

SENATE BILL 710

R3

4r1823
CF 4r1511

By: **Senator Forehand**

Introduced and read first time: January 31, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Impaired Driving – Repeat Offenders – Penalties**

3 FOR the purpose of altering the penalties for a third or subsequent violation of certain
4 prohibitions against driving while impaired by alcohol or drugs; altering the
5 application of certain mandatory sanctions and minimum penalties for repeat
6 offenders to apply to a broader range of drug– and alcohol–related driving
7 offenses; making certain conforming changes; and generally relating to
8 penalties for impaired driving.

9 BY repealing and reenacting, without amendments,
10 Article – Transportation
11 Section 21–902
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2013 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Transportation
16 Section 27–101(f), (j), and (q)
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2013 Supplement)

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

21 **Article – Transportation**

22 21–902.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

5 (b) (1) A person may not drive or attempt to drive any vehicle while
6 impaired by alcohol.

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

9 (c) (1) A person may not drive or attempt to drive any vehicle while he is
10 so far impaired by any drug, any combination of drugs, or a combination of one or more
11 drugs and alcohol that he cannot drive a vehicle safely.

12 (2) It is not a defense to any charge of violating this subsection that
13 the person charged is or was entitled under the laws of this State to use the drug,
14 combination of drugs, or combination of one or more drugs and alcohol, unless the
15 person was unaware that the drug or combination would make the person incapable of
16 safely driving a vehicle.

17 (3) A person may not violate paragraph (1) of this subsection while
18 transporting a minor.

19 (d) (1) A person may not drive or attempt to drive any vehicle while the
20 person is impaired by any controlled dangerous substance, as that term is defined in §
21 5–101 of the Criminal Law Article, if the person is not entitled to use the controlled
22 dangerous substance under the laws of this State.

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

25 (e) For purposes of the application of subsequent offender penalties under §
26 27–101 of this article, a conviction for a crime committed in another state or federal
27 jurisdiction that, if committed in this State, would constitute a violation of subsection
28 (a), (b), (c), or (d) of this section shall be considered a violation of subsection (a), (b), (c),
29 or (d) of this section.

30 27–101.

31 (f) (1) A person is subject to a fine not exceeding \$500 or imprisonment
32 not exceeding 1 year or both, if the person is convicted of:

33 (i) A violation of § 14–103 of this article (“Possession of motor
34 vehicle master key”); or

1 (ii) Except as provided in subsection (q) of this section, a second
2 [or subsequent] violation of:

3 1. § 21–902(b) of this article (“Driving while impaired by
4 alcohol”); or

5 2. § 21–902(c) of this article (“Driving while impaired by
6 drugs or drugs and alcohol”).

7 **(2) EXCEPT AS PROVIDED IN SUBSECTION (Q) OF THIS SECTION, A**
8 **PERSON WHO IS CONVICTED OF A THIRD OR SUBSEQUENT VIOLATION OF §**
9 **21–902(B) OR (C) OF THIS ARTICLE IS SUBJECT TO A FINE NOT EXCEEDING**
10 **\$3,000 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.**

11 **[(2)] (3)** Except as provided in subsection (q) of this section, for the
12 purpose of second or subsequent offender penalties for a violation of § 21–902(b) of this
13 article provided under [paragraph] **PARAGRAPHS (1) AND (2)** of this subsection, a
14 prior conviction of § 21–902(a), (c), or (d) of this article shall be considered a conviction
15 of § 21–902(b) of this article.

16 **[(3)] (4)** Except as provided in subsection (q) of this section, for the
17 purpose of second or subsequent offender penalties for a violation of § 21–902(c) of this
18 article provided under [paragraph] **PARAGRAPHS (1) AND (2)** of this subsection, a
19 prior conviction of § 21–902(a), (b), or (d) of this article shall be considered a conviction
20 of § 21–902(c) of this article.

21 (j) (1) In this subsection, “imprisonment” includes confinement in:

22 (i) An inpatient rehabilitation or treatment center; or

23 (ii) Home detention that includes electronic monitoring for the
24 purpose of participating in an alcohol treatment program that is:

25 1. Certified by the Department of Health and Mental
26 Hygiene;

27 2. Certified by an agency in an adjacent state that has
28 powers and duties similar to the Department of Health and Mental Hygiene; or

29 3. Approved by the court.

30 (2) (i) A person who is convicted of a violation of **[(§ 21–902(a)] §**
31 **21–902** of this article within 5 years after a prior conviction under that **[subsection]**
32 **SECTION** is subject to a mandatory minimum penalty of imprisonment for not less
33 than 5 days.

1 (ii) A person who is convicted of a third or subsequent offense
2 under [§ 21–902(a)] **§ 21–902** of this article within 5 years is subject to a mandatory
3 minimum penalty of imprisonment for not less than 10 days.

4 (3) [(i) A person who is convicted of a violation of § 21–902(d) of this
5 article within 5 years after a prior conviction under that subsection is subject to a
6 mandatory minimum penalty of imprisonment for not less than 5 days.

7 (ii) A person who is convicted of a third or subsequent offense
8 under § 21–902(d) of this article within 5 years is subject to a mandatory minimum
9 penalty of imprisonment for not less than 10 days.

10 (4) A person who is convicted of an offense under [§ 21–902(a)] **§**
11 **21–902** of this article within 5 years of a prior conviction of any offense under that
12 [subsection] **SECTION** shall be required by the court to:

13 (i) Undergo a comprehensive alcohol **OR DRUG** abuse
14 assessment; and

15 (ii) If recommended at the conclusion of the assessment,
16 participate in an alcohol **OR DRUG** program as ordered by the court that is:

17 1. Certified by the Department of Health and Mental
18 Hygiene;

19 2. Certified by an agency in an adjacent state that has
20 powers and duties similar to the Department of Health and Mental Hygiene; or

21 3. Approved by the court.

22 [(5) A person who is convicted of an offense under § 21–902(d) of this
23 article within 5 years of a prior conviction of any offense under that subsection shall be
24 required by the court to:

25 (i) Undergo a comprehensive drug abuse assessment; and

26 (ii) If recommended at the conclusion of the assessment,
27 participate in a drug program as ordered by the court that is:

28 1. Certified by the Department of Health and Mental
29 Hygiene;

30 2. Certified by an agency in an adjacent state that has
31 powers and duties similar to the Department of Health and Mental Hygiene; or

32 3. Approved by the court.

1 (6)] **(5)** The penalties provided by this subsection are mandatory
2 and are not subject to suspension or probation.

3 (q) (1) Any person who is convicted of a violation of § 21-902(a)(3) or
4 (d)(2) of this article is subject to:

5 (i) For a first offense, a fine of not more than \$2,000 or
6 imprisonment for not more than 2 years or both;

7 (ii) For a second offense, a fine of not more than \$3,000 or
8 imprisonment for not more than 3 years or both; and

9 (iii) For a third or subsequent offense, a fine of not more than
10 \$4,000 or imprisonment for not more than 4 years or both.

11 (2) Any person who is convicted of a violation of § 21-902(b)(2) or (c)(3)
12 of this article is subject to:

13 (i) For a first offense, a fine of not more than \$1,000 or
14 imprisonment for not more than 6 months or both; [and]

15 (ii) For a second [or subsequent] offense, a fine of not more than
16 \$2,000 or imprisonment for not more than 1 year or both; **AND**

17 **(III) FOR A THIRD OR SUBSEQUENT OFFENSE, A FINE OF NOT**
18 **MORE THAN \$4,000 OR IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR BOTH.**

19 (3) For the purpose of determining second or subsequent offender
20 penalties provided under this subsection, a prior conviction of any provision of §
21 21-902 of this article that subjected a person to the penalties under this subsection
22 shall be considered a prior conviction.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2014.