
By: **Senators Forehand and Frosh**

Introduced and read first time: January 14, 2005

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicles - Restrictions on Use of Wireless Communication Devices**
3 **While Driving**

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

18 BY repealing and reenacting, with amendments,
19 Article - Transportation
20 Section 16-113
21 Annotated Code of Maryland
22 (2002 Replacement Volume and 2004 Supplement)

23 BY adding to
24 Article - Transportation
25 Section 21-1123
26 Annotated Code of Maryland
27 (2002 Replacement Volume and 2004 Supplement)

28 BY repealing and reenacting, without amendments,
29 Article - Transportation
30 Section 27-101(a) and (b)
31 Annotated Code of Maryland

1 (2002 Replacement Volume and 2004 Supplement)

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

4 **Article - Transportation**

5 16-113.

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

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

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

14 (iii) Any other restrictions applicable to the licensee that the
15 Administration determines appropriate to assure the safe driving of a motor vehicle
16 by the licensee.

17 (2) An alcohol restriction that prohibits the licensee from driving or
18 attempting to drive a motor vehicle while having alcohol in the licensee's blood may,
19 as described in subsections (b) and (g) of this section, include a restriction that
20 prohibits the licensee from driving or attempting to drive a motor vehicle unless the
21 licensee is a participant in the Ignition Interlock System Program established under
22 § 16-404.1 of this title.

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

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

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

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

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

34 (4) An individual under the age of 21 years who is convicted of a violation
35 of § 21-902(a), (b), or (c) of this article may be required, for a period of not more than

1 3 years, to participate in the Ignition Interlock System Program in order to retain the
2 individual's driver's license.

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

5 (i) Issue a special restricted license; or

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

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

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

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

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

19 (i) Accompanied and supervised by a licensed driver who is at least
20 21 years old;

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

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

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

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

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

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

31 (II) "INTERACTIVE WIRELESS COMMUNICATION DEVICE" MEANS
32 ANY WIRELESS ELECTRONIC COMMUNICATION DEVICE THAT PROVIDES FOR VOICE
33 OR DATA COMMUNICATION BETWEEN TWO OR MORE PARTIES, INCLUDING A MOBILE
34 OR CELLULAR TELEPHONE, A TEXT MESSAGING DEVICE, A PERSONAL DIGITAL
35 ASSISTANT THAT SENDS OR RECEIVES MESSAGES, OR A LAPTOP COMPUTER.

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

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

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

10 2. USING AN INTERACTIVE WIRELESS COMMUNICATION
11 DEVICE WHILE OPERATING A MOTOR VEHICLE.

12 (II) THE RESTRICTIONS UNDER ITEM 1 OF SUBPARAGRAPH (I) OF
13 THIS PARAGRAPH EXPIRE ON THE DATE THAT THE HOLDER OF A PROVISIONAL
14 LICENSE TURNS 18 YEARS OF AGE.

15 (3) NOTWITHSTANDING THE DRIVING RECORD OF A HOLDER OF A
16 LEARNER'S INSTRUCTIONAL PERMIT, AND SUBJECT TO PARAGRAPH (4) OF THIS
17 SUBSECTION, THE ADMINISTRATION SHALL IMPOSE A RESTRICTION ON EACH
18 LEARNER'S INSTRUCTIONAL PERMIT PROHIBITING THE HOLDER FROM USING AN
19 INTERACTIVE WIRELESS COMMUNICATION DEVICE WHILE OPERATING A MOTOR
20 VEHICLE.

21 [(2)] (4) It is not a violation of the restriction [under]:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 27-101.

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

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

10 (2) Is punishable by a civil penalty under the applicable provision of the
11 Maryland Vehicle Law.

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

15 SECTION 3. AND BE IT FURTHER ENACTED, That from October 1, 2005
16 until the end of March 31, 2006, the provisions of § 21-1123 of the Transportation
17 Article as enacted in Section 2 of this Act may be enforced only by the issuance of a
18 warning that informs the offender of the requirements of § 21-1123 of the
19 Transportation Article.

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

24 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2005.