

HOUSE BILL 1320

R3
HB 943/19 – JUD

0lr2600

By: **Delegates Ciliberti, Arikan, Cox, Hartman, Krebs, Malone, Mautz, McComas, and Saab**

Introduced and read first time: February 7, 2020

Assigned to: Judiciary

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, part of a sentence, or 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 to order the person to install an ignition
8 interlock system on the person's motor vehicle; requiring a court to order a motor
9 vehicle to be impounded or immobilized for a certain period of time under certain
10 circumstances; requiring certain procedures for police departments concerning a
11 motor vehicle that is impounded or immobilized under this Act; providing for the
12 rights and duties of a lienholder of a motor vehicle impounded or immobilized under
13 this Act; providing that certain vehicles shall be considered abandoned vehicles
14 under certain circumstances; and generally relating to a mandatory ignition
15 interlock requirement 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 2019 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 2019 Supplement)

27 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Transportation
 2 Section 16–404.1(d)(1)(i)5., (2)(i)1., and (4)(i), (g), (j)(1), and (p)(3)
 3 Annotated Code of Maryland
 4 (2012 Replacement Volume and 2019 Supplement)

5 BY adding to
 6 Article – Transportation
 7 Section 21–902.4 and 21–902.5
 8 Annotated Code of Maryland
 9 (2012 Replacement Volume and 2019 Supplement)

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

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

15 **Article – Transportation**

16 16–404.1.

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

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

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

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

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

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

28 1. Is required to be a participant by a court order under [§
 29 27–107] **TITLE 21, SUBTITLE 9** of this article;

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

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

1 (g) Subject to [§ 21-902.2(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 TIME FOR WHICH THE IGNITION INTERLOCK SYSTEM IS TO BE USED AND**
26 **SO NOTIFY THE 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;**

1 **(IV) REQUIRE PROOF OF THE INSTALLATION OF THE IGNITION**
2 **INTERLOCK SYSTEM AND PERIODIC REPORTING BY THE PERSON FOR VERIFICATION**
3 **OF THE PROPER OPERATION OF THE IGNITION INTERLOCK SYSTEM;**

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

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

11 **(VII) ESTABLISH A PAYMENT SCHEDULE.**

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

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

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

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

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

1 (G) A PERSON CONVICTED OF A VIOLATION OF SUBSECTION (C), (D), (E), OR
2 (F) OF THIS SECTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 MONTHS OR
3 A FINE NOT EXCEEDING \$500 OR BOTH.

4 **21-902.5.**

5 (A) IN THIS SECTION, "POLICE DEPARTMENT" HAS THE MEANING STATED IN
6 § 25-201 OF THIS ARTICLE.

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

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

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

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

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

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

1 EXECUTION OF THE IMPOUNDMENT OR IMMOBILIZATION BY A POLICE
2 DEPARTMENT.

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

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

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

14 (2) THE NOTICE SHALL:

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

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

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

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

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

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

31 (2) (I) A LIENHOLDER THAT EXERCISES THE RIGHT TO SELL A
32 MOTOR VEHICLE THAT HAS BEEN IMPOUNDED OR IMMOBILIZED UNDER THIS

1 SECTION SHALL NOTIFY, IN WRITING, THE POLICE DEPARTMENT WITH CUSTODY OF
2 THE MOTOR VEHICLE OF THE LIENHOLDER'S INTENTION TO SELL THE MOTOR
3 VEHICLE.

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

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

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

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

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

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

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

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

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2020.