

HOUSE BILL 1017

R3
HB 1158/22 – JUD

3lr2537

By: **Delegate Ciliberti**

Introduced and read first time: February 10, 2023

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 an individual convicted of a certain subsequent offense of
6 driving under the influence of alcohol from operating a motor vehicle that is not
7 equipped with an ignition interlock system and to order the individual to install an
8 ignition interlock system on the individual's motor vehicle; requiring a court to order
9 a motor vehicle to be impounded or immobilized for a certain period of time under
10 certain circumstances; and generally relating to a mandatory ignition interlock
11 requirement for certain subsequent offenders.

12 BY renumbering

13 Article – Transportation

14 Section 21–902.4

15 to be Section 21–902.6

16 Annotated Code of Maryland

17 (2020 Replacement Volume and 2022 Supplement)

18 BY repealing and reenacting, without amendments,

19 Article – Transportation

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

21 Annotated Code of Maryland

22 (2020 Replacement Volume and 2022 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article – Transportation

25 Section 16–404.1(d)(1)(i)5., (2)(i)1., and (4)(i), (g), (j)(1), and (p)(3)

26 Annotated Code of Maryland

27 (2020 Replacement Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
 2 Article – Transportation
 3 Section 21–902.4 and 21–902.5
 4 Annotated Code of Maryland
 5 (2020 Replacement Volume and 2022 Supplement)

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

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

11 **Article – Transportation**

12 16–404.1.

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

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

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

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

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

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

24 1. Is required to be a participant by a court order under [§
 25 27–107] **TITLE 21, SUBTITLE 9** of this article;

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

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

30 (g) Subject to [§ 21–902.2(g)(2)] **TITLE 21, SUBTITLE 9** of this article, the
 31 Administration shall impose a restriction on the individual’s license that prohibits the
 32 individual from driving a motor vehicle that is not equipped with an ignition interlock
 33 system for the period of time that the individual is required to participate in the Program

1 under this section.

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

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

10 **21–902.4.**

11 (A) (1) **IN ADDITION TO ANY OTHER PENALTY FOR A THIRD OR**
12 **SUBSEQUENT VIOLATION OF § 21–902(A) OF THIS SUBTITLE BY AN INDIVIDUAL WHO**
13 **IS LICENSED TO DRIVE IN THE STATE, A COURT SHALL, FOR AT LEAST 2 YEARS, AS A**
14 **SENTENCE, PART OF A SENTENCE, OR CONDITION OF PROBATION:**

15 (I) **PROHIBIT THE INDIVIDUAL FROM OPERATING A MOTOR**
16 **VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM; AND**

17 (II) **ORDER THE INDIVIDUAL TO INSTALL AN IGNITION**
18 **INTERLOCK SYSTEM ON THE INDIVIDUAL’S VEHICLE.**

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

20 (I) **STATE ON THE RECORD THE REQUIREMENT FOR HOW AND**
21 **THE PERIOD OF TIME FOR WHICH THE IGNITION INTERLOCK SYSTEM IS TO BE USED**
22 **AND SO NOTIFY THE ADMINISTRATION;**

23 (II) **DIRECT THAT THE RECORDS OF THE ADMINISTRATION**
24 **REFLECT THAT THE INDIVIDUAL MAY NOT OPERATE A MOTOR VEHICLE THAT IS NOT**
25 **EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM;**

26 (III) **DIRECT THE ADMINISTRATION TO NOTE ON THE**
27 **INDIVIDUAL’S LICENSE IN AN APPROPRIATE MANNER A RESTRICTION IMPOSED**
28 **UNDER THIS SECTION;**

29 (IV) **REQUIRE PROOF OF THE INSTALLATION OF THE IGNITION**
30 **INTERLOCK SYSTEM AND PERIODIC REPORTING BY THE INDIVIDUAL FOR**
31 **VERIFICATION OF THE PROPER OPERATION OF THE IGNITION INTERLOCK SYSTEM;**

32 (V) **REQUIRE THE INDIVIDUAL TO HAVE THE IGNITION**

1 INTERLOCK SYSTEM MONITORED FOR PROPER USE AND ACCURACY AT LEAST
2 SEMIANNUALLY, OR MORE FREQUENTLY AS THE CIRCUMSTANCES MAY REQUIRE, BY
3 AN ENTITY APPROVED BY THE ADMINISTRATION;

4 (VI) REQUIRE THE INDIVIDUAL TO PAY THE REASONABLE COST
5 OF LEASING OR BUYING, MONITORING, AND MAINTAINING THE IGNITION INTERLOCK
6 SYSTEM; AND

7 (VII) ESTABLISH A PAYMENT SCHEDULE.

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

14 (C) AN INDIVIDUAL PROHIBITED UNDER THIS SECTION FROM OPERATING A
15 MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM
16 MAY NOT SOLICIT OR HAVE ANOTHER INDIVIDUAL START OR ATTEMPT TO START A
17 MOTOR VEHICLE EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM.

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

23 (E) AN INDIVIDUAL MAY NOT TAMPER WITH, OR IN ANY WAY ATTEMPT TO
24 CIRCUMVENT, THE OPERATION OF AN IGNITION INTERLOCK SYSTEM THAT HAS BEEN
25 INSTALLED IN THE MOTOR VEHICLE OF AN INDIVIDUAL UNDER THIS SECTION.

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

31 (G) AN INDIVIDUAL CONVICTED OF A VIOLATION OF SUBSECTION (C), (D),
32 (E), OR (F) OF THIS SECTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2
33 MONTHS OR A FINE NOT EXCEEDING \$500 OR BOTH.

34 21-902.5.

1 (A) IN THIS SECTION, "POLICE DEPARTMENT" HAS THE MEANING STATED IN
2 § 25-201 OF THIS ARTICLE.

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

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

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

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

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

30 (E) IF A COURT ORDERS THE IMPOUNDMENT OR IMMOBILIZATION OF A
31 MOTOR VEHICLE UNDER THIS SECTION, THE COURT SHALL PROVIDE FOR THE
32 EXECUTION OF THE IMPOUNDMENT OR IMMOBILIZATION BY A POLICE
33 DEPARTMENT.

34 (F) (1) IF A COURT ORDERS THE IMPOUNDMENT OR IMMOBILIZATION OF
35 A MOTOR VEHICLE UNDER THIS SECTION, THE POLICE DEPARTMENT THAT

1 EXECUTES THE IMMOBILIZATION OR THE IMPOUNDMENT BY TAKING THE MOTOR
2 VEHICLE INTO CUSTODY SHALL, AS SOON AS REASONABLY POSSIBLE AND WITHIN 7
3 DAYS AFTER THE POLICE DEPARTMENT EXECUTES THE COURT ORDER, SEND A
4 NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEARING A POSTMARK
5 FROM THE U.S. POSTAL SERVICE, TO:

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

8 (II) EACH SECURED PARTY AS SHOWN IN THE RECORDS OF THE
9 ADMINISTRATION.

10 (2) THE NOTICE SHALL:

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

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

15 (III) PROVIDE THE LOCATION WHERE THE MOTOR VEHICLE IS
16 IMMOBILIZED OR IMPOUNDED;

17 (IV) INCLUDE THE AMOUNT OF THE ACTUAL COSTS OF
18 IMMOBILIZATION OR TOWING, PRESERVATION, AND STORAGE OF AN IMPOUNDED
19 MOTOR VEHICLE; AND

20 (V) INCLUDE THE AMOUNT OF THE ACTUAL COSTS OF THE
21 NOTICES REQUIRED UNDER THIS SUBSECTION.

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

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

32 (II) THE NOTICE SHALL BE ACCOMPANIED BY A COPY OF EACH

1 DOCUMENT GIVING RISE TO THE LIEN AND SHALL INCLUDE AN AFFIDAVIT UNDER
2 OATH BY THE LIENHOLDER THAT THE UNDERLYING OBLIGATION IS IN DEFAULT AND
3 THE REASONS FOR THE DEFAULT.

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

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

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

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

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

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

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

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2023.