

HOUSE BILL 4

Unofficial Copy  
R3

2002 Regular Session  
(21r0226)

*ENROLLED BILL*  
*-- Judiciary/Judicial Proceedings --*

Introduced by **Delegates Grosfeld, Taylor, Arnick, Busch, Conway, Dewberry, Doory, Harrison, Hixson, Howard, Hurson, Kopp, McIntosh, Menes, Montague, Owings, Rawlings, Rosenberg, Vallario, W. Baker, Barkley, Bobo, Bronrott, Clagett, Cryor, D. Davis, Mandel, Petzold, Rudolph, and ~~Snodgrass~~ Snodgrass, and Valderrama**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER 110

1 AN ACT concerning

2 **Vehicle Laws - Drunk and ~~Drugged~~ Driving - Repeat Offenders**

3 ~~FOR the purpose of requiring the Motor Vehicle Administration to suspend for a~~  
4 ~~certain period the license of a person convicted of certain repeat alcohol or~~  
5 ~~drug related driving offenses within a certain period; prohibiting the~~  
6 ~~Administration from issuing a restrictive license or modifying a suspension~~  
7 ~~during certain mandatory periods of suspension; altering the penalties for a~~  
8 ~~person convicted of repeated offenses of driving while under the influence or~~  
9 ~~under the influence per se and driving while impaired by alcohol, drugs, or a~~  
10 ~~combination of alcohol and drugs under certain circumstances; requiring the use~~  
11 ~~of an ignition interlock system under certain circumstances; altering the period~~  
12 ~~of certain license suspensions imposed under certain circumstances; altering the~~  
13 ~~time period for filing a reinstatement application for a driver's license or~~

1 privilege to drive under certain circumstances; making conforming changes;  
2 providing for the effective date of this Act; making a stylistic change; and  
3 generally relating to penalties for drunk and drugged driving repeat offenders.

4 FOR the purpose of requiring the Motor Vehicle Administration to suspend for a  
5 certain period the license to drive of a person who is convicted within a certain  
6 period of a second or subsequent offense of driving while under the influence of  
7 alcohol or under the influence of alcohol per se; requiring a person whose license  
8 is suspended under this Act to maintain for ~~not more than~~ a certain period a  
9 certain ignition interlock system on each motor vehicle owned ~~and operated by~~  
10 the person; providing for a certain financial hardship exception; requiring the  
11 Administration to adopt certain regulations; ~~authorizing~~ requiring the  
12 Administration to impose an ignition interlock system restriction on a license  
13 under certain circumstances; defining a certain term; providing that a license  
14 suspension imposed under this Act shall be concurrent with another suspension  
15 or revocation under certain circumstances; requiring certain procedures;  
16 prohibiting the Administration from declining to order, or canceling or  
17 modifying a license suspension under this Act; requiring the Administration to  
18 return a license suspended under this Act under certain circumstances;  
19 providing for certain mandatory minimum criminal penalties for subsequent  
20 convictions of driving under the influence of alcohol or under the influence of  
21 alcohol per se within a certain period; altering a certain definition of  
22 "imprisonment" for purposes of certain mandatory minimum criminal penalties  
23 for subsequent offenses of driving under the influence of alcohol or under the  
24 influence of alcohol per se; requiring a court to order a certain alcohol abuse  
25 assessment for a person who is convicted of a second or subsequent offense of  
26 driving while under the influence of alcohol or under the influence of alcohol per  
27 se within a certain period and to order the person to receive alcohol abuse  
28 treatment under certain circumstances; providing for a certain modification of a  
29 suspension and the issuance of a restrictive license or modification of an ignition  
30 interlock system maintenance requirement by the Administration contingent on  
31 certain changes to federal law; providing for a certain certification by the Motor  
32 Vehicle Administration; providing for the effective date of this Act; and generally  
33 relating to administrative and criminal penalties for subsequent offenses of  
34 driving while under the influence of alcohol or under the influence of alcohol per  
35 se under certain circumstances.

36 BY adding to  
37 Article - Transportation  
38 Section 16-205(e)  
39 Annotated Code of Maryland  
40 (1999 Replacement Volume and 2001 Supplement)

41 BY repealing and reenacting, with amendments,  
42 Article - Transportation  
43 Section 16-205(d), (e), and (f), 16-208(b), 16-404, 16-405, and 27-101(j)  
44 Section 16-205(e) and (f), 16-404.1(e)(1), 16-405(a), and 27-101(j)

1 Annotated Code of Maryland  
2 (1999 Replacement Volume and 2001 Supplement)

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

5 **Article - Transportation**

6 16-205.

7 ~~(d) The Administration [may] SHALL suspend for [not more than 120 days] 1~~  
8 ~~YEAR the license of any person who, within a [3 year] 5 YEAR period, is convicted~~  
9 ~~under § 21-902(b) or (c) of this article of driving or attempting to drive a motor vehicle~~  
10 ~~while impaired by alcohol or while so far impaired by any drug, any combination of~~  
11 ~~drugs, or a combination of one or more drugs and alcohol that the person cannot drive~~  
12 ~~a motor vehicle safely and who was previously convicted of a violation under:~~

13 ~~(1) § 21-902(a) of this article of driving or attempting to drive a motor~~  
14 ~~vehicle while under the influence of alcohol or while under the influence of alcohol per~~  
15 ~~se;~~

16 ~~(2) § 21-902(b) of this article of driving or attempting to drive a motor~~  
17 ~~vehicle while impaired by alcohol;~~

18 ~~(3) § 21-902(c) of this article of driving or attempting to drive a motor~~  
19 ~~vehicle while so far impaired by any drug, any combination of drugs, or a combination~~  
20 ~~of one or more drugs and alcohol that the person cannot drive a motor vehicle safely;~~  
21 ~~or~~

22 ~~(4) § 21-902(d) of this article of driving or attempting to drive a motor~~  
23 ~~vehicle while impaired by a controlled dangerous substance.~~

24 (E) (1) IN THIS SUBSECTION, "MOTOR VEHICLE" DOES NOT INCLUDE A  
25 COMMERCIAL MOTOR VEHICLE.

26 (2) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE  
27 ADMINISTRATION SHALL SUSPEND FOR 1 YEAR THE LICENSE OF A PERSON WHO IS  
28 CONVICTED OF A VIOLATION OF § 21-902(A) OF THIS ARTICLE MORE THAN ONCE  
29 WITHIN A 5-YEAR PERIOD.

30 (3) ON RECEIVING A RECORD OF A CONVICTION OF A PERSON FOR A  
31 VIOLATION OF § 21-902(A) OF THIS ARTICLE MORE THAN ONCE WITHIN A 5-YEAR  
32 PERIOD, THE ADMINISTRATION SHALL ISSUE TO THE PERSON A NOTICE OF  
33 SUSPENSION OF THE PERSON'S LICENSE THAT:

34 (I) STATES THAT THE PERSON'S LICENSE SHALL BE SUSPENDED  
35 FOR 1 YEAR; AND

36 (II) ADVISES THE PERSON OF THE RIGHT TO REQUEST A HEARING  
37 UNDER THIS PARAGRAPH.

1           (4)   AFTER NOTICE UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE  
2 ADMINISTRATION SHALL SUSPEND A PERSON'S LICENSE UNDER THIS SUBSECTION  
3 IF:

4           (I)   THE PERSON DOES NOT REQUEST A HEARING;

5           (II)   AFTER A HEARING, THE ADMINISTRATION FINDS THAT THE  
6 PERSON WAS CONVICTED OF MORE THAN ONE VIOLATION OF § 21-902(A) OF THIS  
7 ARTICLE WITHIN A 5-YEAR PERIOD; OR

8           (III)   THE PERSON FAILS TO APPEAR FOR A HEARING REQUESTED BY  
9 THE PERSON.

10           (5)   THE ADMINISTRATION SHALL, WITHIN ~~60~~ 90 DAYS OF THE  
11 EXPIRATION OF THE 1-YEAR PERIOD OF SUSPENSION, ISSUE TO THE PERSON A  
12 NOTICE, UNLESS THIS NOTICE REQUIREMENT WAS WAIVED AT A HEARING  
13 DESCRIBED IN PARAGRAPH (4) OF THIS SUBSECTION, THAT:

14           (I)   STATES THAT THE PERSON SHALL MAINTAIN FOR *NOT LESS*  
15 *THAN 3 MONTHS* AND NOT MORE THAN ~~6 MONTHS~~ 1 YEAR, DATING FROM THE  
16 EXPIRATION OF THE 1-YEAR PERIOD OF SUSPENSION, AN IGNITION INTERLOCK  
17 SYSTEM ON EACH MOTOR VEHICLE OWNED ~~AND OPERATED~~ BY THE PERSON;

18           (II)   STATES THAT THE ADMINISTRATION SHALL IMPOSE A  
19 RESTRICTION ON THE PERSON'S LICENSE THAT PROHIBITS THE PERSON FROM  
20 DRIVING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK  
21 SYSTEM FOR A PERIOD OF NOT LESS THAN 3 MONTHS AND NOT MORE THAN 1 YEAR,  
22 DATING FROM THE EXPIRATION OF THE 1-YEAR PERIOD OF SUSPENSION; AND

23           (III)   ADVISES THE PERSON OF THE RIGHT TO REQUEST A HEARING  
24 UNDER THIS PARAGRAPH.

25           (6)   AFTER NOTICE UNDER PARAGRAPH (5) OF THIS SUBSECTION, OR A  
26 WAIVER OF NOTICE, THE ADMINISTRATION SHALL ORDER A PERSON TO MAINTAIN  
27 FOR NOT LESS THAN 3 MONTHS AND NOT MORE THAN 1 YEAR, DATING FROM THE  
28 EXPIRATION OF THE 1-YEAR PERIOD OF SUSPENSION, AN IGNITION INTERLOCK  
29 SYSTEM ON EACH MOTOR VEHICLE OWNED ~~AND OPERATED~~ BY THE PERSON AND  
30 IMPOSE A LICENSE RESTRICTION THAT PROHIBITS THE PERSON FROM DRIVING A  
31 MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM IF:

32           (I)   THE PERSON DOES NOT REQUEST A HEARING;

33           (II)   THE ADMINISTRATION FINDS AT A HEARING THAT THE PERSON  
34 OWNS ONE OR MORE MOTOR VEHICLES AND THAT NO FINANCIAL HARDSHIP, AS  
35 DESCRIBED IN PARAGRAPHS (7) AND (8) OF THIS SUBSECTION, WILL BE CREATED BY  
36 REQUIRING THE PERSON TO MAINTAIN AN IGNITION INTERLOCK SYSTEM ON EACH  
37 MOTOR VEHICLE OWNED ~~AND OPERATED~~ BY THE PERSON; OR

38           (III)   THE PERSON FAILS TO APPEAR FOR A HEARING REQUESTED BY  
39 THE PERSON.

1           (7)     IF THE ADMINISTRATION FINDS AT A HEARING THAT MAINTENANCE  
2 OF AN IGNITION INTERLOCK SYSTEM ON A MOTOR VEHICLE OWNED ~~AND OPERATED~~  
3 BY THE PERSON CREATES A FINANCIAL HARDSHIP ON THE PERSON, THE FAMILY OF  
4 THE PERSON, OR A CO-OWNER OF THE MOTOR VEHICLE, THE ADMINISTRATION:

5           (I)     SHALL IMPOSE A RESTRICTION ON THE LICENSE OF THE  
6 PERSON FOR NOT LESS THAN 3 MONTHS AND NOT MORE THAN 1 YEAR, DATING FROM  
7 THE EXPIRATION OF THE 1-YEAR PERIOD OF SUSPENSION, THAT PROHIBITS THE  
8 PERSON FROM DRIVING ANY MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN  
9 IGNITION INTERLOCK SYSTEM; AND

10          (II)    MAY NOT REQUIRE THE PERSON TO MAINTAIN AN IGNITION  
11 INTERLOCK SYSTEM ON ANY MOTOR VEHICLE TO WHICH THE FINANCIAL HARDSHIP  
12 APPLIES.

13          (8)     AN EXEMPTION UNDER PARAGRAPH (7)(II) OF THIS SUBSECTION  
14 APPLIES ONLY UNDER CIRCUMSTANCES THAT:

15               (I)     ARE SPECIFIC TO THE PERSON'S MOTOR VEHICLE; AND

16               (II)    MEET CRITERIA CONTAINED IN REGULATIONS THAT SHALL BE  
17 ADOPTED BY THE ADMINISTRATION.

18          (9)     IF A PERSON REQUESTS A HEARING AND THE ADMINISTRATION  
19 FINDS THAT THE PERSON DOES NOT OWN A MOTOR VEHICLE AT THE EXPIRATION OF  
20 THE 1-YEAR PERIOD OF SUSPENSION, THE ADMINISTRATION SHALL IMPOSE A  
21 RESTRICTION ON THE LICENSE OF THE PERSON FOR NOT LESS THAN 3 MONTHS AND  
22 NOT MORE THAN 1 YEAR, DATING FROM THE EXPIRATION OF THE 1-YEAR PERIOD OF  
23 SUSPENSION, THAT PROHIBITS THE PERSON FROM DRIVING ANY MOTOR VEHICLE  
24 THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM.

25          (10)    EACH NOTICE AND HEARING UNDER THIS SUBSECTION SHALL MEET  
26 THE REQUIREMENTS OF TITLE 12, SUBTITLE 2 OF THIS ARTICLE.

27          (11)    THIS SUBSECTION DOES NOT LIMIT ANY PROVISION OF THIS  
28 ARTICLE THAT ALLOWS OR REQUIRES THE ADMINISTRATION TO:

29               (I)     REVOKE OR SUSPEND A LICENSE OF A PERSON; OR

30               (II)    PROHIBIT A PERSON FROM DRIVING A MOTOR VEHICLE THAT IS  
31 NOT EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM.

32          (12)    A SUSPENSION IMPOSED UNDER THIS SUBSECTION SHALL BE  
33 CONCURRENT WITH ANY OTHER SUSPENSION OR REVOCATION IMPOSED BY THE  
34 ADMINISTRATION THAT ARISES OUT OF THE CIRCUMSTANCES OF THE CONVICTION  
35 FOR A VIOLATION OF § 21-902(A) OF THIS ARTICLE DESCRIBED IN THIS SUBSECTION.

36       (↔)   (F)    (1)     [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE  
37 Administration may modify any suspension under this section or any suspension  
38 under § 16-205.1 of this [article] SUBTITLE and issue a restrictive license to a

1 licensee who participates in the Ignition Interlock System Program established under  
2 § 16-404.1 of this title.

3 (2) THE ADMINISTRATION MAY NOT MODIFY A SUSPENSION AND ISSUE  
4 A RESTRICTIVE LICENSE DURING A MANDATORY PERIOD OF SUSPENSION  
5 DESCRIBED IN SUBSECTION ~~(D)~~ (E) OF THIS SECTION.

6 ~~(F)~~ (G) ~~{When} SUBJECT TO § 16-404(C)(5) OF THIS TITLE, WHEN~~ a  
7 suspension imposed under subsections (c) ~~and (d), (D), OR (E)~~ of this section expires,  
8 the Administration immediately shall return the license or reinstate the privilege of  
9 the driver, unless the license or privilege has been refused, revoked, suspended, or  
10 canceled under any other provisions of the Maryland Vehicle Law.

11 ~~16-208.~~

12 (b) (1) Any individual whose license or privilege to drive has been revoked  
13 may apply for reinstatement of the individual's license or privilege as provided in this  
14 subsection.

15 ~~(2) (i) If it is the individual's first revocation, the individual may file a~~  
16 ~~reinstatement application at any time after the day the revoked license is~~  
17 ~~surrendered to and received by the Administration or, in the case of an individual who~~  
18 ~~does not have a license issued under this title, after the effective date of the~~  
19 ~~revocation.~~

20 ~~(ii) Except as provided in paragraph (6) of this subsection, on~~  
21 ~~receipt of the application, the Administration may reinstate the license or privilege 6~~  
22 ~~months after the revoked license is received by the Administration or, in the case of~~  
23 ~~an individual who does not have a license issued under this title, 6 months after the~~  
24 ~~effective date of revocation.~~

25 ~~(3) (i) [IF] NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION,~~  
26 ~~IF it is the individual's second revocation, OR, IF THE REVOCATION IS DUE TO AN~~  
27 ~~ACCUMULATION OF POINTS RESULTING FROM A SECOND OR SUBSEQUENT~~  
28 ~~CONVICTION UNDER § 21-902 OF THIS ARTICLE WITHIN A 5-YEAR PERIOD, the~~  
29 ~~individual may file a reinstatement application at any time after 1 year from the day~~  
30 ~~the revoked license is surrendered to and received by the Administration or, in the~~  
31 ~~case of an individual who does not have a license issued under this title, after 1 year~~  
32 ~~from the effective date of revocation.~~

33 ~~(ii) Except as provided in paragraph (6) of this subsection, on~~  
34 ~~receipt of the application, the Administration may reinstate the license or privilege.~~

35 ~~(4) (i) If it is the individual's third revocation, the individual may file~~  
36 ~~a reinstatement application at any time after 18 months from the day the revoked~~  
37 ~~license is surrendered to and received by the Administration or, in the case of an~~  
38 ~~individual who does not have a license issued under this title, after 18 months from~~  
39 ~~the effective date of revocation.~~

1 (ii) Except as provided in paragraph (6) of this subsection, on  
2 receipt of the application, the Administration may reinstate the license or privilege.

3 (5) (i) If it is the individual's fourth or subsequent revocation, the  
4 individual may file a reinstatement application at any time after 2 years from the day  
5 the revoked license is surrendered to and received by the Administration or, in the  
6 case of an individual who does not have a license issued under this title, after 2 years  
7 from the effective date of revocation.

8 (ii) Except as provided in paragraph (6) of this subsection, on  
9 receipt of the application, the Administration may reinstate the license or privilege.

10 (6) (i) The Administration may not reinstate a license or privilege to  
11 drive under this subsection if the license or privilege has been refused, revoked,  
12 suspended, or canceled under any other provision of the Maryland Vehicle Law.

13 (ii) 1. In this subparagraph, "alcohol related or drug related  
14 driving incident" means a:

15 A. Conviction or probation before judgment for a violation of  
16 § 21-902(a), (b), (c), or (d) of this article or a substantially similar law of another  
17 jurisdiction;

18 B. Refusal to submit to a test under § 16-205.1 of this title or  
19 a substantially similar law of another jurisdiction; or

20 C. Test result that indicates an alcohol concentration of 0.10  
21 or more at the time of testing under § 16-205.1 of this title or a substantially similar  
22 law of another jurisdiction.

23 2. Alcohol related or drug related driving incidents  
24 committed at the same time or arising out of the same circumstances may not be  
25 considered separate alcohol related or drug related driving incidents for the purpose  
26 of this subparagraph.

27 3. Notwithstanding paragraphs (1) through (5) of this  
28 subsection, the Administration may reinstate a license or privilege to drive only if,  
29 after an investigation of an individual's habits and driving ability, the Administration  
30 is satisfied it will be safe to reinstate the license or privilege of an individual who has  
31 been:

32 A. Involved in any combination of three or more separate  
33 alcohol related or drug related driving incidents;

34 B. Involved in a vehicular accident resulting in the death of  
35 another person; or

36 C. Convicted of a violation for failing to stop after a vehicular  
37 accident resulting in bodily injury or death.

1           (7)     ~~IF THE REVOCATION IS DUE TO A SECOND OR SUBSEQUENT~~  
2 ~~CONVICTION UNDER § 21-902 OF THIS ARTICLE WITHIN A 5-YEAR PERIOD;~~  
3 ~~REINSTATEMENT SHALL BE CONDITIONED ON THE INDIVIDUAL'S MAINTENANCE OF~~  
4 ~~AN IGNITION INTERLOCK SYSTEM FOR NOT LESS THAN 12 MONTHS ON ALL VEHICLES~~  
5 ~~OWNED OR OPERATED BY THE INDIVIDUAL.~~

6           (8)     ~~Except as otherwise provided in this title, before issuing a new~~  
7 ~~license, the Administration shall require the applicant to submit to the examinations~~  
8 ~~that it considers appropriate.~~

9 16-404.

10       (a)     The Administration shall take the following actions for points accumulated  
11 within any 2-year period:

12           (1)     Send a warning letter to each individual who accumulates 3 points;

13           (2)     Require attendance at a conference by each individual who  
14 accumulates 5 points, except that a Class A, B, or C licensee who submits evidence  
15 acceptable to the Administration that he is a professional driver may not be called in  
16 until he accumulates 8 points; and

17           (3)     Except as provided in § 16-405 of this subtitle:

18                   (i)     Suspend the license of each individual who accumulates 8  
19 points; and

20                   (ii)    Revoke the license of each individual who accumulates 12  
21 points.

22       (b)     (1)     Except as provided in § 16-405 of this subtitle:

23                   (i)     If an individual accumulates 8 points, the Administration shall  
24 issue a notice of suspension; and

25                   (ii)    If an individual accumulates 12 points, the Administration shall  
26 issue a notice of revocation.

27           (2)     Each notice shall:

28                   (i)     Be personally served or sent by certified mail, return receipt  
29 requested, bearing a postmark from the United States Postal Service;

30                   (ii)    State the duration of the suspension or revocation; and

31                   (iii)    Advise the individual of his right, within 10 days after the  
32 notice is sent (Saturdays, Sundays, and legal holidays excepted), to file a written  
33 request for a hearing before the Administrator.

34           (3)     Unless a hearing is requested, each notice of suspension or revocation  
35 is effective at the end of the 10-day period after the notice is sent.

1 (e) (1) Except as provided in paragraphs (2) [and], (3), AND (4) of this  
2 subsection:

3 (i) An initial suspension may not be for less than 2 days nor more  
4 than 30 days; and

5 (ii) Any subsequent suspension may not be for less than 15 days  
6 nor more than 90 days.

7 (2) Subject to the provisions of paragraph [(3)] (4) of this subsection, the  
8 following suspension periods may apply to a suspension for an accumulation of points  
9 under § 16-402(a)(24) of this subtitle for a violation of § 21-902(b) or (c) of this article  
10 or a suspension imposed under § 16-404.1(b)(4)(iii) of this subtitle:

11 (i) For a first conviction, not more than 6 months; AND

12 (ii) For a second conviction at least 5 years after the date of the  
13 first conviction, not more than 9 months[.];

14 (3) ~~THE FOLLOWING SUSPENSION PERIODS SHALL APPLY TO A~~  
15 ~~SUSPENSION FOR AN ACCUMULATION OF POINTS UNDER § 16-402(A)(24) OF THIS~~  
16 ~~SUBTITLE FOR A CONVICTION UNDER § 21-902(B) OR (C) OF THIS ARTICLE OR A~~  
17 ~~SUSPENSION IMPOSED UNDER § 16-404.1(B)(4)(III) OF THIS SUBTITLE:~~

18 [(iii)] (i) For a second conviction less than 5 years after the date of  
19 the first conviction UNDER § 21-902 OF THIS ARTICLE or for a third conviction UNDER  
20 § 21-902 OF THIS ARTICLE, [not more than] 12 months; and

21 [(iv)] (ii) For a fourth or subsequent conviction UNDER § 21-902 OF  
22 THIS ARTICLE, not LESS THAN 12 MONTHS NOR more than 24 months.

23 [(3)] (4) [The] SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION, THE  
24 Administration may issue a restrictive license for the period of the suspension to an  
25 individual who participates in the Administration's Ignition Interlock System  
26 Program under § 16-404.1 of this subtitle.

27 [(4)] (5) [This] SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION, THIS  
28 subsection does not limit the authority of the Administration to issue a restrictive  
29 license or modify a suspension imposed under this subsection.

30 (6) THE ADMINISTRATION MAY NOT ISSUE A RESTRICTIVE LICENSE OR  
31 MODIFY A SUSPENSION DURING A MANDATORY PERIOD OF SUSPENSION DESCRIBED  
32 UNDER PARAGRAPH (3) OF THIS SUBSECTION.

33 (7) IF THE SUSPENSION OR REVOCATION IS DUE TO A SECOND OR  
34 SUBSEQUENT CONVICTION LESS THAN 5 YEARS FROM THE DATE OF THE FIRST  
35 CONVICTION UNDER § 21-902 OF THIS ARTICLE, RESTORATION OF THE INDIVIDUAL'S  
36 DRIVING PRIVILEGE SHALL BE CONDITIONED ON THE INDIVIDUAL'S MAINTENANCE  
37 OF AN IGNITION INTERLOCK SYSTEM FOR NOT LESS THAN 12 MONTHS ON ALL  
38 VEHICLES OWNED OR OPERATED BY THE INDIVIDUAL.

1 16-404.1.

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

7 16-405.

8 (a) Except as provided in ~~§ 16-205.1~~ §§ 16-205(E) AND 16-205.1 of this title ~~AND~~  
 9 ~~SUBSECTION (B) OF THIS SECTION~~, if the suspension or revocation of a license would  
 10 affect adversely the employment or opportunity for employment of a licensee, the  
 11 hearing officer may:

12 (1) Decline to order the suspension or revocation; or

13 (2) Cancel or modify the suspension or revocation.

14 ~~(b) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO A MANDATORY~~  
 15 ~~PERIOD OF SUSPENSION UNDER § 16-404(C)(3) OF THIS SUBTITLE OR A REVOCATION~~  
 16 ~~FOR A SECOND OR SUBSEQUENT CONVICTION UNDER § 21-902 OF THIS ARTICLE~~  
 17 ~~WITHIN A 5-YEAR PERIOD.~~

18 ~~(C)~~ For purposes of § 16-404 of this subtitle, if a licensee is required to drive a  
 19 motor vehicle in the course of his regular employment:

20 ~~(1) Suspension requires 16 points; and~~

21 ~~(2) Revocation requires 19 points.~~

22 ~~{(e)} (D) The provisions of subsection [(b)] (C) of this section do not apply to an~~  
 23 ~~individual whose current accumulation of points includes points resulting from a~~  
 24 ~~conviction for a violation of § 21-902 of this article.~~

25 27-101.

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

27 (I) AN inpatient rehabilitation or treatment center; OR

28 (II) HOME DETENTION THAT INCLUDES ELECTRONIC MONITORING.

29 (2) A person who is convicted of a ~~SECOND~~ violation of § 21-902{(a)} of  
 30 this article within [3] 5 years after a prior conviction under that {subsection}  
 31 ~~SECTION~~ is subject to a mandatory minimum penalty of:

32 (i) Imprisonment for not less than [48 consecutive] ~~420 hours~~ 5  
 33 DAYS; or

1 (ii) Community service for not less than [80 hours] 30 DAYS ~~AS A~~  
2 ~~MANDATORY CONDITION OF PROBATION OR A SUSPENDED SENTENCE OF NOT LESS~~  
3 ~~THAN 5 DAYS.~~

4 (3) A PERSON WHO IS CONVICTED OF A THIRD OR SUBSEQUENT  
5 OFFENSE UNDER ~~§ 21-902~~ § 21-902(A) OF THIS ARTICLE WITHIN 5 YEARS ~~AFTER A~~  
6 ~~PRIOR CONVICTION OF ANY OFFENSE UNDER THAT SECTION~~ IS SUBJECT TO A  
7 MANDATORY MINIMUM PENALTY OF:

8 (I) IMPRISONMENT FOR NOT LESS THAN 10 DAYS; OR

9 (II) COMMUNITY SERVICE FOR NOT LESS THAN 60 DAYS ~~AS A~~  
10 ~~MANDATORY CONDITION OF PROBATION OR A SUSPENDED SENTENCE OF NOT LESS~~  
11 ~~THAN 10 DAYS.~~

12 (4) A PERSON WHO IS CONVICTED OF ~~A SECOND OR SUBSEQUENT AN~~  
13 OFFENSE UNDER ~~§ 21-902~~ § 21-902(A) OF THIS ARTICLE WITHIN 5 YEARS OF A PRIOR  
14 CONVICTION OF ANY OFFENSE UNDER THAT ~~SECTION~~ SUBSECTION SHALL BE  
15 REQUIRED BY THE COURT TO:

16 (I) UNDERGO A COMPREHENSIVE ~~DRUG AND~~ ALCOHOL ABUSE  
17 ASSESSMENT; AND

18 (II) IF RECOMMENDED AT THE CONCLUSION OF THE ASSESSMENT,  
19 PARTICIPATE IN ~~A DRUG OR AN~~ ALCOHOL PROGRAM CERTIFIED BY THE  
20 DEPARTMENT OF HEALTH AND MENTAL HYGIENE AS ORDERED BY THE COURT.

21 [(3)] (5) The penalties provided by this subsection are mandatory and  
22 are not subject to suspension or probation ~~BEFORE JUDGMENT UNDER § 6-220 OF THE~~  
23 ~~CRIMINAL PROCEDURE ARTICLE.~~

24 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the  
25 provisions of § 16-205(e) of the Transportation Article, the Motor Vehicle  
26 Administration may modify a suspension imposed under that subsection and issue a  
27 restrictive license or modify any ignition interlock system maintenance requirement  
28 or both to the extent that enactment of any amendments to 23 U.S.C. § 154, § 164, or  
29 enactment of any other federal statute or adoption of any federal regulation, allows a  
30 state statute to include that authority to modify a suspension and issue a restrictive  
31 license or modify any ignition interlock maintenance requirement or both.

32 SECTION 3. AND BE IT FURTHER ENACTED, That the Motor Vehicle  
33 Administration shall certify to the General Assembly and the Office of Administrative  
34 Hearings whether any federal statute enacted or regulation adopted on or after April  
35 1, 2002, satisfies the contingency described in Section 2 of this Act.

36 ~~SECTION 4.~~ AND BE IT FURTHER ENACTED, That this Act shall take  
37 effect September 30, 2002.

