

HOUSE BILL 5

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2004 Regular Session
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(PRE-FILED)

By: **Delegates Bronrott, Mandel, and Holmes**
Requested: October 10, 2003
Introduced and read first time: January 14, 2004
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicles - Learners' Permits and Provisional Licenses - Restriction**
3 **on Use of a Wireless Communication Device While Driving**

4 FOR the purpose of requiring the Motor Vehicle Administration to impose a
5 restriction on learners' instructional permits and provisional drivers' licenses
6 that prohibits permit holders or licensees from using certain types of wireless
7 communication devices while operating a motor vehicle; providing for certain
8 exceptions; defining certain terms; making a stylistic change; and generally
9 relating to the use of certain wireless communication devices by holders of
10 learners' instructional permits or provisional drivers' licenses under certain
11 circumstances.

12 BY repealing and reenacting, with amendments,
13 Article - Transportation
14 Section 16-113
15 Annotated Code of Maryland
16 (2002 Replacement Volume and 2003 Supplement)

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

19 **Article - Transportation**

20 16-113.

21 (a) (1) In addition to the vision and other restrictions provided for in this
22 subtitle, when it issues a driver's license, the Administration for good cause may
23 impose on the licensee:

24 (i) Any restrictions suitable to the licensee's driving ability with
25 respect to the type of special mechanical control devices required on motor vehicles
26 that the licensee may drive;

1 (ii) An alcohol restriction which prohibits the licensee from driving
2 or attempting to drive a motor vehicle while having alcohol in the licensee's blood; and

3 (iii) Any other restrictions applicable to the licensee that the
4 Administration determines appropriate to assure the safe driving of a motor vehicle
5 by the licensee.

6 (2) An alcohol restriction that prohibits the licensee from driving or
7 attempting to drive a motor vehicle while having alcohol in the licensee's blood may,
8 as described in subsections (b) and (g) of this section, include a restriction that
9 prohibits the licensee from driving or attempting to drive a motor vehicle unless the
10 licensee is a participant in the Ignition Interlock System Program established under
11 § 16-404.1 of this title.

12 (b) (1) Notwithstanding the licensee's driving record, the Administration
13 shall impose on each licensee under the age of 21 years an alcohol restriction that
14 prohibits the licensee from driving or attempting to drive a motor vehicle while
15 having alcohol in the licensee's blood.

16 (2) An alcohol restriction imposed under this subsection expires when
17 the licensee reaches the age of 21 years.

18 (3) This subsection may not be construed or applied to limit:

19 (i) The authority of the Administration to impose on a licensee an
20 alcohol restriction described in subsection (a)(2) of this section; or

21 (ii) The application of any other provision of law that prohibits
22 consumption of an alcoholic beverage by an individual under the age of 21 years.

23 (4) An individual under the age of 21 years who is convicted of a violation
24 of § 21-902(a), (b), or (c) of this article may be required, for a period of not more than
25 3 years, to participate in the Ignition Interlock System Program in order to retain the
26 individual's driver's license.

27 (c) (1) Subject to the provisions of paragraph (2) of this subsection, the
28 Administration may:

29 (i) Issue a special restricted license; or

30 (ii) Set forth the restrictions on the usual license form.

31 (2) The Administration shall indicate on the license of a licensee under
32 the age of 21 years that an alcohol restriction has been imposed on the licensee under
33 subsection (b) of this section.

34 (d) (1) Notwithstanding the licensee's driving record, the Administration
35 shall impose an hour restriction on a provisional driver's license issued to an
36 applicant under the age of 18 YEARS.

1 (2) The restriction under this subsection shall limit the holder of a
2 provisional license to driving unsupervised only between the hours of 5 a.m. and 12
3 midnight.

4 (3) This subsection does not preclude the holder of a provisional license
5 from driving between the hours of 12 midnight and 5 a.m. the following day if the
6 licensee is:

7 (i) Accompanied and supervised by a licensed driver who is at least
8 21 years old;

9 (ii) Driving to or from or in the course of the licensee's employment;

10 (iii) Driving to or from a school class or official school activity;

11 (iv) Driving to or from an organized volunteer program; or

12 (v) Driving to or from an opportunity to participate in an athletic
13 event or related training session.

14 (4) The hour restriction and the supervision requirement under this
15 subsection expire on the date the holder of the provisional license turns 18 years of
16 age.

17 (d-1) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
18 MEANINGS INDICATED.

19 (II) "9-1-1 SYSTEM" HAS THE MEANING STATED IN § 1-301 OF THE
20 PUBLIC SAFETY ARTICLE.

21 (III) "WIRELESS COMMUNICATION DEVICE" MEANS:

22 1. A HANDHELD OR HANDS-FREE DEVICE USED TO ACCESS
23 A WIRELESS TELEPHONE SERVICE; OR

24 2. A TEXT MESSAGING DEVICE.

25 (2) Notwithstanding the licensee's driving record, and subject to
26 paragraph [(2)] (4) of this subsection, the Administration shall impose a restriction on
27 each provisional driver's license prohibiting the licensee from:

28 (I) IF THE LICENSEE IS UNDER 18 YEARS OF AGE, operating a
29 motor vehicle if the driver and each passenger in the motor vehicle are not restrained
30 by a seat belt or, in accordance with § 22-412.2 of this article, by a child safety seat;
31 OR

32 (II) USING A WIRELESS COMMUNICATION DEVICE WHILE
33 OPERATING A MOTOR VEHICLE.

34 (3) NOTWITHSTANDING THE DRIVING RECORD OF A HOLDER OF A
35 LEARNER'S INSTRUCTIONAL PERMIT, AND SUBJECT TO PARAGRAPH (4) OF THIS

1 SUBSECTION, THE ADMINISTRATION SHALL IMPOSE A RESTRICTION ON EACH
2 LEARNER'S INSTRUCTIONAL PERMIT PROHIBITING THE HOLDER FROM USING A
3 WIRELESS COMMUNICATION DEVICE WHILE OPERATING A MOTOR VEHICLE.

4 [(2)] (4) It is not a violation of the restriction [under]:

5 (I) UNDER paragraph [(1)] (2)(I) of this subsection if an individual
6 covered by a medical exception under § 22-412.2(f) or § 22-412.3(d) and (e) of this
7 article is not restrained;

8 (II) UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION IF THE
9 LICENSEE USES A WIRELESS COMMUNICATION DEVICE TO CONTACT A 9-1-1 SYSTEM;
10 OR

11 (III) UNDER PARAGRAPH (3) OF THIS SUBSECTION IF THE HOLDER
12 OF A LEARNER'S INSTRUCTIONAL PERMIT USES A WIRELESS COMMUNICATION
13 DEVICE TO CONTACT A 9-1-1 SYSTEM.

14 [(3)] The restrictions under paragraph (1) of this subsection expire on the
15 date that the holder of a provisional license turns 18 years of age.]

16 (e) (1) In addition to the other restrictions provided under this subtitle, the
17 Administration may issue:

18 (i) A driver's license that is valid only in the State of Maryland to
19 an applicant who has been suspended in another jurisdiction as a result of failing to
20 comply with the financial responsibility requirements of that jurisdiction; or

21 (ii) A temporary driver's license that is valid only in the State of
22 Maryland to an applicant for reinstatement of a suspended or revoked driver's
23 license, renewal of a driver's license, or a duplicate or corrected driver's license if, at
24 the time of application:

25 1. The applicant's privilege to drive in another jurisdiction is
26 revoked or suspended as a result of failing to comply with the licensing requirements
27 of that jurisdiction for which a comparable violation in this State would not have
28 resulted in revocation or suspension;

29 2. The initial violation that led to the revocation or
30 suspension did not occur within the preceding 5 years;

31 3. The applicant is otherwise qualified to be licensed in this
32 State; and

33 4. The Administration determines that the applicant will be
34 able to take any actions required by the other jurisdiction for reinstatement of the
35 privilege to drive in that jurisdiction.

36 (2) A temporary license issued under paragraph (1) of this subsection
37 shall be valid for 90 days.

1 (3) The Administration shall adopt regulations for the issuance of
2 temporary licenses under paragraph (1) of this subsection.

3 (f) After receiving satisfactory evidence of any violation of a restricted or
4 provisional driver's license, the Administration may suspend or revoke the license.
5 However, the licensee may request a hearing as provided for a suspension or
6 revocation under Subtitle 2 of this title.

7 (g) (1) The Administration shall impose an alcohol restriction under
8 subsection (a)(1)(ii) of this section that prohibits an individual for a period of 3 years
9 from driving or attempting to drive with alcohol in the individual's blood on any
10 licensee who is convicted within 5 years of any combination of two or more violations
11 under § 21-902(a), (b), or (c) of this article.

12 (2) If a circuit court or the District Court orders a licensee not to drive or
13 attempt to drive a motor vehicle with alcohol in the licensee's blood or orders, under §
14 27-107 of this article, the licensee to participate in the Ignition Interlock System
15 Program established under § 16-404.1 of this title, the Administration shall have the
16 licensee's driving record and driver's license reflect that the court ordered restriction
17 was imposed, and shall keep records of the order.

18 (h) An individual may not drive a vehicle in any manner that violates any
19 restriction imposed by the Administration in a restricted license issued to the
20 individual.

21 (i) An individual may not drive a vehicle in any manner that violates any
22 restriction imposed in a provisional license issued to the individual.

23 (j) An individual may not drive or attempt to drive a motor vehicle with
24 alcohol in the individual's blood in violation of a restriction imposed by a court.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
26 effect October 1, 2004.