

## Chapter 244

(House Bill 957)

AN ACT concerning

### Impaired Driving – Repeat Offenders – Penalties

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

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

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 27–101(f), ~~(g)~~, and (q)  
Annotated Code of Maryland  
(2012 Replacement Volume and 2013 Supplement)

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

#### Article – Transportation

21–902.

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

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

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

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

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

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

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

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

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

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

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

27–101.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~3. Approved by the court.~~

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

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

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

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

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

~~(i) Undergo a comprehensive alcohol OR DRUG abuse assessment; and~~

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

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

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

~~3. Approved by the court.~~

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

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

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

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

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

~~3. Approved by the court.~~

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

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

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

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

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

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

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

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

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

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

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

**Approved by the Governor, April 14, 2014.**