

ENROLLED BILL

-- Environmental Matters/Judicial Proceedings --

Introduced by **Delegates Bronrott, Mandel, G. Clagett, Cryor, Sossi, Anderson, Barkley, Barve, Benson, Bobo, Bohanan, Boschert, Boteler, Boutin, Bozman, Bromwell, Cardin, V. Clagett, Cluster, Conway, DeBoy, Donoghue, Dumais, Eckardt, Elmore, Feldman, Franchot, Frush, Fulton, Gaines, Goldwater, Gutierrez, Haddaway, Hammen, Hixson, Holmes, Hurson, James, Kach, Kelley, King, Kullen, Lee, Leopold, Madaleno, Marriott, McComas, McConkey, McHale, McKee, Menes, Miller, Moe, Montgomery, Murray, Nathan-Pulliam, Niemann, Paige, Parker, Pendergrass, Petzold, Ramirez, Ross, Shank, Shewell, Simmons, Stern, Stull, Taylor, V. Turner, and Weldon**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Motor Vehicles - Learners' Permits and Provisional Licenses - ~~Restriction~~**
3 **Prohibition 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 prohibiting the holder of a learner's~~
7 ~~instructional permit or provisional driver's license from using certain types of~~
8 wireless communication devices while operating a motor vehicle; providing for

1 certain exceptions; defining certain terms; ~~making a stylistic change; clarifying~~
 2 ~~language; authorizing a police officer to enforce this Act only as a secondary~~
 3 ~~action when detaining a driver for another suspected violation of law;~~
 4 ~~authorizing the Motor Vehicle Administration to suspend or revoke an~~
 5 ~~individual's driver's license for a violation of this Act for up to a certain period of~~
 6 ~~time; authorizing the Administration to issue a certain restricted license;~~
 7 ~~providing for certain hearings;~~ and generally relating to the use of certain
 8 wireless communication devices by holders of learners' instructional permits or
 9 provisional drivers' licenses under certain circumstances.

10 ~~BY repealing and reenacting, with amendments, BY adding to~~
 11 Article - Transportation
 12 Section ~~46-113~~ 21-1123
 13 Annotated Code of Maryland
 14 (2002 Replacement Volume and 2004 Supplement)

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

17 **Article - Transportation**

18 ~~46-113.~~

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

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

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

27 (iii) ~~Any other restrictions applicable to the licensee that the~~
 28 ~~Administration determines appropriate to assure the safe driving of a motor vehicle~~
 29 ~~by the licensee.~~

30 (2) ~~An alcohol restriction that prohibits the licensee from driving or~~
 31 ~~attempting to drive a motor vehicle while having alcohol in the licensee's blood may,~~
 32 ~~as described in subsections (b) and (g) of this section, include a restriction that~~
 33 ~~prohibits the licensee from driving or attempting to drive a motor vehicle unless the~~
 34 ~~licensee is a participant in the Ignition Interlock System Program established under~~
 35 ~~§ 16-404.1 of this title.~~

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

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

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

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

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

8 (4) An individual under the age of 21 years who is convicted of a violation
9 of § 21-902(a), (b), or (c) of this article may be required, for a period of not more than
10 3 years, to participate in the Ignition Interlock System Program in order to retain the
11 individual's driver's license.

12 (e) (1) Subject to the provisions of paragraph (2) of this subsection, the
13 Administration may:

14 (i) Issue a special restricted license; or

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

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

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

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

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

28 (i) Accompanied and supervised by a licensed driver who is at least
29 21 years old;

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

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

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

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

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

4 ~~(d 1) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE~~
5 ~~MEANINGS INDICATED.~~

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

8 ~~(III) "WIRELESS COMMUNICATION DEVICE" MEANS:~~

9 ~~1. A HANDHELD OR HANDS-FREE DEVICE USED TO ACCESS~~
10 ~~A WIRELESS TELEPHONE SERVICE; OR~~

11 ~~2. A TEXT MESSAGING DEVICE.~~

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

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

19 ~~(II) USING A WIRELESS COMMUNICATION DEVICE WHILE~~
20 ~~OPERATING A MOTOR VEHICLE.~~

21 (3) NOTWITHSTANDING THE DRIVING RECORD OF A HOLDER OF A
22 LEARNER'S INSTRUCTIONAL PERMIT, AND SUBJECT TO PARAGRAPH (4) OF THIS
23 SUBSECTION, THE ADMINISTRATION SHALL IMPOSE A RESTRICTION ON EACH
24 LEARNER'S INSTRUCTIONAL PERMIT PROHIBITING THE HOLDER FROM USING A
25 WIRELESS COMMUNICATION DEVICE WHILE OPERATING A MOTOR VEHICLE.

26 ~~[(2)] (4) It is not a violation of the restriction [under]:~~

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

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

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

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

3 ~~(e) (1) In addition to the other restrictions provided under this subtitle, the~~
4 ~~Administration may issue:~~

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

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

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

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

18 ~~3. The applicant is otherwise qualified to be licensed in this~~
19 ~~State; and~~

20 ~~4. The Administration determines that the applicant will be~~
21 ~~able to take any actions required by the other jurisdiction for reinstatement of the~~
22 ~~privilege to drive in that jurisdiction.~~

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

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

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

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

36 ~~(2) If a circuit court or the District Court orders a licensee not to drive or~~
37 ~~attempt to drive a motor vehicle with alcohol in the licensee's blood or orders, under §~~
38 ~~27-107 of this article, the licensee to participate in the Ignition Interlock System~~

1 Program established under § 16-404.1 of this title, the Administration shall have the
 2 licensee's driving record and driver's license reflect that the court ordered restriction
 3 was imposed, and shall keep records of the order.

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

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

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

11 21-1123.

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 13 INDICATED.

14 (2) "9-1-1 SYSTEM" HAS THE MEANING STATED IN § 1-301 OF THE
 15 PUBLIC SAFETY ARTICLE.

16 (3) "WIRELESS COMMUNICATION DEVICE" MEANS:

17 (I) A HANDHELD OR HANDS FREE DEVICE USED TO ACCESS A
 18 WIRELESS TELEPHONE SERVICE; OR

19 (II) A TEXT MESSAGING DEVICE.

20 (B) THIS SECTION DOES NOT APPLY TO THE USE OF A WIRELESS
 21 COMMUNICATION DEVICE TO CONTACT A 9-1-1 SYSTEM.

22 (C) A HOLDER OF A LEARNER'S INSTRUCTIONAL PERMIT OR A PROVISIONAL
 23 DRIVER'S LICENSE WHO IS UNDER THE AGE OF 18 YEARS MAY NOT USE A WIRELESS
 24 COMMUNICATION DEVICE WHILE OPERATING A MOTOR VEHICLE.

25 (D) A POLICE OFFICER MAY ENFORCE THIS SECTION ONLY AS A SECONDARY
 26 ACTION WHEN THE POLICE OFFICER DETAINS A DRIVER FOR A SUSPECTED
 27 VIOLATION OF ANOTHER PROVISION OF THE CODE.

28 (E) (1) IF THE ADMINISTRATION RECEIVES SATISFACTORY EVIDENCE THAT
 29 AN INDIVIDUAL HAS VIOLATED THIS SECTION, THE ADMINISTRATION:

30 (I) MAY SUSPEND ~~OR REVOKE~~ THE INDIVIDUAL'S DRIVER'S
 31 LICENSE FOR NOT MORE THAN 90 DAYS; AND

32 (II) MAY ISSUE A RESTRICTED LICENSE FOR THE PERIOD OF
 33 SUSPENSION THAT IS LIMITED TO DRIVING A MOTOR VEHICLE:

34 1. IN THE COURSE OF THE INDIVIDUAL'S EMPLOYMENT;

1 2. FOR THE PURPOSE OF DRIVING TO OR FROM A PLACE OF
2 EMPLOYMENT; OR

3 3. FOR THE PURPOSE OF DRIVING TO OR FROM SCHOOL.

4 (2) AN INDIVIDUAL MAY REQUEST A HEARING AS PROVIDED FOR A
5 SUSPENSION OR REVOCATION UNDER TITLE 16, SUBTITLE 2 OF THIS ARTICLE.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
7 effect October 1, 2005.