;
- 27 (iv) Work accurately and reliably in an unsupervised environment;
- 28 (v) Require a proper and accurate measure of blood alcohol levels;
- 29 (vi) Are installed in a tamper proof manner and provide evidence of
 30 attempted tampering;
- 31 (vii) Are difficult to circumvent, and require premeditation to
 32 circumvent;
- 33 (viii) Minimize inconvenience to a sober user;
- 34 (ix) Are manufactured by a party responsible for installation, user
 35 training, service, and maintenance;

- 1 (x) Operate reliably over the range of motor vehicle environments
2 or motor vehicle manufacturing standards;
- 3 (xi) Are manufactured by a person who is adequately insured for
4 products liability;
- 5 (xii) Provide the option for an electronic log of the driver's experience
6 with the system; and
- 7 (xiii) Are certified by a qualified laboratory approved by the
8 Administration.
- 9 (3) (i) The Administration shall design and adopt a warning label to be
10 affixed to an ignition interlock system on installation.
- 11 (ii) The warning label shall state that a person tampering with,
12 circumventing, or otherwise misusing the ignition interlock system is guilty of a
13 misdemeanor, and, on conviction, is subject to a fine or imprisonment or both.
- 14 (4) (i) The Administration shall publish a list of certified ignition
15 interlock systems.
- 16 (ii) A manufacturer of an ignition interlock system that seeks to sell
17 or lease the ignition interlock system to persons subject to the provisions of § 27-107
18 of this subtitle in the State shall pay the costs of obtaining the required certification.
- 19 (b) A person may not sell or lease or offer to sell or lease an ignition interlock
20 system to a person subject to the provisions of § 27-107 of this subtitle in the State
21 unless:
- 22 (1) The system has been certified by the Administration; and
- 23 (2) A warning label approved by the Administration is affixed to the
24 system stating that a person who tampers, circumvents, or otherwise misuses the
25 system is guilty of a misdemeanor, and, on conviction, is subject to a fine or
26 imprisonment or both.
- 27 (c) A person who sells or leases an ignition interlock system in the State shall:
- 28 (1) Monitor the use of the system as required by the court; and
- 29 (2) Issue a report of the results of the monitoring to the appropriate
30 office of the Division of Parole and Probation.
- 31 (d) The Administration shall adopt regulations establishing minimum
32 standards for the certification of an approved service provider, including:
- 33 (1) The minimum qualifications described under § 16-404.1 of this
34 article; and

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

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