

SENATE BILL 405

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R3

2003 Regular Session
3r1674
CF 3r2339

By: ~~Senator Jimeno~~ **Senators Jimeno and Forehand**
Introduced and read first time: January 31, 2003
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 25, 2003

CHAPTER _____

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 offenses; expanding the types of alcohol- and drug-related driving
10 offenses for which a court is required to order certain persons convicted of
11 certain subsequent offenses to undergo a certain alcohol or drug abuse
12 assessment and to participate in a certain alcohol or drug abuse program under
13 certain circumstances; and generally relating to penalties for certain persons
14 convicted of certain subsequent alcohol- and drug-related offenses under
15 certain circumstances.

16 BY repealing and reenacting, without amendments,
17 Article - Transportation
18 Section 21-902
19 Annotated Code of Maryland
20 (2002 Replacement Volume)

21 BY repealing and reenacting, with amendments,
22 Article - Transportation
23 Section 27-101(j)
24 Annotated Code of Maryland
25 (2002 Replacement Volume)

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

3 **Article - Transportation**

4 21-902.

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

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

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

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

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

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

23 27-101.

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

25 (i) An inpatient rehabilitation or treatment center; or

26 (ii) Home detention that includes electronic monitoring FOR THE
27 PURPOSE OF PARTICIPATING IN A DRUG OR ALCOHOL TREATMENT PROGRAM
28 CERTIFIED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

29 (2) A person who is convicted of a violation of [§ 21-902(a)] § 21-902 of
30 this article within 5 years after a prior conviction under that [subsection] SECTION is
31 subject to a mandatory minimum penalty of[:] IMPRISONMENT FOR NOT LESS THAN
32 5 DAYS.

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

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

1 (3) A person who is convicted of a third or subsequent offense under [§
2 21-902(a)] § 21-902 of this article within 5 years is subject to a mandatory minimum
3 penalty of[:] IMPRISONMENT FOR NOT LESS THAN 10 DAYS.

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

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

6 (4) A person who is convicted of an offense under [§ 21-902(a)] § 21-902
7 of this article within 5 years of a prior conviction of any offense under that
8 [subsection] SECTION shall be required by the court to:

9 (i) Undergo a comprehensive alcohol OR DRUG abuse assessment;
10 and

11 (ii) If recommended at the conclusion of the assessment, participate
12 in an alcohol OR DRUG ABUSE program certified by the Department of Health and
13 Mental Hygiene as ordered by the court.

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

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