

Testimony of Leonard R. Stamm **Opposing** Senate Bill 870 (HB 952)  
Senate Judicial Proceedings Committee  
February 27, 2020

My name is Leonard R. Stamm appearing on behalf of the Maryland Criminal Defense Attorneys' Association. I have been in private practice defending persons accused of drunk driving and other crimes for over 30 years. I am author of *Maryland DUI Law*, published and updated annually by Thomson-Reuters. I am currently a Fellow (former Dean) of the National College for DUI Defense, a nationwide organization with over 1500 lawyer members. I am a former President and current Dean of the Maryland Criminal Defense Attorneys' Association. I have co-authored amicus briefs filed by the National Association of Criminal Defense Lawyers and the National College for DUI Defense in the Supreme Court cases of *Bullcoming v. New Mexico*, 564 U.S. 647 (2011), *Missouri v. McNeely*, 569 US 141 (2013), and *Birchfield v. North Dakota*, 579 US \_\_\_, 136 S. Ct. 2160, 195 L. Ed. 2d 560 (2016).

1. Perhaps the biggest complaint about Senate Bill 870 (HB 952) is that it unfairly targets first offenders who are either at or only slightly over the legal limit. Many of these drivers are social drinkers who are unlikely to reoffend at all, not to mention in the year following their arrest. The proponents of law offer statistics to the legislature showing the number of times that the interlock has caught drivers attempting to drive drunk. However, this data does not reflect the drivers targeted by this law. There is no data I am aware of showing the number of social drinkers who repeat within the first 6 months after their first arrest. In my experience, such occurrences are extremely rare. So the law is punishing social drinkers, the vast majority of whom will not ever drink and drive again, and certainly not within the first 6 months after their first arrest.
2. This bill requires mandatory ignition interlock in certain cases. I am not opposed to interlocks in general. The problem as I see it with interlocks is the program is both too broad and too narrow at the same time. The requirement would be too broad in that people who cannot afford an interlock or for whom an interlock requirement would be unnecessarily devastating, such as CDL holders, or non-vehicle owners, drivers who are required to drive a company car would be unfairly punished. The requirement could serve as a permanent preclusion from ever getting a license again. There needs to be discretion. The requirements as currently enforced are too narrow because out of state residents from Virginia, West Virginia, D.C., Delaware and Pennsylvania, who work in Maryland are unable to qualify for the program in Maryland and must take a suspension instead. A bill that could have corrected this problem did not pass two years ago.
3. This bill contains an interlock requirement for defendants who receive probation before judgment. The problem is that many of those offenders who do not have an ignition interlock in the car already as a result of the administrative hearing, that usually occurs before court, don't qualify because they don't have a Maryland driver's license or a car. Under current law, a person who fails a breath test at .08 or more but less than .15 has already been through a process where they elected a 180 days suspension, a 180 work permit or a 180 day interlock. A person who fails a breath test with a result of .15 or more has already either elected a 180 day suspension or one year with an ignition interlock. A person who refuses the breath test is subject to a 270 day suspension or one year interlock. The punishment must fit the crime and this proposal does not. It would represent a double punishment for those offenders that chose a suspension over the interlock at the MVA hearing.
4. This bill is very similar to HB 813 that was not approved in 2019.

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