

**HB 451 and SB 528.pdf**

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STATEMENT IN SUPPORT OF HB 451 and SB 528

The Maryland State's Attorneys' Association would like to express its support for House Bill 451 and Senate Bill 528- Ignition Interlock System Program.

While the MSAA greatly appreciates the efforts of the legislature in enacting the first "Noah's Law" a few years ago, it unfortunately left a loophole in the statute. As initially written, mandatory ignition interlock was primarily only made applicable to drivers convicted of Driving Under the Influence of Alcohol (TA §21-902(a)) or of Driving While Impaired by Alcohol While Transporting a Minor under the Age of 16 (TA §21-902(b)(2).) As the language in Noah's Law only applied to those who were convicted of those limited offenses, it did not apply to the vast most impaired drivers.

Studies have shown that a person drives while impaired between 50-80 times before they are caught. Each year, approximately 18,000 – 20,000 people are arrested for impaired driving in Maryland. In calendar year 2019, 19,163 individuals were arrested for impaired driving in our state. Of those going to court, approximately 80% are found guilty of one of the four impaired driving offenses: Driving Under the Influence of Alcohol (TA §21-902(a)); Driving While Impaired by Alcohol (§21-902(b)); Driving While Impaired by Drugs or a Combination of Drugs or Alcohol (§21-902(c)); and Driving While Impaired by a Controlled Dangerous Substance (§21-902(d)). Of that 80%, 68% received a Probation Before Judgment for the impaired driving conviction, thus, were not subject to Noah's Law.

Of the 32% of convicted impaired drivers not receiving a PBJ, most of those individuals were only found guilty of the (b) offense, Driving While Impaired by Alcohol. Unless they were transporting a child under the age of 16, they would not be subject to mandatory Ignition Interlock. With approximately 33% - 40% of impaired drivers electing to refuse the intoximeter test, it has become extremely difficult for prosecutors to obtain convictions for the (a) offense, Driving Under the Influence of Alcohol. By lacking breath test evidence, prosecutors are only able to obtain the (b) conviction.

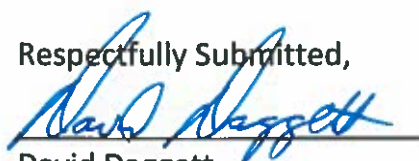
Regardless of whether a person is convicted of an (a) or a (b) offense, at the time of their driving, they were every bit a threat to law-abiding travelers.

Ignition Interlock has been shown to be the single most effective deterrent to impaired driving. Making Ignition Interlock mandatory for every person who drove, was caught, and convicted of driving while impaired by alcohol (regardless of whether it was an (a) or a (b)) will greatly reduce the risk of fatal and life-threatening crashes.

#### Conclusion

The Maryland State's Attorneys' Association would like to commend Delegate Atterbeary and Senator Waldstreicher for introducing this very important piece of legislation and as previously stated, would like to express our support for HB 451 and SB528 and would ask for a favorable report.

Respectfully Submitted,



David Daggett

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# **MADD Frank Harris HB 451 Support.pdf**

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**Frank Harris**  
**Director of State Government Affairs**  
**Mothers Against Drunk Driving**  
**Testimony in Support of HB 451**  
**House Judiciary Committee**  
**February 8, 2023**

- Thank you Mr. Chairman and Members of the Committee for allowing me to testify in support of HB 451. My name is Frank Harris, Director of State Government Affairs, with Mothers Against Drunk Driving.
- Mothers Against Drunk Driving thanks Chairwoman Atterbeary for authoring this lifesaving legislation.
- Mr. Chairman and Members of the Committee, the battle against drunk driving is not over. According to the National Highway Traffic Safety Administration (NHTSA), 183 people were killed in drunk driving crashes in Maryland in 2020. This is an increase of 10% from 2019, when 167 people died in drunk driving crashes. Increasing the use of interlocks, as prescribed in this measure, is proven to reduce drunk driving.
- In November 2006, MADD made a sea change in how we approach drunk driving. Instead of focusing on license suspension, punishment and incarceration and a list of other penalties for non-injury related drunk driving offenses, we took a step back to recalibrate how we focus our advocacy efforts.
- We took a step back, because what MADD was pushing for was not making a significant enough of a difference to stop drunk driving. We know this, because since 1994, progress stalled against drunk driving as every year around 1 of every 3 traffic deaths were drunk driving related.
- In 2006, MADD launched the Campaign to Eliminate Drunk Driving. As it relates to our efforts in states, our focus centers around pushing legislation that increases the use of ignition interlocks for drunk drivers. Specifically, our top priority is enacting an all-offender ignition interlock law.
- What we mean by all-offender is that the only way a person can drive during a court or MVA administered license suspension is via an ignition interlock or the person cannot drive at all.
- When MADD launched the Campaign, only one state, New Mexico had an all-offender ignition interlock law in place. Today, 34 states plus DC have these laws in place.
- Ignition interlocks is the only tool that can physically separate drinking from driving while teaching sober driving. License suspension alone is a hope for the best approach. Hope alone cannot stop drunk driving.

- Noah's Law enacted in 2016 made Maryland one of 34 states with an all-offender law. However, like many states with interlock laws, there are loopholes which allow for drunk drivers to fall through the cracks.
- Some loopholes in state laws is the lack of a mechanism which allows indigent users to obtain an interlock at a reduced rate. Maryland currently has in place an indigent program for interlock users unable to afford the device. However, Maryland's biggest loophole in their entire impaired driving law is that an ignition interlock is not required for PBJ. This loophole allows nearly all first-time offenders to avoid an interlock thereby undermining the law.
- According to the Maryland Department of Transportation, a majority of first-time offenders drunk driving cases results in the person receiving PBJ. In 2021, of the 9,291 closed case dispositions for 21-902(a) and (b), more than half (4,734 or 50.95%) of DUI/DWI offenders in Maryland received PBJs and are not required to use an ignition interlocks.

### **Interlocks work to stop drunk driving**

- Mandatory ignition interlock laws have been well-studied. According to the Insurance Institute for Highway Safety, mandatory interlock laws reduce drunk driving deaths by 16 percent. HB 451 will ensure Noah's Law will save more lives.
- From 2006 to 2020, these devices stopped over 3.7 million attempts to legally drive drunk with a blood alcohol concentration of .08 or greater. Yes, 3.7 million attempts by interlock users drive drunk prevented by technology. This shows the power of the device to stop drunk driving.
- In Maryland during fourteen years, interlocks stopped over 73,000 attempts to drive drunk, including over 7,042 in 2020 alone. Imagine how many more attempts to drive drunk will be prevented if HB 451 becomes law?
- This is a big deal in the fight against drunk driving. It shows that lawmakers should ensure no loopholes exist which allow drunk drivers to avoid these lifesaving ignition interlock devices.
- PBJ allows for drunk drivers for a second chance. It allows drunk drivers a chance for redemption. BUT, the current PBJ scheme in Maryland sets participants up to fail and become repeat offenders. The goal of HB 451 is to remedy this failure. And more importantly to MADD, ensure that first-time offenders do not drive drunk again and kill or injure people on Maryland roadways.
- Mr. Chairman and members of the Committee, please advance this legislation to give PBJ drunk drivers a true second chance. Thank you.

**Table 5. Impaired Driving Arrests (21-902) Presented by Most Serious Disposition, CY 2017-2021**

| <b>Violation</b>   |                     | <b>2017</b> | <b>2018</b> | <b>2019</b> | <b>2020</b> | <b>2021</b> |
|--|---------------------|-------------|-------------|-------------|-------------|-------------|
| <b>§21-902(a) Driving Under the Influence of Alcohol (DUI)</b>         | <b>Total Cases</b>  | 10,839      | 9,994       | 9,660       | 7,056       | 8,590       |
|  | <b>Open Cases</b>   | 382         | 379         | 612         | 973         | 3,340       |
|  | <b>Closed Cases</b> | 10,457      | 9,615       | 9,048       | 6,083       | 5,250       |
|  | Guilty              | 2,090       | 1,805       | 1,693       | 1,063       | 903         |
|  | PBJ                 | 4,208       | 3,974       | 3,570       | 2,124       | 2,106       |
|  | Other Disposition*  | 4,159       | 3,836       | 3,785       | 2,896       | 2,241       |
| <b>§21-902(b) Driving While Intoxicated (DWI)</b>                      | <b>Total Cases</b>  | 7,425       | 7,477       | 7,216       | 4,824       | 4,342       |
|  | <b>Open Cases</b>   | 25          | 31          | 47          | 87          | 301         |
|  | <b>Closed Cases</b> | 7,400       | 7,446       | 7,169       | 4,737       | 4,041       |
|  | Guilty              | 2,303       | 2,301       | 2,109       | 1,328       | 1,113       |
|  | PBJ                 | 4,504       | 4,518       | 4,568       | 3,038       | 2,628       |
|  | Other Disposition*  | 593         | 627         | 492         | 371         | 300         |
| <b>§21-902(c) Driving While Impaired by Drugs or Drugs and Alcohol</b> | <b>Total Cases</b>  | 1,118       | 1,314       | 1,421       | 1,412       | 1,290       |
|  | <b>Open Cases</b>   | 35          | 34          | 59          | 154         | 329         |
|  | <b>Closed Cases</b> | 1,083       | 1,280       | 1,362       | 1,258       | 961         |
|  | Guilty              | 265         | 283         | 372         | 291         | 234         |
|  | PBJ                 | 307         | 372         | 382         | 372         | 300         |
|  | Other Disposition*  | 511         | 625         | 608         | 595         | 427         |

**Source: Maryland’s Ignition Interlock Program Status Report, FY 2022**

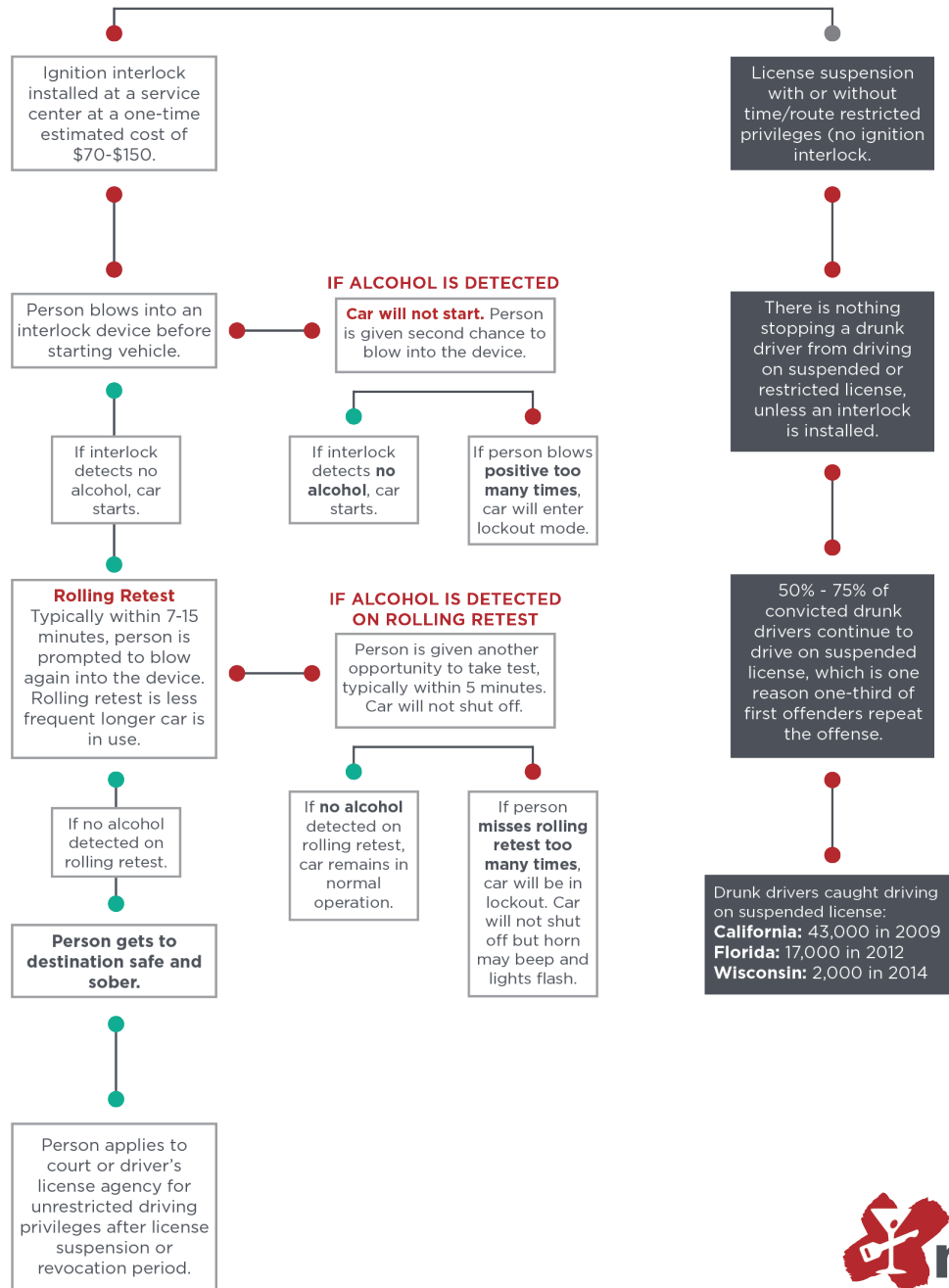
## Drunk Driving (.08 BAC or Greater) Stops by an Ignition Interlock

|                | 2006 to 2020     | 2020           | 2019           | 2018           | 2006 to 2017     |
|----------------|------------------|----------------|----------------|----------------|------------------|
| Alabama        | 8,404            | 2,447          | 1,847          | 969            | 3,141            |
| Alaska         | 18,036           | 1,146          | 2,551          | 1,512          | 12,827           |
| Arizona        | 120,782          | 11,005         | 12,332         | 9,713          | 87,732           |
| Arkansas       | 112,531          | 17,835         | 14,699         | 14,727         | 65,270           |
| California     | 298,401          | 28,078         | 25,072         | 24,459         | 220,792          |
| Colorado       | 135,963          | 15,365         | 10,506         | 10,938         | 99,154           |
| Connecticut    | 93,164           | 11,754         | 14,173         | 9,817          | 57,420           |
| Delaware       | 7,870            | 995            | 918            | 946            | 5,011            |
| D.C.           | 299              | 20             | 175            | 9              | 95               |
| Florida        | 109,127          | 11,809         | 8,931          | 10,225         | 78,162           |
| Georgia        | 44,313           | 4,368          | 4,610          | 4,339          | 30,996           |
| Hawaii         | 11,595           | 811            | 1,061          | 1,117          | 8,606            |
| Idaho          | 10,596           | 2,545          | 1,104          | 718            | 6,229            |
| Illinois       | 129,893          | 9,141          | 6,944          | 6,192          | 107,616          |
| Indiana        | 15,079           | 2,811          | 1,758          | 1,683          | 8,827            |
| Iowa           | 184,148          | 26,989         | 26,681         | 14,961         | 115,517          |
| Kansas         | 123,647          | 7,852          | 9,873          | 12,121         | 93,801           |
| Kentucky       | 8,980            | 2,096          | 1,734          | 1,365          | 3,785            |
| Louisiana      | 135,090          | 17,462         | 15,522         | 14,117         | 87,989           |
| Maine          | 17,503           | 1,692          | 1,302          | 1,235          | 13,274           |
| Maryland       | 73,978           | 7,042          | 9,575          | 7,907          | 49,454           |
| Massachusetts  | 47,435           | 4,358          | 3,806          | 3,764          | 35,507           |
| Michigan       | 32,223           | 1,945          | 2,258          | 1,743          | 26,277           |
| Minnesota      | 88,050           | 6,881          | 7,496          | 7,802          | 65,871           |
| Mississippi    | 9,485            | 1,507          | 1,188          | 1,281          | 5,509            |
| Missouri       | 128,196          | 11,100         | 11,194         | 11,293         | 94,609           |
| Montana        | 7,054            | 828            | 314            | 374            | 5,538            |
| Nebraska       | 43,241           | 4,726          | 4,178          | 3,837          | 30,500           |
| Nevada         | 16,503           | 4,059          | 3,914          | 1,269          | 7,261            |
| New Hampshire  | 14,529           | 1,791          | 1,175          | 1,104          | 10,459           |
| New Jersey     | 119,122          | 16,105         | 15,759         | 13,518         | 73,740           |
| New Mexico     | 89,658           | 6,958          | 3,862          | 7,728          | 71,110           |
| New York       | 111,043          | 8,157          | 5,589          | 6,118          | 91,179           |
| North Carolina | 30,306           | 5,045          | 2,689          | 3,172          | 19,400           |
| North Dakota   | 715              | 314            | 79             | 8              | 314              |
| Ohio           | 34,927           | 4,438          | 3,001          | 3,327          | 24,161           |
| Oklahoma       | 104,009          | 12,650         | 11,080         | 14,431         | 65,848           |
| Oregon         | 57,645           | 4,150          | 5,639          | 3,373          | 44,483           |
| Pennsylvania   | 93,037           | 9,336          | 6,820          | 6,133          | 70,748           |
| Rhode Island   | 7,848            | 1,839          | 1,139          | 1,360          | 3,510            |
| South Carolina | 12,655           | 2,072          | 1,879          | 1,743          | 6,961            |
| South Dakota   | 2,040            | 197            | 64             | 132            | 1,647            |
| Tennessee      | 79,530           | 10,989         | 9,055          | 7,238          | 52,248           |
| Texas          | 371,345          | 34,367         | 29,649         | 32,850         | 274,479          |
| Utah           | 26,472           | 3,417          | 3,843          | 2,727          | 16,485           |
| Vermont        | 11,700           | 1,422          | 1,267          | 1,556          | 7,455            |
| Virginia       | 28,952           | 3,815          | 2,709          | 2,668          | 19,760           |
| Washington     | 147,435          | 14,089         | 14,225         | 14,492         | 104,629          |
| West Virginia  | 31,052           | 1,478          | 1,642          | 1,364          | 26,568           |
| Wisconsin      | 357,946          | 28,281         | 29,795         | 41,148         | 258,722          |
| Wyoming        | 20,831           | 768            | 3,222          | 844            | 15,997           |
| <b>Total</b>   | <b>3,784,383</b> | <b>390,345</b> | <b>359,898</b> | <b>347,467</b> | <b>2,686,673</b> |

Data collected from interlock vendors. The time period is from December 1, 2006 to December 31, 2020.



# Ignition Interlock vs. License Suspension After DUI



People who use an interlock are less likely to reoffend. Compared to license suspension alone, interlocks reduce repeat offenses by 67% while the device is installed and 39% after the device is removed. Compliance Based Removal could help decrease repeat offenses even more.

MADD supports ignition interlocks for ALL apprehended drunk drivers. Interlocks accomplish what license suspension and other monitoring technologies do not — separate drinking from driving.

- **Interlock Service Center:** Person must get interlock serviced every 30 days.
- **Lockout Mode:** If person blows positive for alcohol too many times or misses a rolling test, device may need to be taken to get serviced sooner than 30 days.
- **Extra time on interlock possible.** The interlock service center may report any violations, too many positive blows or missed rolling retests to a monitoring agency which may result in extra time on interlock if the state has a **Compliance Based Removal** aspect to the interlock law. Many states require offenders to show proof of installation and/or compliance with the interlock order to the court/driver's license agency in order to have device removed.



## Studies on the Effectiveness of Ignition Interlocks

Teoh et al, Insurance Institute for Highway Safety, “State Ignition Interlock Laws and Fatal Crashes,” March 2018.

- The number of impaired driving crashes falls 16 percent when states enact all-offender ignition interlock laws.
- If all states mandated interlocks for all DUI offenders, more than 500 of those deaths would have been avoided.

McGinty, Emma E. *American Journal of Preventative Medicine*, “Ignition Interlock Laws: Effects on Fatal Motor Vehicle Crashes, 1982–2013,” January, 2017

- Ignition interlock laws reduce alcohol-involved fatal crashes. Increasing the spread of interlock laws that are mandatory for all offenders would have significant public health benefit.
- Laws requiring interlocks for all drunk driving offenders with a blood alcohol concentration (BAC) of .08 or greater were associated with a seven percent decrease in the rate of drunk driving fatal crashes.
- Laws requiring interlocks for first-time offenders with a BAC of .15 or greater were associated with an eight percent decrease in the rate of drunk driving fatal crashes.
- Laws requiring interlocks for segments of high-risk drunk driving offenders, such as repeat offenders, may reduce alcohol-involved fatal crashes after two years of implementation.

California DMV Study of Four-County Ignition Interlock Pilot Program, June 2016

- Ignition interlocks are **74% more effective in reducing DUI recidivism** than license suspension alone for first offenders during the first 182 days after conviction.
- **Interlocks are 45% more effective** in preventing a repeat DUI incidence when compared to license suspension alone during days 183 to 365 after conviction. (Many first-time offenders have the device removed after 182 days of use.)
- Ignition interlocks are **70% more effective than license suspension** alone in preventing repeat offenses for second-time offenders, compared to license suspension alone, for the first 364 days of use.
- Interlocks are **58% more effective in preventing a repeat DUI incidence during days 365 to 730** days of use for second-time offenders.
- **Third-time offenders who only had a suspended license were 3.4 times more likely to have a fourth DUI** conviction or incidence compared to the interlocked offender group.
- Because interlocked offenders are able to be a part of society and provide for their family by driving to work, grocery stores, restaurants and anywhere else, their crash risk is most likely similar to the general driving population in California, but higher than offenders whose licenses were suspended or revoked and not permitted to drive.

Kaufman, University of Pennsylvania, “Impact of State Ignition Interlock Laws on Alcohol-Involved Crash Deaths in the United States,” March 2016

- DUI **deaths decreased by 15%** in states that enacted all-offender interlock laws.
  - States with mandatory interlock laws saw a **0.8 decrease in deaths for every 100,000 people** each year – which is comparable to lives shown to have been saved from mandatory airbag laws (0.9 lives saved per 100,000 people).

# **Maryland Coalition For Roadway Safety, Inc. - Test**

Uploaded by: John Seng

Position: FAV



SafeRoadsMD

**HB0451**

**“Drunk Driving Offenses - Ignition  
Interlock System Program  
PLEASE SUPPORT**

## **MARYLAND COALITION FOR ROADWAY SAFETY, INC. URGES YOUR SUPPORT FOR HB0451**

February 6, 2023

TO:

Honorable Luke Clippinger, Chair  
Honorable David Moon, Vice Chair  
Members of the Maryland House of Delegates Judiciary Committee  
House Office Building, Room 101  
Annapolis, Maryland 21401

FROM:

John J. Seng, Chair  
SafeRoadsMD - *Maryland Coalition For Roadway Safety, Inc.*  
[JohnJSeng@gmail.com](mailto:JohnJSeng@gmail.com) (202) 468-7682  
<https://www.facebook.com/groups/marylandcoalitionhighwaysafety>

My name is John Seng, volunteer Chair and founder of the *Maryland Coalition For Roadway Safety, Inc.*

Our 200+ member organization **strongly supports the enactment of HB0451, the “Drunk Driving Offenses - Ignition Interlock System Program” bill.**

**We request that the Judiciary Committee submit a favorable review of this bill to vastly reduce DUI-related deaths on Maryland roads.**

### **The Problem**

**When will this entirely preventable killing on Maryland roads stop, or even begin to decline? Drunk or otherwise inebriated drivers killed, on average, nearly 170 Marylanders annually from 2017-2021.**  
([ZeroDeathsMaryland - MDOT MVA HIGHWAY SAFETY OFFICE.](#))

Two of three Marylanders will be “impacted” by an impaired driver in their lifetime. Approximately 40% of convicted impaired drivers in Maryland currently receive Probation Without Judgment, circumventing the requirement of Noah’s Law mandating ignition interlock. We know that 7,000 people lacking an ignition interlock system return to DUI.

### **Take This Necessary Step Towards A Solution**

**Enacting HB0451 strengthens Noah’s Law** and fulfills the intent to **prevent all convicted DUI offenders from risking lives ever again.** Please place the lives of your and our children, spouses, loved ones, families, friends and all Marylanders above any minor technical or procedural impediment.

**Maryland Lawmakers Can Create A Maryland Road Safety Legacy!**



Is it possible that the Maryland General Assembly could boldly take a preminent, leadership role during this 2023 session by sending the message to the public and the legal system that Maryland lawmakers put 100% into ensuring that safety comes first? Can the Maryland General Assembly join with Governor Moore to ensure that **no one and nothing's left behind in making roadway safety a #1 priority**?

**Background – SafeRoadsMD – Maryland Coalition for Roadway Safety, Inc.**

Our founding organizations include the *American Automobile Association (AAA) Mid-Atlantic*, the *Greater Olney Civic Association (GOCA)*, *The Route 210 Traffic Safety Committee* in Prince George's County and a group of Maryland home owner associations. Alarmed by growing roadway violence in Maryland, we were established to call more attention to and combat the onslaught of speed and noise on our roads. The *Coalition* represents the interests of communities and individuals who directly suffer the consequences of illegal operation of motor vehicles.

The persistent toll that should concern us all? **2023 finished poorly as the sixth consecutive year in which between 500-600 people died from Maryland roadway violence.**

**You Can Do It!**

We thank you and the Committee for your review of our position, and urge you to submit a favorable recommendation and support for HB0451.

Sincerely,

John J. Seng  
Chair

cc: Richard Leotta, Officer Noah A. Leotta Foundation; Governor Wes Moore; Ragina Ali, AAA MidAtlantic; Greater Olney Civic Association (GOCA); SafeRoadsMD *Coalition* Board of Directors and membership

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Washington DC Police Foundation  
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Edward Hutchison  
Lyft  
Alexa Kaufman  
AT&T  
Leah Kelly  
Brown-Forman  
Jill Kiefer  
TEAM Coalition  
Captain J.P.N. Koushel  
Virginia State Police  
Robert Krebs  
Rudy London  
Jeffrey Levy  
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McAndrew Company, Inc.  
Lieutenant Jason North  
Alexandria Police Department  
Lieutenant Shawn Peak  
Prince William County Police Department  
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Eleanor Roosevelt High School SADD Club  
James Ryan  
Constellation Brands  
Jerry Sachs  
Barry Scher  
Policy Solutions LLC  
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SADD  
Kurt Erickson  
WRAP President & CEO



WASHINGTON REGIONAL ALCOHOL PROGRAM

7900 Westpark Drive, Suite A550 ■ Tysons, VA 22102 ■ TEL 703.893.0461 ■ www.wrap.org ■ Email: wrap@wrap.org

February 8, 2023

Members of the Judiciary Committee  
Maryland House of Delegates  
Annapolis, Maryland

Re.: Support for "Drunk Driving Offenses – Ignition Interlock System Program," House Bill 451, Senator Atterbeary (D-Howard County)

**"Interlocks typically are used as a condition of probation for DWI offenders, to prevent them from driving while impaired by alcohol after their driver's licenses have been reinstated."**

– National Highway Traffic Safety Administration (NHTSA), "Countermeasures That Work," 2021

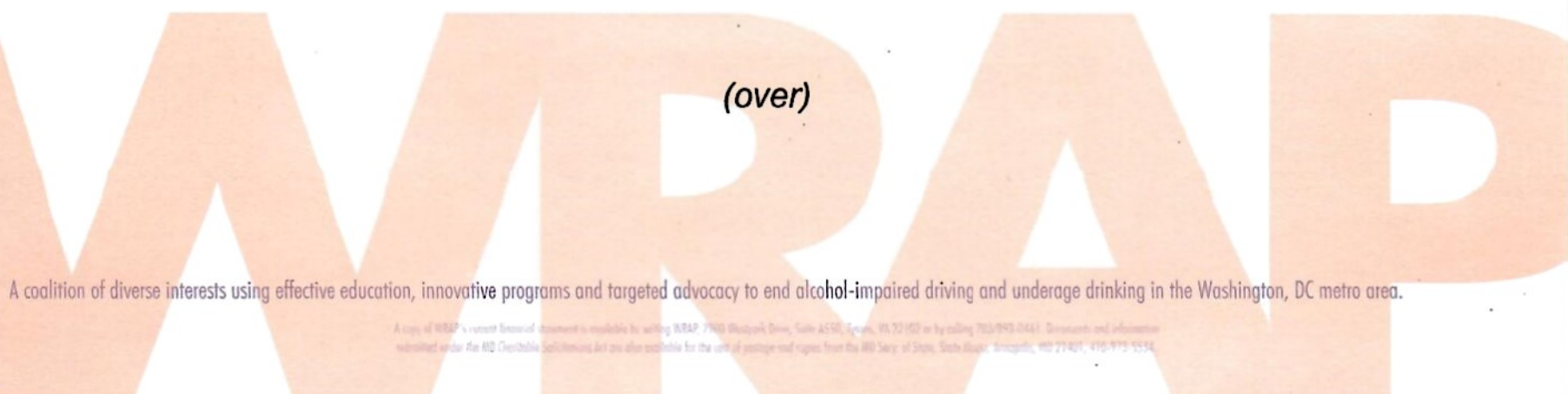
Dear Delegates:

On behalf of the Maryland nonprofit Washington Regional Alcohol Program's (WRAP) Board of Directors, staff, volunteers and the more than six-million Maryland residents we serve in the fight against drunk driving and underage drinking (including having served as project director of both Maryland's Checkpoint Strikeforce campaign and "Maryland Remembers" ceremony), I wanted to formally communicate to you **WRAP's unequivocal support for House Bill 451, "Drunk Driving Offenses – Ignition Interlock System Program"** (Delegate Vanessa Atterbeary, D-Howard County).

Succinctly, House Bill 451 seeks to expand the universe of persons subject to Maryland's Ignition Interlock System Program to include persons put on probation for either a driving under the influence of alcohol (DUI, 21-902[a]) or driving while impaired by alcohol (DWI, 21-902[b]) violation.

According to the Maryland Motor Vehicle Administration (MVA) ("Maryland's Ignition Interlock Program, Status Report," 2022), more than half (50.95%) of persons (in closed cases) adjudicated for either DUI or DWI in Maryland in 2021 were granted probation in the form of probation before judgment (PBJ) and therefore NOT subject to the full universe of public protections namely participation in Maryland's proven effective interlock program.

(over)



A coalition of diverse interests using effective education, innovative programs and targeted advocacy to end alcohol-impaired driving and underage drinking in the Washington, DC metro area.

A copy of WRAP's current financial statement is available by writing WRAP, 7900 Westpark Drive, Suite A550, Tysons, VA 22102 or by calling 703.893.0461. Documents and information submitted under the 602 Charitable Solicitations Act are also available for the cost of postage and copies from the 602 Secretary of State, State Office Building, 400 North 15th Street, MD 21201, 410-975-1234.

With ignition interlock devices reducing "repeat offenses for driving while intoxicated by about 70-percent" (U.S. Centers for Disease Control) and that interlocks are proven to be "highly effective in allowing a vehicle to be started by sober drivers but not by alcohol-impaired drivers" (NHTSA), House Bill 451 looks to simply ensure public safety along that route used by half of persons arrested for drunk driving in Maryland by subjecting *all* 21-902(a) and 21-902(b) offenders to Maryland's interlock program as a condition of (PBJ) probation.

NHTSA data ("Countermeasures That Work," 2021) shows that "interlocks typically are used as a condition of probation for DWI offenders, to prevent them from driving while impaired by alcohol after their driver's licenses have been reinstated." The need for such in Maryland is all too clear as fiscal year 2020 MVA data shows that more than 6,100 drivers were prevented from driving after consuming alcohol last year.

Maryland's interlock program is "an effective tool to help prevent the devastating consequences that can result when an impaired driver gets behind the wheel" (MVA). In a state where nearly a third of traffic fatalities still involve drunk drivers (30.7% in 2021, MVA), *not* using Maryland's existing -- and offender-paid -- interlock program for the full universe of DUI and or DWI offenders in the state is, at best, not using every tool in Maryland's toolbox to prevent drunk driving. At worst, it is potentially deadly as 2021 bore witness to Maryland posting increases in the number of drunk driving crashes (up 4.9%) and number of persons injured in said crashes (up 3.9%) (MVA).

□□□□□

As a means of both more effectively monitoring a drunk driver's probation period in Maryland and strengthening Maryland's "Drunk Driving Reduction Act of 2016" ("Noah's Law") which "continues to have an impact on Maryland's Ignition Interlock Program and is helping to keep drunk drivers off the road" (MVA), the Maryland nonprofit Washington Regional Alcohol Program strongly supports House Bill 451. To that end, we also thank you, in advance, for your consideration of favorably reporting this potentially lifesaving legislation.

Thank you, in advance, for your consideration. I may be directly reached with any questions at either 703-893-0461 or at [kurt@wrap.org](mailto:kurt@wrap.org).

Cordially,



Kurt Gregory Erickson  
President



**HB0451 - MVA - Ignition Interlock - SUPP\_FINAL.pdf**

Uploaded by: Patricia Westervelt

Position: FAV

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February 8, 2023

The Honorable Luke Clippinger  
Chair, House Judiciary Committee  
101 House Office Building  
Annapolis MD 21401

***RE: Letter of Support – House Bill 451 – Drunk Driving Offenses – Ignition Interlock System Program***

Dear Chair Clippinger and Committee Members:

The Maryland Department of Transportation (MDOT) supports House Bill 451 as an opportunity to expand the use of an effective tool in combating the dangers of impaired driving.

House Bill 451 serves to strengthen and increase participation in the Ignition Interlock Program (IIP) by requiring that an individual found to be driving while under the influence or impaired and is either convicted, suspended, or revoked on points, or is granted probation before judgement, must enter the Ignition Interlock Program (IIP).

Over the past five years in Maryland, there have been nearly 800 fatalities as a result of crashes involving an impaired driver. Deaths resulting from impaired driving crashes account for one-third of all roadway fatalities. Maryland strives to reduce that number by setting the goal of reaching zero fatalities on our roadways by 2030. The MDOT Motor Vehicle Administration (MVA) supports the use of the IIP as an effective tool to reduce drunk driving crashes. Research continues to show that drivers who have interlocks installed are significantly less likely to have a repeat drunk driving offense than those who do not. Since 2006, ignition interlocks prevented 26 million attempts to drink and drive (Mothers Against Drunk Driving (MADD) Ignition Interlock Report, January 2022). This statistic demonstrates the effectiveness at keeping impaired drivers off the roadways, and that comprehensive ignition interlock laws help states reduce impaired driving fatalities.

In 2016, the landmark passage of Maryland’s Noah’s Law strengthened administrative sanctions for impaired driving and significantly expanded the IIP. Participation in the IIP has increased as a result, and these changes are helping to keep Maryland’s roadway users safe. Ignition interlocks allow drivers to continue driving sober.

Strengthening Maryland’s IIP program by requiring participation for impaired drivers receiving a probation before judgement disposition is an important next step in strengthening Maryland’s network of impaired driving prevention programs and preventing repeat offenses. Although Maryland has implemented many measures to help end impaired driving, MADD, the national advocacy organization, released their 2021 scorecard in which Maryland received a C+. In that report, MADD noted that Maryland’s all-offender law contains a “loophole,” which they

The Honorable Luke Clippinger  
Page Two

describe as the largest in the country. Specifically, first-time convicted drunk drivers can avoid a mandatory ignition interlock referral when that verdict is set aside, and the drunk driver is granted a probation before judgement disposition. House Bill 451 addresses this gap by requiring all those receiving a probation before judgement for violating Transportation Article § 21-902 (a) or (b) offenses to enroll in the IIP.

For these reasons, the Maryland Department of Transportation respectfully requests the Committee grant House Bill 451 a favorable report.

Respectfully submitted,

Christine E. Nizer  
Administrator  
Motor Vehicle Administration  
410-787-7830

Pilar Helm  
Director of Government Affairs  
Maryland Department of Transportation  
410-865-1090

# **AAA Testimony in Support of HB 451 - Drunk Driving**

Uploaded by: Ragina Ali

Position: FAV



## AAA Mid-Atlantic's Testimony in Support of HB 451 – Drunk Driving Offenses - Ignition Interlock System Program

*Sponsor: Delegate Atterbeary*

- AAA Mid-Atlantic **supports** [HB 451 - Drunk Driving Offenses - Ignition Interlock System Program](#), which closes a loophole in Noah's Law.
- The bill mandates participation in the Maryland Interlock Ignition System Program (IISP) for those first-time offenders, who received a sentence of probation before judgment (PBJ) for driving while under the influence of alcohol.
- This technical change to the current IISP Program is critical to safety on our roadways.
- In spite of all the strides in traffic safety and efforts to reduce impaired driving, risky driving behaviors, such as drunk driving continue to plague our nation and the state of Maryland, despite being a totally preventable crime.
- A recently released report from the AAA Foundation for Traffic Safety found unsafe driving behaviors rose from 2020 to 2021.
- The most alarming increase was among drivers admitting to getting behind the wheel after drinking enough that they felt they were over the legal limit - **an increase of nearly 24%**.
- The National Highway Traffic Safety Administration (NHTSA) estimated that 42,915 people died in motor vehicle traffic crashes across the country in 2021, a 10.5% increase from the 38,824 fatalities in 2020.
- According to data from NHTSA, approximately 30% of all traffic crash fatalities in the United States involve drunk drivers (with BACs of .08 g/dL or higher).
- In 2021, in Maryland, out of a total of 563 traffic fatalities, 173, or slightly more than 30%, involved a driver who was impaired by alcohol and/or drugs, according to preliminary data by the [Maryland Highway Safety Office](#).
- Expanded use of ignition interlocks would help save lives in Maryland by preventing subsequent offenses, especially considering a large number (more than 50%) of first-time drunk driving offenders receive a PBJ sentence, according to the Maryland Department of Transportation's 2022 "*Maryland's Ignition Interlock Program, Status Report.*"

- According to the *Maryland Task Force to Combat Driving Under the Influence of Drugs and Alcohol*, the use of ignition interlock systems has been shown to lead to long-lasting changes in driver behavior and the reduction of recidivism.
- The Task Force concluded that states which have extended required times for ignition interlock use for certain drunk driving offenses have experienced a 60 – 95% decrease in recidivism.
- According to the U.S. Centers for Disease Control, ignition interlocks reduce repeat DWI offenses by approximately 70%.
- We recognize that interlocks are no panacea, but they are an effective tool in preventing impaired individuals from driving, endangering themselves and others on Maryland roadways.
- In every state, it's illegal to drive drunk, yet one person was killed in a drunk-driving crash every 45 minutes in the United States in 2020, according to NHTSA.
- We respectfully thank this Committee for all you have done in the past to combat drunk driving on Maryland roads and urge you to do even more by strengthening Maryland's law by expanding the use of ignition interlocks, a measure that has proven to be effective in the fight against drunk driving.
- On behalf of the more than one million AAA members in Maryland, we respectfully request this Committee give **HB 451** a favorable report.

***Contacts:***

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Public and Government Affairs Manager  
443.465.5020*

*Sherrie Sims, GS Proctor &  
Senior Associate  
410.733.7171*

**HB451 Noah's Law Written Testimony 2-8-23 (2) (1).p**

Uploaded by: Richard Leotta

Position: FAV

## HB451 Drunk Driving Offenses – Ignition Interlock Systems Program

### Richard Leotta, Activist and Father of Officer Noah Leotta, Fully Supports This Bill

Impaired driving is on the rise, and we need to use all measures to curb this deadly threat. The Bill is a measure that can do just that by making improvements to Noah's Law that was passed and became effective on October 1, 2016. Noah's Law primarily requires an interlocking device to be installed in the vehicles of convicted drunk drivers. Interlocks are an extremely effective tool that saves lives by helping to change the bad behavior of drunk drivers. In states with all offender interlocks there is a 67% reduction in re-arrest rates and a 15% reduction in deaths rates. However, Maryland is not seeing these results because judges are using probation before judgement (PBJ) to evade the spirit and requirements of Noah's Law. To be clear a person granted the leniency of a PBJ by a judge is a person that pleads guilty, is found guilty but, not convicted and given probation in lieu thereof. Thereby, since a person is not convicted, the judges do not have to comply with the requirements of Noah's Law. To verify this, I attended the Rockville Maryland District Court proceedings once a week from 4/30/18 – 2/20/20. The results of my review are as follows:

#### Total number of DUI/DWI case recorded: 328

Breakdown of the 328 cases:

- 217 PBJs = 66% of all cases
- 129 No Interlock Ordered = 59% of PBJs
- 88 Interlock Ordered = 41% of PBJs
  
- 79 Convicted = 24% of all cases
- 59 Interlock Ordered = 75% of Convicted
- 20 No Interlock Ordered = 25% of Convicted
  
- 5 Not Guilty = 2% of all cases
  
- 27 Sentences Deferred = 8% of all cases

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- 27 Given some jail time = 8% of all cases
  
- 74 With Prior DUI/DWI Offenses = 23% of all cases
- 53 Interlock Ordered = 72% of Priors
- 16 No Interlock Ordered = 21% of Priors
- 5 Deferred = 7% of Priors
  
- 272 Represented by private attorneys = 83% of all cases



**The primary reasons given by the judges for leniency of NOT ordering an interlock are as follows:**

- **A Persons First Offense:** This is a **very weak** argument since a person drives drunk about 80 times before they are caught. Therefore, it is really the **first time being caught** for the offense of drunk driving.
- **Interlock Cost Too Much:** There are affordability provision included in Noah's Law for those that cannot afford the cost. However, it should be noted that my data shows that most of the time, **(83%)**, individuals charged with DUI/DWI had private attorney representation. Therefore, these people certainly can afford the cost of an interlock. An interlock is about the cost of a drink a day. **However, most importantly, what is the cost of my son's life and all the victims of drunk driving? (PRICELESS!)**
- **Low Blow or Blood Alcohol Content (BAC):** This is a **very weak** argument since the drivers of commercial vehicles are considered impaired at a .04 BAC. Therefore, someone is clearly and seriously impaired at .08 BAC. However, there are other factors at play that allow for .08 BAC for drivers of non-commercial vehicles. Also, it should be noted that for most of Europe and Utah .05 BAC is considered impaired.

**Discussion of Judge's discretion:**

- Judge's discretion is always maintained no matter what any law stipulates. In fact, I witnessed cases where a person was convicted of impaired driving and ill-advised judges did not require an interlocking device installed. However, an interlocking device should be a condition for the leniency of a PBJ. With an interlock device a person can live a normal life, they just cannot drink and drive. This is a reminder and therapy that helps a person not repeat this very serious, violent and deadly crime. It helps change behavior and saves lives including that of the drunk driver.

**Summary Statement:**

- **Judges grant Probation Before Judgement (PBJ) in 66% of DUI/DWI cases. I fully support the leniency of a PBJ but, judges practice catch and release by taking leniency to the extreme, by NOT ordering an interlock device in 59% of the PBJs. For these 59%, the judges usually order counseling, attending one MADD victim impact panel and sometimes one shock trauma visit. However, without ordering an interlock device, there is very limited success in changing the bad behavior of these drunk drivers. In fact, the three-time offender that struck and killed my son said it was the leniency of catch and release that lead to his continuing to drive drunk. Thereby, help protect the victims and the community, by making the leniency of a PBJ conditioned on an interlocking device. Additionally, drunk and drugged drivers given a suspension continue to drive on a suspended license 50% to 75% of the time. Let's save lives and make Maryland a state where 67% of drunk drivers do not repeat and reduce fatalities from drunk driving by 15%.**



**HB451\_FAV\_SADD.pdf**

Uploaded by: Rick Birt

Position: FAV



## The Nation's Premier Youth Health & Safety Organization

### Letter in Favor of HB451

Chairman Clippinger  
Taylor House Office Building  
Room 101  
6 Bladen Street  
Annapolis, MD 21401

February 6, 2023

Dear Chairman Clippinger:

On behalf of the 23,856 students Against Destructive Decisions members across the state of Maryland, I write to **convey our support for HB 451 and urge the swift passage of this life-saving measure.**

For over 40 years, our organization has worked with a broad coalition of stakeholders to end impaired driving. We started this journey 40 years ago as Students Against Driving Drunk with a singular focus on this topic. We now serve as the nation's premier youth health and safety organization. Mr. Chairman, this Committee will hear from individuals whom this senseless and preventable crime has impacted, a crime of robbing our communities, our families, and our society of incredible individuals taken from us at the hands of an impaired driver.

You've heard from prosecutors, law enforcement, and legal experts who have foretold why Maryland will benefit from this bill. We echo the sentiment that this change elevates the standing of this state, removing a barrier that ties the hands of judges uniquely suited to implement strategies that curb impaired driving. As the **future leaders of Maryland, we want HB 451 to become law** to be assured of the bright future we deserve— protecting ourselves, our friends, and our communities.

This measure makes critical enhancements to the existing law. Ignition interlocks work. Period. When a young person makes the deadly choice to drive impaired, they do so from a place of need. This cry for help reveals an underlying intervention, a need for countermeasures to provide oversight and support. Allowing all drivers access to interlock technology will provide our judicial partners with another resource in their toolbox to eliminate impaired driving. Beyond that, it just makes sense.

At SADD, we empower teens to make positive choices, one positive decision at a time. We understand the value of personal choice, but when one chooses to put others in harm's way, there is a need to rise to protect the public good. HB 451 can prevent that pain and modernize this state's laws.

Our members, **the students of Maryland, call on you today to vote yes** in advancing This measure. I thank you for your time and your consideration.

Respectfully,  
Rick Birt  
President & CEO, SADD, Inc.  
1701 Rhode Island Avenue NW  
Washington, DC 20001  
(508) 481-3568  
rbirt@sadd.org



**HB 451 - MoCo\_Morningstar\_FAV (GA 23).pdf**

Uploaded by: Sara Morningstar

Position: FAV



# Montgomery County

## Office of Intergovernmental Relations

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ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

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**HB 451**

**DATE: February 8, 2023**

**SPONSOR: Delegate Atterbeary**

**ASSIGNED TO: Judiciary**

**CONTACT PERSON: Sara Morningstar (Sara.Morningstar@montgomerycountymd.gov)**

**POSITION: SUPPORT**

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### **Drunk Driving Offenses – Ignition Interlock System Program**

House Bill 451 expands mandatory participation in Maryland's ignition interlock system program to include an individual who is granted probation before judgment (PBJ) for driving under the influence of alcohol or under the influence of alcohol per se or impaired by alcohol. If the offender refuses to participate in or fails to complete the program, the individual's license will be suspended by the Motor Vehicle Administration until the program is successfully completed. This is a 2023 legislative priority for Montgomery County.

The National Highway Traffic Safety Administration reported that in 2020, there were 11,654 alcohol-impaired driving deaths in the United States. Translated, about 32 people die every day in drunk driving crashes. This is a 14 percent increase in preventable deaths from 2019. Maryland made important changes to the State's impaired driving laws in 2016 by enacting Noah's Law (the Drunk Driving Reduction Act) that included increased penalties and expansion of its ignition interlock system program. While that law was a major step forward toward getting drunk drivers off the road, it did not go far enough.

Too many drunk drivers in Maryland continue to receive PBJs for driving under the influence (DUI), but if they complete a probationary period, they were not convicted of the violation, and therefore, were not required to have an ignition interlock device installed on their vehicles. Because most drunk drivers are repeat offenders, it is very likely that those receiving PBJs will get behind the wheel again and will endanger themselves and everyone around them. Ignition interlock programs work in reducing DUI recidivism. HB 451 will close this dangerous loophole in Noah's Law. Montgomery County urgently requests that the Committee adopt a favorable report on HB 451.

**HB 451 OPD oppose.docx.pdf**

Uploaded by: Elizabeth Hilliard

Position: UNF



**NATASHA DARTIGUE**  
PUBLIC DEFENDER

**KEITH LOTRIDGE**  
DEPUTY PUBLIC DEFENDER

**MELISSA ROTHSTEIN**  
CHIEF OF EXTERNAL AFFAIRS

**ELIZABETH HILLIARD**  
ACTING DIRECTOR OF GOVERNMENT RELATIONS

## **POSITION ON PROPOSED LEGISLATION**

**BILL: HB 451 – Drunk Driving Offenses – Ignition Interlock System Program**

**FROM: Maryland Office of the Public Defender**

**POSITION: Unfavorable**

**DATE: 02/06/2023**

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on House Bill 451.

Marylanders from low-income communities, especially communities of color, find themselves often strapped with gratuitous criminal-justice-related debts. These “fees for service” include court-related fees (administrative, jury, and restitution), home detention, parole and (especially for pretrial), mandatory drug and alcohol testing, vehicle interlock devices, criminal record expungement, as well as interest and late fees from the Central Collections Unit (CCU). The goal of fees is often to recoup costs and generate revenue, but the burdensome impact it can have on those involved in the criminal legal system can be life changing.

In 2018, Alexes Harris, a sociologist at the University of Washington, estimated that 80-85% of incarcerated persons now leaving prison owe criminal justice costs. This is estimated to amount to some 10 million Americans who owe more than \$50 billion in criminal justice debt. They serve to further impoverish already indigent individuals leaving them in a spiral of debt. The Maryland Office of the Public Defender urges consideration of the fees and fines associated with HB 451 on low-income communities before passing this bill.

For example, in Montgomery County the Drunk Driver Monitor Probation agent supervises a person convicted of an impaired driving offense. Supervision by this monitor has an additional supervision fee that the court cannot waive. Relatedly, clients with Interlock breathalyzer



machines must pay exorbitant costs to have the machines installed, monitored, and maintained. If a person is unable to pay these fees, there must be an opportunity to accommodate their financial needs without criminal system implications.

Given that Maryland's criminal justice system disproportionately (and at many times unnecessarily) burdens lower-income communities of color, the Maryland Office of the Public Defender urges careful consideration of how damaging the costs and restrictions associated with the mandatory Ignition Interlock System Program may be on criminal system impacted persons before passing HB 451. Thus, we urge an unfavorable report on this bill until there is more information provided about the impact that these fees are having on indigent communities, especially communities of color.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on House Bill 451.**

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**Submitted by: Maryland Office of the Public Defender, Government Relations Division.**

**hb 451 interlock oppose 2023.pdf**

Uploaded by: John Giannetti

Position: UNF

# Maryland Criminal Defense Attorneys' Association



## Md House of Delegates Judiciary Committee

February 8 2023 1pm

### Hearing on HB 0451

### “Drunk Driving – Ignition Interlock”

## MCDAA POSITION: OPPOSE

**Bill explanation:** This bill expands mandatory participation in the Maryland Interlock Ignition System Program (IISP) to include (1) an individual who is granted probation before judgment (PBJ) for driving while under the influence of alcohol or under the influence of alcohol per se, including for an offense committed while transporting a minor, and (2) an individual who is convicted of or granted PBJ for driving while impaired by alcohol, including for an offense committed while transporting a minor.

**Opposition Reasoning:** MCDAA stands in strong opposition to legislation that imposes mandatory penalties for crimes. This legislation imposes mandatory Interlock use and eliminates the discretion of the judge to decide on a suitable punishment for the specific defendant. **The MCDAA opposes mandatory penalties that pre-empt the discretion of the triers of fact in our courts.** Our judges preside over cases to use their discretion to craft appropriate sanctions for defendants based on the circumstances and facts on each individual case. Mandatory penalties abrogate this discretion and can have unintended effects that are inappropriate for the individual case before the judge. **One major issue with the legislation is the inconsistencies with penalty fulfilment under TR 16 205.1.** Drivers who are unable to enroll in the Interlock program will lose their right to drive forever. **Further, this legislation creates an environment whereby all commercial truck drivers will lose their license (and jobs?) after their case;** federal law does not allow interlock-modified licenses to drive commercial vehicles. Current law allows for commercial drivers charged under TR 21-902(b) to keep their licenses and jobs. See the included letter from Leonard Stamm, Esquire, MCDAA member.

For additional information or questions regarding this legislation, please contact MCDAA Government Relations Contact: John Giannetti 410.300.6393, JohnGiannetti.mcdaa@gmail.com

# **leonardstammoppositionto hb451 2023.pdf**

Uploaded by: John Giannetti

Position: UNF

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-----  
\* MD & DC BAR  
\*\* MD BAR

**Testimony of Leonard R. Stamm in Opposition to  
House Bill 451  
February, 2023**

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*, and of all post 2013 updates to *Maryland Evidence: State and Federal*, both published 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 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).

**Overview.** Under current law, persons accused of drunk driving face either suspension or ignition interlock administratively, separate from, and usually prior to, the case in court, if they refuse to submit to a chemical test of breath or blood or if they submit to an alcohol test with a result of .15 or higher. Persons with a result of .08 or higher but less than .15 have a third option: they are allowed to request a permit that allows driving but limited to employment, education, alcohol education, and for medical purposes for themselves or immediate family members. Under current law, judges have discretion to require ignition interlock for these drivers but it is not mandatory. If they do order ignition interlock it is concurrent with and the driver receives credit for any period of administratively required ignition interlock. The proposed bill makes imposition of ignition interlock by the MVA mandatory for all persons found guilty of Transp. §§ 21-902 (a), (b), or (c).

These bills, while well intended, suffer from a number of problems that in the view of this writer that result in marginal protection of the public while unnecessarily and unfairly punishing some drivers who pose little risk.

1. **Portions of House Bill 557 are inconsistent with existing law.** There are inconsistencies with Transp. § 16-205.1. While that section allows drivers who fail to comply with the ignition interlock to serve out their suspensions, the proposed bill requires compliance before getting a driver's license. The requirement could serve as a permanent preclusion from ever getting a license again. Other drivers failing the test under .15 are allowed to get a work permit or serve a suspension at the MVA. The law creates a double penalty for these drivers.
2. **These bills unfairly target 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 showing the number of social drinkers who repeat within the first six months after their first arrest. In my experience, such occurrences are extremely rare. So the law is punishing primarily social drinkers, the vast majority of whom will not ever drink and drive again, and certainly not within the first six months after their first arrest.
3. **Commercial drivers will almost all lose their jobs.** Under current law, professional drivers holding a commercial driver's license (CDL) are not allowed to hold a CDL during the time they have an interlock restriction on their license, even if they are allowed a work exemption under Transp. § 21-902.2. For those drivers at the lower levels who are required to possess a CDL to maintain employment, these provisions are unnecessarily harsh. Current law creates an exception to disqualification of the CDL for those drivers found guilty under § 21-902(b). The proposals eviscerate that exception because these drivers will now lose their CDLs for at least six months, and possibly longer.
4. **The bill unnecessarily punishes drivers in single car families or drivers who do not own a car.** 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. 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.
5. **Not all drivers found guilty under Transp. § 21-902(c) consumed alcohol.** Transp. § 21-902(c) prohibits driving while impaired by drugs or drugs and alcohol. It makes no sense to require drivers whose offenses did not involve alcohol to have an ignition interlock.
6. **Some drivers cannot satisfy the interlock due to health reasons.** The ignition interlock requires the driver to blow 1.5 liters of air into the device. With a doctor's lung function test showing impaired lung volume, the Medical Advisory Board will consider allowing the installer to set the device to require less air. I have a client of slight height and weight

presently who got a normal lung test, but then developed a huge welt on her neck from being unable to satisfy the device. I had to ask her to remove the device. Fortunately, we were still within the 30 days period during which she could request a hearing when that happened. As her test was under .15 I was able to get her a work permit at her hearing. She will be unable to drive and may lose her job if interlock is required and she cannot drive to work.

For these reasons, the MCDAA opposes this legislation.

Respectfully submitted,

LEONARD R. STAMM

Note: This is an updated version of identical letter prepared for 2022 session. Updates by MCDAA

**ORIGINAL leonardstammoppositiontoHB451.pdf**

Uploaded by: John Giannetti

Position: UNF



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**Testimony of Leonard R. Stamm on behalf of  
The Maryland Criminal Defense Attorneys' Association  
in Opposition to  
House Bill 451  
February, 2023**

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 38 years. I am author of *Maryland DUI Law*, and of all post 2013 updates to *Maryland Evidence: State and Federal*, both published 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 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).

**Overview.** Under current law, persons accused of drunk driving face either suspension or ignition interlock administratively, separate from, and usually prior to, the case in court, if they refuse to submit to a chemical test of breath or blood or if they submit to an alcohol test with a result of .15 or higher. Persons with a result of .08 or higher but less than .15 have a third option: they are allowed to request a permit that allows driving but limited to employment, education, alcohol education, and for medical purposes for themselves or immediate family members. **Under current law, judges have discretion** to require ignition interlock for these drivers but it is not mandatory. If they do order ignition interlock it is concurrent with and the driver receives credit for any period of administratively required ignition interlock. The proposed bill makes imposition of ignition interlock by the MVA mandatory for all persons found guilty of Transp. §§ 21-902 (a), (b), or (c).

These bills, while well intended, suffer from a number of problems that in the view of this writer that result in marginal protection of the public while unnecessarily and unfairly punishing some drivers who pose little risk.

1. **Portions of House Bill 451 are inconsistent with existing law.** There are inconsistencies with Transp. § 16-205.1. While that section allows drivers who fail to comply with the ignition interlock to serve out their suspensions, the proposed bill requires compliance before getting a driver's license. The requirement could serve as a permanent preclusion from ever getting a license again. Other drivers failing the test under .15 are allowed to get a work permit or serve a suspension at the MVA. The law creates a double penalty for these drivers.
2. **These bills unfairly target 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 showing the number of social drinkers who repeat within the first six months after their first arrest. In my experience, such occurrences are extremely rare. So the law is punishing primarily social drinkers, the vast majority of whom will not ever drink and drive again, and certainly not within the first six months after their first arrest.
3. **Commercial drivers will almost all lose their jobs.** Under current law, professional drivers holding a commercial driver's license (CDL) are not allowed to hold a CDL during the time they have an interlock restriction on their license, even if they are allowed a work exemption under Transp. § 21-902.2. For those drivers at the lower levels who are required to possess a CDL to maintain employment, these provisions are unnecessarily harsh. Current law creates an exception to disqualification of the CDL for those drivers found guilty under § 21-902(b). The proposals eviscerate that exception because these drivers will now lose their CDLs for at least six months, and possibly longer.
4. **The bills unnecessarily punishes drivers in single car families or drivers who do not own a car.** 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. 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.
5. **Not all drivers found guilty under Transp. § 21-902(c) consumed alcohol.** Transp. § 21-902(c) prohibits driving while impaired by drugs or drugs and alcohol. It makes no sense to require drivers whose offenses did not involve alcohol to have an ignition interlock.
6. **Some drivers cannot satisfy the interlock due to health reasons.** The ignition interlock requires the driver to blow 1.5 liters of air into the device. With a doctor's lung function test showing impaired lung volume, the Medical Advisory Board will consider allowing the installer to set the device to require less air. I have a client of slight height and weight

presently who got a normal lung test, but then developed a huge welt on her neck from being unable to satisfy the device. I had to ask her to remove the device. Fortunately, we were still within the 30 days period during which she could request a hearing when that happened. As her test was under .15 I was able to get her a work permit at her hearing. She will be unable to drive and may lose her job if interlock is required and she cannot drive to work.

For these reasons, the MCDAA opposes this legislation.

Respectfully submitted,



LEONARD R. STAMM

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HB451

Unfavorable

Delegate Clippinger

Judiciary Committee

Room 101, House Office Building

Annapolis, MD 21401

February 6, 2023

Dear Delegate Clippinger,

My name is Michele Westfall, and I'm the chair of the Maryland Governor's Office of the Deaf and Hard of Hearing Advisory Council (MACDHH). MACDHH advises the Maryland Governor's Office of the Deaf and Hard of Hearing on matters and issues affecting the Deaf, Hard of Hearing, and DeafBlind communities.

My position on this bill is unfavorable. For quite some time, MACDHH has been concerned about the impact of the Ignition Interlock Program on Deaf and Hard of Hearing drivers, mainly because of the poorly designed and inaccessible nature of these devices. The device has a tiny light notification built in and is usually placed around the right side of the driver (usually in the cupholder of the driver's armrest). The driver is notified to breathe into the device before starting the vehicle. Then, during the active operation of the vehicle, the driver is prompted at certain intervals via an auditory signal to breathe in the device to check the driver's alcohol levels. If the driver misses the auditory signal, there are consequences such as locking the car to prevent the driver from driving any further, charging the driver with rolling retest violations which extends their participation in the program, additional fines, and at worst, penalizing the driver with suspension or revocation of their driver's license.

MACDHH has invited representatives from the Maryland Department of Transportation and one of the listed vendors (Lifesafar) to our advisory board meetings twice (last spring and in December 2022) to discuss our concerns about the poor accessibility of the device. While there has been progress in terms of MDOT/MVA updating its best practices guidelines for vendors; increasing the requirement that all vendors make their device accessible (previously it was five vendors); adding closed captions to their training videos for drivers, and adding verbiage on the visual aid devices that a test is required, it still is not enough, because our main concern still has not been addressed.

The physical device itself remains inaccessible to drivers who are Deaf, Hard of Hearing, and/or have hearing impairments. We recommended to MDOT/MVA the following improvements:

- Redesign the placement of and the size of the visual blinking light on the device

- Customer service/contact methods should also include text capability
- Hire Deaf and Hard of Hearing staff to assist Deaf and Hard of Hearing drivers enrolled in the Ignition Interlock Program

We stress that it is vitally important to include Deaf and Hard of Hearing people in the redesign of the device, as no one from MDOT has consulted with MACDHH, GODHH, any Deaf and Hard of Hearing individuals and non-profit citizen organizations such as Maryland Association of the Deaf. To date, these improvements have not been implemented, and it is for these reasons we oppose this bill. Thank you.

Sincerely,

Michele Westfall

Chair, Maryland Governor's Office of the Deaf and Hard of Hearing Advisory Board

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