

HOUSE BILL 1393

R3

6lr3059

By: **Delegates Glass, McDonough, and Metzgar**

Introduced and read first time: February 12, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Drunk Driving – Mandatory Minimum Sentences**

3 FOR the purpose of establishing certain mandatory minimum periods of imprisonment for
4 certain subsequent alcohol–related driving offenses; and generally relating to certain
5 mandatory minimum sentences for certain subsequent alcohol–related driving
6 offenses.

7 BY repealing and reenacting, without amendments,
8 Article – Criminal Procedure
9 Section 6–220(b)(1)
10 Annotated Code of Maryland
11 (2008 Replacement Volume and 2015 Supplement)

12 BY repealing and reenacting, without amendments,
13 Article – Transportation
14 Section 21–902(a) and (b)
15 Annotated Code of Maryland
16 (2012 Replacement Volume and 2015 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Transportation
19 Section 27–101(j)
20 Annotated Code of Maryland
21 (2012 Replacement Volume and 2015 Supplement)

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

24 **Article – Criminal Procedure**

25 6–220.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) When a defendant pleads guilty or nolo contendere or is found guilty of
2 a crime, a court may stay the entering of judgment, defer further proceedings, and place
3 the defendant on probation subject to reasonable conditions if:

4 (i) the court finds that the best interests of the defendant and the
5 public welfare would be served; and

6 (ii) the defendant gives written consent after determination of guilt
7 or acceptance of a nolo contendere plea.

8 Article – Transportation

9 21–902.

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

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

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

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

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

20 27–101.

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

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

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

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

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

29 3. Approved by the court.

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

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

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

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

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

16 (i) Undergo a comprehensive alcohol abuse assessment; and

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

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

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

23 3. Approved by the court.

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

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

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

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

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

1 3. Approved by the court.

2 (6) **ANY PERSON WHO IS CONVICTED OF A VIOLATION OF ANY OF THE**
3 **PROVISIONS OF § 21-902(A) OF THIS ARTICLE (“DRIVING WHILE UNDER THE**
4 **INFLUENCE OF ALCOHOL OR UNDER THE INFLUENCE OF ALCOHOL PER SE”):**

5 (i) **WITHIN 3 YEARS AFTER THE PLACEMENT OF THE PERSON**
6 **ON PROBATION UNDER § 6-220 OF THE CRIMINAL PROCEDURE ARTICLE FOR ANY**
7 **VIOLATION OF § 21-902(A) OR (B) OF THIS ARTICLE, SHALL BE SUBJECT TO A**
8 **MANDATORY MINIMUM SENTENCE OF 3 MONTHS’ IMPRISONMENT; AND**

9 (ii) **WITHIN 3 YEARS AFTER A PRIOR CONVICTION OF THE**
10 **PERSON FOR ANY VIOLATION OF § 21-902(A) OR (B) OF THIS ARTICLE, SHALL BE**
11 **SUBJECT TO A MANDATORY MINIMUM SENTENCE OF 6 MONTHS’ IMPRISONMENT.**

12 (7) The penalties provided by this subsection are mandatory and are not
13 subject to suspension or probation.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2016.