

# HOUSE BILL 1391

R3

8lr2840

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By: **Delegates Ciliberti, Frush, Krebs, Krimm, McComas, McKay, Rose, and West**  
Introduced and read first time: February 9, 2018  
Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Driving Under the Influence of Alcohol – Subsequent Offenders – Mandatory**  
3 **Ignition Interlock**

4 FOR the purpose of requiring a court, as a sentence, a part of a sentence, or a condition of  
5 probation, to prohibit a person convicted of a certain subsequent offense of driving  
6 under the influence of alcohol from operating a motor vehicle that is not equipped  
7 with an ignition interlock system and order the person to install an ignition interlock  
8 system on the person's motor vehicle; requiring a court to order a motor vehicle to be  
9 impounded or immobilized for a certain period under certain circumstances;  
10 requiring certain procedures for police departments concerning a motor vehicle that  
11 is impounded or immobilized under this Act; providing for the rights and duties of a  
12 lienholder of a motor vehicle impounded or immobilized under this Act; providing  
13 that certain vehicles shall be considered abandoned vehicles under certain  
14 circumstances; and generally relating to a mandatory ignition interlock requirement  
15 for certain subsequent offenders.

16 BY renumbering

17 Article – Transportation

18 Section 21–902.4

19 to be Section 21–902.6

20 Annotated Code of Maryland

21 (2012 Replacement Volume and 2017 Supplement)

22 BY repealing and reenacting, without amendments,

23 Article – Transportation

24 Section 16–404.1(a)(1), (4), and (5)

25 Annotated Code of Maryland

26 (2012 Replacement Volume and 2017 Supplement)

27 BY repealing and reenacting, with amendments,

28 Article – Transportation

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 16–404.1(d)(1)(i)5., (2)(i)1., and (4)(i), (g), (j)(1), and (p)(3)  
 2 Annotated Code of Maryland  
 3 (2012 Replacement Volume and 2017 Supplement)

4 BY adding to  
 5 Article – Transportation  
 6 Section 21–902.4 and 21–902.5  
 7 Annotated Code of Maryland  
 8 (2012 Replacement Volume and 2017 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 10 That Section(s) 21–902.4 of Article – Transportation of the Annotated Code of Maryland be  
 11 renumbered to be Section(s) 21–902.6.

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
 13 as follows:

14 **Article – Transportation**

15 16–404.1.

16 (a) (1) In this section the following words have the meanings indicated.

17 (4) “Participant” means a participant in the Ignition Interlock System  
 18 Program.

19 (5) “Program” means the Ignition Interlock System Program.

20 (d) (1) (i) Notwithstanding subsection (c) of this section, an individual  
 21 shall be a participant if:

22 5. The individual is required to be a participant by a court  
 23 order under [§ 27–107.1] **TITLE 21, SUBTITLE 9** of this article.

24 (2) (i) Notwithstanding subsection (c) of this section, an individual  
 25 shall be a participant as a condition of modification of a suspension or revocation of a license  
 26 or issuance of a restricted license if the individual:

27 1. Is required to be a participant by a court order under [§  
 28 27–107] **TITLE 21, SUBTITLE 9** of this article;

29 (4) Paragraph (3) of this subsection does not limit a longer period of  
 30 Program participation that is required by:

31 (i) A court order under [§ 27–107] **TITLE 21, SUBTITLE 9** of this  
 32 article; or

1 (g) Subject to [§ 27-107(g)(2)] **TITLE 21, SUBTITLE 9** of this article, the  
2 Administration shall impose a restriction on the individual's license that prohibits the  
3 individual from driving a motor vehicle that is not equipped with an ignition interlock  
4 system for the period of time that the individual is required to participate in the Program  
5 under this section.

6 (j) (1) For purposes of an ignition interlock system used under § 16-205(f) of  
7 this title, this section, or a court order under [§ 27-107] **TITLE 21, SUBTITLE 9** of this  
8 article, the Administration shall permit only the use of an ignition interlock system that  
9 meets or exceeds the technical standards for breath alcohol ignition interlock devices  
10 published in the Federal Register from time to time.

11 (p) (3) Nothing contained in paragraph (2) of this subsection limits a period of  
12 participation in the Program required under any other provision of this title or [§  
13 27-107] **TITLE 21, SUBTITLE 9** of this article.

14 **21-902.4.**

15 (A) (1) **IN ADDITION TO ANY OTHER PENALTY FOR A THIRD OR**  
16 **SUBSEQUENT VIOLATION OF § 21-902(A) OF THIS SUBTITLE BY A PERSON WHO IS**  
17 **LICENSED TO DRIVE IN THE STATE, A COURT SHALL, FOR AT LEAST 2 YEARS, AS A**  
18 **SENTENCE, PART OF A SENTENCE, OR CONDITION OF PROBATION:**

19 (I) **PROHIBIT THE PERSON FROM OPERATING A MOTOR**  
20 **VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM; AND**

21 (II) **ORDER THE PERSON TO INSTALL AN IGNITION INTERLOCK**  
22 **SYSTEM ON THE PERSON'S VEHICLE.**

23 (2) **THE COURT SHALL:**

24 (I) **STATE ON THE RECORD THE REQUIREMENT FOR AND THE**  
25 **PERIOD OF THE USE OF AN IGNITION INTERLOCK SYSTEM AND SO NOTIFY THE**  
26 **ADMINISTRATION;**

27 (II) **DIRECT THAT THE RECORDS OF THE ADMINISTRATION**  
28 **REFLECT THAT THE PERSON MAY NOT OPERATE A MOTOR VEHICLE THAT IS NOT**  
29 **EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM;**

30 (III) **DIRECT THE ADMINISTRATION TO NOTE ON THE PERSON'S**  
31 **LICENSE IN AN APPROPRIATE MANNER A RESTRICTION IMPOSED UNDER THIS**  
32 **SECTION;**

33 (IV) **REQUIRE PROOF OF THE INSTALLATION OF THE IGNITION**

1 INTERLOCK SYSTEM AND PERIODIC REPORTING BY THE PERSON FOR VERIFICATION  
2 OF THE PROPER OPERATION OF THE IGNITION INTERLOCK SYSTEM;

3 (V) REQUIRE THE PERSON TO HAVE THE IGNITION INTERLOCK  
4 SYSTEM MONITORED FOR PROPER USE AND ACCURACY AT LEAST SEMIANNUALLY,  
5 OR MORE FREQUENTLY AS THE CIRCUMSTANCES MAY REQUIRE, BY AN ENTITY  
6 APPROVED BY THE ADMINISTRATION;

7 (VI) REQUIRE THE PERSON TO PAY THE REASONABLE COST OF  
8 LEASING OR BUYING, MONITORING, AND MAINTAINING THE IGNITION INTERLOCK  
9 SYSTEM; AND

10 (VII) ESTABLISH A PAYMENT SCHEDULE.

11 (B) IF THE PERSON FAILS TO SUBMIT PROOF SATISFACTORY TO THE COURT  
12 THAT THE PERSON IS A PARTICIPANT IN THE IGNITION INTERLOCK SYSTEM  
13 PROGRAM WITHIN 3 DAYS OF THE DATE OF SENTENCING, THE COURT SHALL ORDER  
14 THAT ANY MOTOR VEHICLE SOLELY OWNED BY THE PERSON BE IMPOUNDED OR  
15 IMMOBILIZED AS DESCRIBED UNDER § 21-902.5 OF THIS SUBTITLE UNTIL THE  
16 PERSON BECOMES A PARTICIPANT IN THE PROGRAM.

17 (C) A PERSON PROHIBITED UNDER THIS SECTION FROM OPERATING A  
18 MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM  
19 MAY NOT SOLICIT OR HAVE ANOTHER PERSON START OR ATTEMPT TO START A  
20 MOTOR VEHICLE EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM.

21 (D) A PERSON MAY NOT START OR ATTEMPT TO START A MOTOR VEHICLE  
22 EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM FOR THE PURPOSE OF PROVIDING  
23 AN OPERABLE MOTOR VEHICLE TO A PERSON WHO IS PROHIBITED UNDER THIS  
24 SECTION FROM OPERATING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN  
25 IGNITION INTERLOCK SYSTEM.

26 (E) A PERSON MAY NOT TAMPER WITH, OR IN ANY WAY ATTEMPT TO  
27 CIRCUMVENT, THE OPERATION OF AN IGNITION INTERLOCK SYSTEM THAT HAS BEEN  
28 INSTALLED IN THE MOTOR VEHICLE OF A PERSON UNDER THIS SECTION.

29 (F) A PERSON MAY NOT KNOWINGLY FURNISH A MOTOR VEHICLE NOT  
30 EQUIPPED WITH A FUNCTIONING IGNITION INTERLOCK SYSTEM TO ANOTHER  
31 PERSON WHO THE PERSON KNOWS IS PROHIBITED UNDER THIS SECTION FROM  
32 OPERATING A MOTOR VEHICLE NOT EQUIPPED WITH AN IGNITION INTERLOCK  
33 SYSTEM.

34 (G) A PERSON CONVICTED OF A VIOLATION OF SUBSECTION (C), (D), (E), OR

1 (F) OF THIS SECTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 MONTHS OR  
2 A FINE NOT EXCEEDING \$500 OR BOTH.

3 21-902.5.

4 (A) IN THIS SECTION, "POLICE DEPARTMENT" HAS THE MEANING STATED IN  
5 § 25-201 OF THIS ARTICLE.

6 (B) FOR THE PURPOSE OF IMPOUNDING OR IMMOBILIZING A MOTOR  
7 VEHICLE UNDER THIS SECTION, THE POLICE DEPARTMENT MAY USE ITS OWN  
8 PERSONNEL, EQUIPMENT, AND FACILITIES OR OTHER PERSONS, EQUIPMENT, AND  
9 FACILITIES FOR IMMOBILIZING MOTOR VEHICLES OR REMOVING, PRESERVING, AND  
10 STORING IMPOUNDED MOTOR VEHICLES.

11 (C) AS A SENTENCE, PART OF A SENTENCE, OR CONDITION OF PROBATION,  
12 A COURT MAY ORDER, FOR NOT MORE THAN 1 YEAR, THE IMPOUNDMENT OR  
13 IMMOBILIZATION OF A MOTOR VEHICLE SOLELY OWNED BY A PERSON IF THE  
14 PERSON IS NOT A PARTICIPANT IN THE IGNITION INTERLOCK SYSTEM PROGRAM AS  
15 DESCRIBED UNDER § 21-902.4 OF THIS SUBTITLE.

16 (D) (1) THE REGISTERED OWNER OF A MOTOR VEHICLE IMPOUNDED OR  
17 IMMOBILIZED UNDER THIS SECTION IS RESPONSIBLE FOR ALL ACTUAL COSTS  
18 INCURRED AS A RESULT OF THE IMMOBILIZATION OF THE MOTOR VEHICLE OR THE  
19 TOWING, PRESERVING, AND STORING OF THE IMPOUNDED MOTOR VEHICLE.

20 (2) THE COURT MAY REQUIRE THE REGISTERED OWNER OF A MOTOR  
21 VEHICLE IMMOBILIZED UNDER THIS SECTION TO POST A BOND OR OTHER ADEQUATE  
22 SECURITY EQUAL TO THE ACTUAL COSTS OF IMMOBILIZING THE MOTOR VEHICLE OR  
23 TOWING, PRESERVING, AND STORING THE MOTOR VEHICLE AND PROVIDING THE  
24 NOTICES REQUIRED UNDER SUBSECTION (F) OF THIS SECTION.

25 (3) SUBJECT TO THIS SECTION, A POLICE DEPARTMENT THAT  
26 IMPOUNDS A MOTOR VEHICLE BY TAKING THE MOTOR VEHICLE INTO CUSTODY OR  
27 IMMOBILIZES A MOTOR VEHICLE UNDER THIS SECTION PROMPTLY SHALL RETURN  
28 POSSESSION OR USE OF THE MOTOR VEHICLE TO THE REGISTERED OWNER OF THE  
29 MOTOR VEHICLE ON PAYMENT OF ALL ACTUAL COSTS OF IMMOBILIZING THE MOTOR  
30 VEHICLE OR TOWING, PRESERVING, AND STORING THE IMPOUNDED MOTOR  
31 VEHICLE AND PROVIDING THE NOTICES REQUIRED UNDER SUBSECTION (F) OF THIS  
32 SECTION.

33 (E) IF A COURT ORDERS THE IMPOUNDMENT OR IMMOBILIZATION OF A  
34 MOTOR VEHICLE UNDER THIS SECTION, THE COURT SHALL PROVIDE FOR THE  
35 EXECUTION OF THE IMPOUNDMENT OR IMMOBILIZATION BY A POLICE

1 DEPARTMENT.

2 (F) (1) IF A COURT ORDERS THE IMPOUNDMENT OR IMMOBILIZATION OF  
3 A MOTOR VEHICLE UNDER THIS SECTION, THE POLICE DEPARTMENT THAT  
4 EXECUTES THE IMMOBILIZATION OR THE IMPOUNDMENT BY TAKING THE MOTOR  
5 VEHICLE INTO CUSTODY SHALL, AS SOON AS REASONABLY POSSIBLE AND WITHIN 7  
6 DAYS AFTER THE POLICE DEPARTMENT EXECUTES THE COURT ORDER, SEND A  
7 NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEARING A POSTMARK  
8 FROM THE UNITED STATES POSTAL SERVICE, TO:

9 (I) THE REGISTERED OWNER OF THE MOTOR VEHICLE AS  
10 SHOWN IN THE RECORDS OF THE ADMINISTRATION; AND

11 (II) EACH SECURED PARTY AS SHOWN IN THE RECORDS OF THE  
12 ADMINISTRATION.

13 (2) THE NOTICE SHALL:

14 (I) STATE THAT THE MOTOR VEHICLE HAS BEEN IMMOBILIZED  
15 OR IMPOUNDED BY BEING TAKEN INTO CUSTODY;

16 (II) DESCRIBE THE YEAR, MAKE, MODEL, AND VEHICLE  
17 IDENTIFICATION NUMBER OF THE MOTOR VEHICLE;

18 (III) PROVIDE THE LOCATION WHERE THE MOTOR VEHICLE IS  
19 IMMOBILIZED OR IMPOUNDED;

20 (IV) INCLUDE THE AMOUNT OF THE ACTUAL COSTS OF  
21 IMMOBILIZATION OR TOWING, PRESERVATION, AND STORAGE OF AN IMPOUNDED  
22 MOTOR VEHICLE; AND

23 (V) INCLUDE THE AMOUNT OF THE ACTUAL COSTS OF THE  
24 NOTICES REQUIRED UNDER THIS SUBSECTION.

25 (G) (1) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A  
26 LIENHOLDER FROM EXERCISING THE LIENHOLDER'S RIGHTS UNDER APPLICABLE  
27 LAW, INCLUDING THE RIGHT TO SELL A MOTOR VEHICLE THAT HAS BEEN  
28 IMPOUNDED OR IMMOBILIZED UNDER THIS SECTION, IN THE EVENT OF A DEFAULT  
29 IN THE OBLIGATION GIVING RISE TO THE LIEN.

30 (2) (I) A LIENHOLDER THAT EXERCISES THE RIGHT TO SELL A  
31 MOTOR VEHICLE THAT HAS BEEN IMPOUNDED OR IMMOBILIZED UNDER THIS  
32 SECTION SHALL NOTIFY, IN WRITING, THE POLICE DEPARTMENT WITH CUSTODY OF

1 THE MOTOR VEHICLE OF THE LIENHOLDER'S INTENTION TO SELL THE MOTOR  
2 VEHICLE.

3 (II) THE NOTICE SHALL BE ACCOMPANIED BY A COPY OF EACH  
4 DOCUMENT GIVING RISE TO THE LIEN AND SHALL INCLUDE AN AFFIDAVIT UNDER  
5 OATH BY THE LIENHOLDER THAT THE UNDERLYING OBLIGATION IS IN DEFAULT AND  
6 THE REASONS FOR THE DEFAULT.

7 (III) ON REQUEST OF THE LIENHOLDER AND ON PAYMENT OF  
8 ALL COSTS REQUIRED UNDER THIS SECTION, THE MOTOR VEHICLE SHALL BE  
9 RELEASED TO THE LIENHOLDER.

10 (3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION,  
11 THE RIGHTS AND DUTIES PROVIDED BY LAW TO THE LIENHOLDER FOR THE SALE OF  
12 COLLATERAL SECURING AN OBLIGATION IN DEFAULT SHALL GOVERN THE  
13 REPOSSESSION AND SALE OF THE MOTOR VEHICLE.

14 (4) (I) THE LIENHOLDER MAY NOT BE REQUIRED TO TAKE  
15 POSSESSION OF THE VEHICLE BEFORE A SALE OF THE MOTOR VEHICLE.

16 (II) THE PROCEEDS OF ANY SALE SHALL BE APPLIED FIRST TO  
17 THE ACTUAL COSTS OF IMMOBILIZATION OR TOWING, PRESERVATION, AND  
18 STORAGE OF AN IMPOUNDED MOTOR VEHICLE AND THE ACTUAL COSTS OF THE  
19 NOTICES REQUIRED UNDER SUBSECTION (F) OF THIS SECTION, THEN AS PROVIDED  
20 BY LAW FOR DISTRIBUTION OF PROCEEDS OF A SALE BY THE LIENHOLDER.

21 (5) (I) IF THE INTEREST OF THE OWNER IN THE MOTOR VEHICLE IS  
22 REDEEMED, THE LIENHOLDER SHALL, WITHIN 10 DAYS AFTER THE REDEMPTION,  
23 MAIL A NOTICE OF THE REDEMPTION TO THE POLICE DEPARTMENT THAT  
24 IMPOUNDED OR IMMOBILIZED THE MOTOR VEHICLE.

25 (II) IF THE MOTOR VEHICLE HAS BEEN REPOSSESSED OR  
26 OTHERWISE LAWFULLY TAKEN BY THE LIENHOLDER AND THE TIME SPECIFIED BY A  
27 COURT ORDER UNDER THIS SECTION HAS NOT EXPIRED, THE LIENHOLDER SHALL  
28 RETURN THE MOTOR VEHICLE WITHIN 21 DAYS AFTER THE REDEMPTION TO THE  
29 POLICE DEPARTMENT THAT IMPOUNDED OR IMMOBILIZED THE MOTOR VEHICLE.

30 (H) THIS SECTION DOES NOT AFFECT THE REQUIREMENTS OF TITLE 25,  
31 SUBTITLE 2 OF THIS ARTICLE REGARDING ABANDONED VEHICLES.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 October 1, 2018.