

SENATE BILL 1022

R3

9lr3370

By: **Senators Mooney and Muse**

Introduced and read first time: March 4, 2009

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Driving While Under the Influence of Alcohol or Impaired by a Controlled**
3 **Dangerous Substance – First Offense – Minimum Sentence**

4 FOR the purpose of establishing a certain minimum penalty for a first offense of
5 driving while under the influence of alcohol or driving while impaired by a
6 controlled dangerous substance; requiring that a mandatory minimum sentence
7 of imprisonment imposed under this Act include confinement on certain days;
8 prohibiting a court from imposing a penalty less than a certain minimum
9 penalty; prohibiting a court from suspending any part of a certain minimum
10 penalty; and generally relating to the penalty for driving while under the
11 influence of alcohol or driving while impaired by a controlled dangerous
12 substance.

13 BY repealing and reenacting, without amendments,
14 Article – Transportation
15 Section 21–902(a) and (d)
16 Annotated Code of Maryland
17 (2006 Replacement Volume and 2008 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Transportation
20 Section 27–101(k)
21 Annotated Code of Maryland
22 (2006 Replacement Volume and 2008 Supplement)

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

25 **Article – Transportation**

26 21–902.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

5 (3) A person may not violate paragraph (1) or (2) of this subsection
6 while transporting a minor.

7 (d) (1) A person may not drive or attempt to drive any vehicle while the
8 person is impaired by any controlled dangerous substance, as that term is defined in §
9 5–101 of the Criminal Law Article, if the person is not entitled to use the controlled
10 dangerous substance under the laws of this State.

11 (2) A person may not violate paragraph (1) of this subsection while
12 transporting a minor.

13 27–101.

14 (k) (1) Except as provided in subsection (q) of this section, any person who
15 is convicted of a violation of any of the provisions of § 21–902(a) of this article
16 (“Driving while under the influence of alcohol or under the influence of alcohol per se”)
17 or § 21–902(d) of this article (“Driving while impaired by controlled dangerous
18 substance”):

19 (i) For a first offense, shall be subject to a fine of not more than
20 \$1,000, or imprisonment for not **LESS THAN 2 DAYS AND NOT** more than 1 year, or
21 both;

22 (ii) For a second offense, shall be subject to a fine of not more
23 than \$2,000, or imprisonment for not more than 2 years, or both; and

24 (iii) For a third or subsequent offense, shall be subject to a fine of
25 not more than \$3,000, or imprisonment for not more than 3 years, or both.

26 **(2) (I) A MANDATORY MINIMUM SENTENCE OF IMPRISONMENT**
27 **IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR A FIRST VIOLATION**
28 **OF § 21–902(A) OR (D) OF THIS ARTICLE SHALL INCLUDE CONFINEMENT ON**
29 **BOTH A SATURDAY AND A SUNDAY.**

30 **(II) NOTWITHSTANDING § 14–102 OF THE CRIMINAL LAW**
31 **ARTICLE, THE COURT MAY NOT IMPOSE LESS THAN THE MANDATORY MINIMUM**
32 **SENTENCE OF 2 DAYS.**

33 **(III) THE COURT MAY NOT SUSPEND ANY PART OF THE**
34 **MANDATORY MINIMUM SENTENCE OF 2 DAYS.**

1 ~~[(2)]~~ **(3)** For the purpose of second or subsequent offender penalties
2 for violation of § 21-902(a) of this article provided under this subsection, a prior
3 conviction under § 21-902(b), (c), or (d) of this article, within 5 years of the conviction
4 for a violation of § 21-902(a) of this article, shall be considered a conviction under §
5 21-902(a) of this article.

6 ~~[(3)]~~ **(4)** For the purpose of second or subsequent offender penalties
7 for violation of § 21-902(d) of this article provided under this subsection, a prior
8 conviction under § 21-902(a), (b), or (c) of this article, within 5 years of the conviction
9 for a violation of § 21-902(d) of this article, shall be considered a conviction under §
10 21-902(d) of this article.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2009.