

**ENROLLED BILL**

-- *Judicial Proceedings/Environmental Matters* --

Introduced by **Senators Forehand and Frosh**

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.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

5 FOR the purpose of ~~requiring the Motor Vehicle Administration to impose a~~  
6 ~~restriction on each learner's instructional permit and provisional driver's~~  
7 ~~license, and on certain driver's licenses, that prohibits permit holders or~~  
8 ~~licensees prohibiting the holder of a learner's instructional permit or provisional~~  
9 ~~driver's license from using a certain interactive types of wireless communication~~  
10 ~~device devices while operating a motor vehicle that is in motion; prohibiting the~~  
11 ~~driver of a motor vehicle that is in motion from using an interactive wireless~~  
12 ~~communication device that is held by the driver while in use; providing for~~  
13 ~~certain exceptions; defining certain terms; establishing certain penalties;~~  
14 ~~prohibiting certain violations of this Act from being considered moving~~  
15 ~~violations for certain purposes; providing that certain provisions of this Act~~  
16 ~~supersede certain local laws, ordinances, or regulations; providing that certain~~  
17 ~~provisions of this Act may only be enforced by certain measures during a certain~~

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

10 ~~BY repealing and reenacting, with amendments,~~  
 11 ~~Article—Transportation~~  
 12 ~~Section 16-113~~  
 13 ~~Annotated Code of Maryland~~  
 14 ~~(2002 Replacement Volume and 2004 Supplement)~~

15 BY adding to  
 16 Article - Transportation  
 17 Section 21-1123  
 18 Annotated Code of Maryland  
 19 (2002 Replacement Volume and 2004 Supplement)

20 ~~BY repealing and reenacting, without amendments,~~  
 21 ~~Article—Transportation~~  
 22 ~~Section 27-101(a) and (b)~~  
 23 ~~Annotated Code of Maryland~~  
 24 ~~(2002 Replacement Volume and 2004 Supplement)~~

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

27 **~~Article—Transportation~~**

28 ~~16-113.~~

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

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

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

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

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

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

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

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

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

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

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

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

27 (i) Issue a special restricted license; or

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

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

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

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

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

4                   (i)     Accompanied and supervised by a licensed driver who is at least  
5 21 years old;

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

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

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

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

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

14                  ~~(d 1) (1) (1)     IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE~~  
15 ~~MEANINGS INDICATED.~~

16                   ~~(II)     "INTERACTIVE WIRELESS COMMUNICATION DEVICE" MEANS~~  
17 ~~ANY WIRELESS ELECTRONIC COMMUNICATION DEVICE THAT PROVIDES FOR VOICE~~  
18 ~~OR DATA COMMUNICATION BETWEEN TWO OR MORE PARTIES, INCLUDING A MOBILE~~  
19 ~~OR CELLULAR TELEPHONE, A TEXT MESSAGING DEVICE, A PERSONAL DIGITAL~~  
20 ~~ASSISTANT THAT SENDS OR RECEIVES MESSAGES, OR A LAPTOP COMPUTER.~~

21                   ~~(III)    "9 1 1 SYSTEM" HAS THE MEANING STATED IN § 1 301 OF THE~~  
22 ~~PUBLIC SAFETY ARTICLE.~~

23                  ~~(2)     (1)     Notwithstanding the licensee's driving record, and subject to~~  
24 ~~paragraph [(2)] (4) of this subsection, the Administration shall impose a restriction on~~  
25 ~~each provisional driver's license prohibiting the licensee from:~~

26                                 ~~1.     IF THE LICENSEE IS UNDER 18 YEARS OF AGE, operating a~~  
27 ~~motor vehicle if the driver and each passenger in the motor vehicle are not restrained~~  
28 ~~by a seat belt or, in accordance with § 22 412.2 of this article, by a child safety seat;~~  
29 ~~OR~~

30                                 ~~2.     USING AN INTERACTIVE WIRELESS COMMUNICATION~~  
31 ~~DEVICE WHILE OPERATING A MOTOR VEHICLE.~~

32                   ~~(II)     THE RESTRICTIONS UNDER ITEM 1 OF SUBPARAGRAPH (1) OF~~  
33 ~~THIS PARAGRAPH EXPIRE ON THE DATE THAT THE HOLDER OF A PROVISIONAL~~  
34 ~~LICENSE TURNS 18 YEARS OF AGE.~~

35                  ~~(3)     NOTWITHSTANDING THE DRIVING RECORD OF A HOLDER OF A~~  
36 ~~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 AN  
3 INTERACTIVE WIRELESS COMMUNICATION DEVICE WHILE OPERATING A MOTOR  
4 VEHICLE.

5           ~~{(2)}~~    (4)     It is not a violation of the restriction ~~[under]:~~

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

9                    (II)    ~~UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION IF THE~~  
10 ~~LICENSEE USES AN INTERACTIVE WIRELESS COMMUNICATION DEVICE TO CONTACT~~  
11 ~~A 9-1-1 SYSTEM OR A PUBLIC SAFETY AGENCY IN CONNECTION WITH AN~~  
12 ~~EMERGENCY; OR~~

13                   (III)   ~~UNDER PARAGRAPH (3) OF THIS SUBSECTION IF THE HOLDER~~  
14 ~~OF A LEARNER'S INSTRUCTIONAL PERMIT USES AN INTERACTIVE WIRELESS~~  
15 ~~COMMUNICATION DEVICE TO CONTACT A 9-1-1 SYSTEM OR A PUBLIC SAFETY~~  
16 ~~AGENCY IN CONNECTION WITH AN EMERGENCY.~~

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

19   ~~(D-2) (1)     NOTWITHSTANDING THE LICENSEE'S DRIVING RECORD, THE~~  
20 ~~ADMINISTRATION SHALL IMPOSE ON EACH LICENSEE UNDER THE AGE OF 18 YEARS~~  
21 ~~A RESTRICTION THAT PROHIBITS THE LICENSEE FROM USING AN INTERACTIVE~~  
22 ~~WIRELESS COMMUNICATION DEVICE WHILE OPERATING A MOTOR VEHICLE.~~

23           (2)     ~~IT IS NOT A VIOLATION OF THE RESTRICTION UNDER PARAGRAPH (1)~~  
24 ~~OF THIS SUBSECTION IF THE LICENSEE USES AN INTERACTIVE WIRELESS~~  
25 ~~COMMUNICATION DEVICE, AS DEFINED IN SUBSECTION (D-1) OF THIS SECTION, TO~~  
26 ~~CONTACT A 9-1-1 SYSTEM, AS DEFINED IN SUBSECTION (D-1) OF THIS SECTION, OR A~~  
27 ~~PUBLIC SAFETY AGENCY IN CONNECTION WITH AN EMERGENCY.~~

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

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

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

37                           1.     ~~The applicant's privilege to drive in another jurisdiction is~~  
38 ~~revoked or suspended as a result of failing to comply with the licensing requirements~~

1 of that jurisdiction for which a comparable violation in this State would not have  
2 resulted in revocation or suspension;

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

5                                   3.        The applicant is otherwise qualified to be licensed in this  
6 State; and

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

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

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

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

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

23                   (2)        If a circuit court or the District Court orders a licensee not to drive or  
24 attempt to drive a motor vehicle with alcohol in the licensee's blood or orders, under §  
25 27-107 of this article, the licensee to participate in the Ignition Interlock System  
26 Program established under § 16-404.1 of this title, the Administration shall have the  
27 licensee's driving record and driver's license reflect that the court ordered restriction  
28 was imposed, and shall keep records of the order.

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

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

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

36       SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
37 read as follows:

1 **Article - Transportation**

2 21-1123.

3 ~~(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, WHILE A~~  
4 ~~MOTOR VEHICLE IS IN MOTION, A DRIVER OF A MOTOR VEHICLE MAY NOT USE AN~~  
5 ~~INTERACTIVE WIRELESS COMMUNICATION DEVICE, AS DEFINED IN § 16-113 OF THIS~~  
6 ~~ARTICLE, THAT IS HELD BY THE DRIVER WHILE IN USE.~~

7 ~~(B) THIS SECTION DOES NOT APPLY TO:~~

8 ~~(1) A DRIVER COMMUNICATING WITH A 9-1-1 SYSTEM, AS DEFINED IN §~~  
9 ~~1-301 OF THE PUBLIC SAFETY ARTICLE, OR A PUBLIC SAFETY AGENCY IN~~  
10 ~~CONNECTION WITH AN EMERGENCY;~~

11 ~~(2) AN EMPLOYEE OF AN ELECTRIC COMPANY, GAS COMPANY, OR~~  
12 ~~TELEPHONE COMPANY, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITY COMPANIES~~  
13 ~~ARTICLE, IN CONNECTION WITH EMERGENCY COMMUNICATIONS; OR~~

14 ~~(3) AN OPERATOR OF AN EMERGENCY VEHICLE WHILE ACTING IN AN~~  
15 ~~OFFICIAL CAPACITY.~~

16 ~~(C) A VIOLATION OF THIS SECTION IS NOT A MOVING VIOLATION FOR THE~~  
17 ~~PURPOSE OF ASSESSING POINTS UNDER § 16-402 OF THIS ARTICLE.~~

18 ~~(D) (1) THE STATE PREEMPTS THE RIGHT OF A POLITICAL SUBDIVISION TO~~  
19 ~~REGULATE THE USE OF AN INTERACTIVE WIRELESS COMMUNICATION DEVICE BY~~  
20 ~~THE DRIVER OF A MOTOR VEHICLE.~~

21 ~~(2) ALL RESTRICTIONS OR STANDARDS IMPOSED BY THE LAWS,~~  
22 ~~ORDINANCES, OR REGULATIONS OF A POLITICAL SUBDIVISION IN THE STATE THAT~~  
23 ~~GOVERN THE USE OF AN INTERACTIVE WIRELESS COMMUNICATION DEVICE BY THE~~  
24 ~~DRIVER OF A MOTOR VEHICLE ARE SUPERSEDED BY THIS SECTION.~~

25 ~~27-101.~~

26 ~~(a) It is a misdemeanor for any person to violate any of the provisions of the~~  
27 ~~Maryland Vehicle Law unless the violation:~~

28 ~~(1) Is declared to be a felony by the Maryland Vehicle Law or by any~~  
29 ~~other law of this State; or~~

30 ~~(2) Is punishable by a civil penalty under the applicable provision of the~~  
31 ~~Maryland Vehicle Law.~~

32 ~~(b) Except as otherwise provided in this section, any person convicted of a~~  
33 ~~misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is~~  
34 ~~subject to a fine of not more than \$500.~~

35 ~~SECTION 3. AND BE IT FURTHER ENACTED, That from October 1, 2005~~  
36 ~~until the end of March 31, 2006, the provisions of § 21-1123 of the Transportation~~

1 Article as enacted in Section 2 of this Act may be enforced only by the issuance of a  
2 warning that informs the offender of the requirements of § 21-1123 of the  
3 Transportation Article.

4 ~~SECTION 4. AND BE IT FURTHER ENACTED, That nothing in this Act may~~  
5 ~~be construed to prevent a law enforcement officer from issuing a warning under this~~  
6 ~~Act on or after April 1, 2006, if the law enforcement officer believes the warning~~  
7 ~~would be in the public interest.~~

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
9 INDICATED.

10 (2) "9-1-1 SYSTEM" HAS THE MEANING STATED IN § 1-301 OF THE PUBLIC  
11 SAFETY ARTICLE.

12 (3) "WIRELESS COMMUNICATION DEVICE" MEANS:

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

15 (II) A TEXT MESSAGING DEVICE.

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

18 (C) A HOLDER OF A LEARNER'S INSTRUCTIONAL PERMIT OR A PROVISIONAL  
19 DRIVER'S LICENSE WHO IS UNDER THE AGE OF 18 YEARS MAY NOT USE A WIRELESS  
20 COMMUNICATION DEVICE WHILE OPERATING A MOTOR VEHICLE ~~IF THE MOTOR~~  
21 ~~VEHICLE IS IN MOTION.~~

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

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

27 (I) MAY SUSPEND THE INDIVIDUAL'S DRIVER'S LICENSE FOR NOT  
28 MORE THAN 90 DAYS; AND

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

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

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

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

1           (2)     AN INDIVIDUAL MAY REQUEST A HEARING AS PROVIDED FOR A  
2 SUSPENSION OR REVOCATION UNDER ~~TITLE 16~~ TITLE 12, SUBTITLE 2, OF THIS  
3 ARTICLE.

4           SECTION ~~5~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take  
5 effect October 1, 2005.