
By: **Delegates O'Donnell, Aumann, Cryor, Dwyer, Eckardt, Elmore, Frank,
Kohl, Krebs, Mayer, McComas, McConkey, McMillan, Myers, Quinter,
Shank, and Smigiel**

Introduced and read first time: February 10, 2006

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Drunk and Drugged Driving - Subsequent Offenders - Penalties**

3 FOR the purpose of expanding the types of alcohol- and drug-related driving offenses
4 for which persons convicted of certain subsequent offenses are subject to certain
5 mandatory minimum periods of imprisonment under certain circumstances;
6 altering the circumstances in which home detention is included in the meaning
7 of "imprisonment" for the purpose of certain subsequent offender penalties;
8 requiring a court to order a person convicted of certain subsequent alcohol- or
9 drug-related driving offenses to undergo an alcohol or drug abuse assessment
10 and to participate in a certain alcohol or drug abuse program under certain
11 circumstances; repealing certain redundant provisions; and generally relating to
12 certain penalties for a person convicted of certain subsequent alcohol- and
13 drug- related driving offenses under certain circumstances.

14 BY repealing and reenacting, without amendments,
15 Article - Transportation
16 Section 21-902
17 Annotated Code of Maryland
18 (2002 Replacement Volume and 2005 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Transportation
21 Section 27-101(j)
22 Annotated Code of Maryland
23 (2002 Replacement Volume and 2005 Supplement)

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

1 **Article - Transportation**

2 21-902.

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

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

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

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

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

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

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

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

23 (d) (1) A person may not drive or attempt to drive any vehicle while the
24 person is impaired by any controlled dangerous substance, as that term is defined in
25 § 5-101 of the Criminal Law Article, if the person is not entitled to use the controlled
26 dangerous substance under the laws of this State.

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

29 (e) For purposes of the application of subsequent offender penalties under §
30 27-101 of this article, a conviction for a crime committed in another state or federal
31 jurisdiction that, if committed in this State, would constitute a violation of subsection
32 (a), (b), (c), or (d) of this section shall be considered a violation of subsection (a), (b),
33 (c), or (d) of this section.

34 27-101.

35 (j) (1) In this subsection, "imprisonment" includes confinement in:

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

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

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

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

7 3. Approved by the court.

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

11 (ii) A person who is convicted of a third or subsequent offense under
12 [§ 21-902(a)] § 21-902 of this article within 5 years is subject to a mandatory
13 minimum penalty of imprisonment for not less than 10 days.

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

17 (ii) A person who is convicted of a third or subsequent offense under
18 § 21-902(d) of this article within 5 years is subject to a mandatory minimum penalty
19 of imprisonment for not less than 10 days.

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

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

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

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

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

31 3. Approved by the court.

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

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

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

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

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

7 3. Approved by the court.

8 (6)] (4) The penalties provided by this subsection are mandatory and
9 are not subject to suspension or probation.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2006.