

SENATE BILL 803

R3

(11r0342)

ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by **Senators Raskin, Astle, Benson, Brochin, Colburn, Currie, Forehand, Frosh, Jacobs, King, Madaleno, Manno, Middleton, Montgomery, Muse, Peters, Pinsky, Robey, Shank, Simonaire, Stone, Young, and Zirkin**

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.

President.

CHAPTER _____

1 AN ACT concerning

2 ~~**Drunk Driving Elimination Act**~~
3 **Drunk Driving Reduction Act**

4 FOR the purpose of ~~altering the Motor Vehicle Administration's authority to establish~~
5 ~~an Ignition Interlock System Program to require the Administration to establish~~
6 ~~the Program; requiring rather than authorizing the Administration to establish~~
7 ~~a protocol for the Program by certain regulations; altering the circumstances~~
8 ~~under which individuals may participate in the Program; requiring the~~
9 ~~Administration to require an individual convicted of certain alcohol related~~
10 ~~driving offenses to participate in the Program for certain minimum amounts of~~
11 ~~time; requiring the Administration, under certain circumstances, to suspend the~~
12 ~~license of an individual who refuses to submit to a chemical test of blood or~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



~~breath for a certain period of time and to require the individual to participate in the Program for a certain minimum period of time after the period of suspension; requiring the Administration to require a certain individual to successfully complete the Program; requiring the Administration to impose a certain license restriction for a certain minimum amount of time; requiring the Administration to suspend for certain amounts of time the drivers' licenses of certain individuals who fail to successfully complete the Program; requiring the Administration to establish a certain fee; requiring individuals who are in the Program to be monitored by the Administration and to pay a certain fee under certain circumstances; requiring certain service providers to demonstrate a certain ability under certain circumstances; altering the authority of the Administration to require certain individuals to participate in the Program; establishing that Program participation that is required under certain circumstances shall run concurrently to participation ordered by a court; and generally relating to participation in *expanding participation in the Ignition Interlock System Program by authorizing certain individuals who have committed a certain alcohol-related administrative offense to be participants under certain circumstances; requiring the Motor Vehicle Administration to establish the Program in accordance with certain statutory provisions; requiring rather than authorizing the Administration to establish a certain protocol; expanding participation in the Program by requiring certain individuals who are convicted of a certain offense and who had a certain alcohol concentration at the time of testing to participate in the Program for certain periods of time and successfully complete the Program; expanding participation in the Program by requiring certain individuals to participate in the Program for certain periods of time and successfully complete the Program as a condition of modification of a license suspension or revocation and issuance of a restrictive license; requiring the Administration to impose a certain license restriction for certain periods of time under certain circumstances; requiring the Administration to suspend for an indefinite period, rather than revoke, licenses of certain individuals who are convicted of a certain offense and had a certain alcohol concentration at the time of testing and who fail to participate in the Program or successfully complete the Program; providing that a suspension or revocation of a license that is imposed as a result of certain circumstances shall be concurrent with any other suspension or revocation arising out of the same incident; requiring the Administration to suspend for certain periods of time the licenses of certain individuals who refuse to participate in or fail to successfully complete the Program; providing for reconsideration of entry in the Program under certain circumstances; requiring the Administration to establish a certain fee; requiring individuals in the Program to be monitored by the Administration and to pay a certain fee under certain circumstances; requiring certain service providers to demonstrate a certain ability under certain circumstances; providing that certain Program participation under this Act shall be concurrent with Program participation under any other provision of law; providing that an individual who is removed from the Program may reenter the Program under certain circumstances; establishing a criminal prohibition of a participant in the Program driving a vehicle without an ignition interlock system; providing for*~~

1 certain penalties; providing for certain administrative procedures; establishing
 2 that certain information provided to the Administration is sufficient for the
 3 Administration to exercise its authority to allow a participant in the Program to
 4 operate a motor vehicle owned or provided by the person's employer in the course
 5 of employment without an ignition interlock system under certain circumstances;
 6 requiring the Administration to provide certain warnings to certain persons;
 7 prohibiting a person from raising the absence of a warning or failure to receive
 8 the warning as a basis for limiting the authority of the Administration in a
 9 certain manner; clarifying language; and generally relating to the Ignition
 10 Interlock System Program.

11 ~~BY repealing and reenacting, with amendments,~~
 12 ~~Article – Transportation~~
 13 ~~Section 16–404.1(b) and (f)~~
 14 ~~Annotated Code of Maryland~~
 15 ~~(2009 Replacement Volume and 2010 Supplement)~~

16 ~~BY repealing and reenacting, without amendments,~~
 17 ~~Article – Transportation~~
 18 ~~Section 27–101(h) and 27–107(g)(2)~~
 19 ~~Annotated Code of Maryland~~
 20 ~~(2009 Replacement Volume and 2010 Supplement)~~

21 BY renumbering
 22 Article – Transportation
 23 Section 16–205.1(o)
 24 to be Section 16–205.1(q)
 25 Annotated Code of Maryland
 26 (2009 Replacement Volume and 2010 Supplement)

27 BY repealing and reenacting, without amendments,
 28 Article – Transportation
 29 Section 16–113(b)(1) and (4), 16–205(f)(1), 16–404(c)(3), 21–902(a)(1) and (2) and
 30 (b)(1), and 27–107(b)
 31 Annotated Code of Maryland
 32 (2009 Replacement Volume and 2010 Supplement)

33 BY repealing
 34 Article – Transportation
 35 Section 16–205.1(n)
 36 Annotated Code of Maryland
 37 (2009 Replacement Volume and 2010 Supplement)

38 BY adding to
 39 Article – Transportation
 40 Section 16–113(k) and 16–205.1(n), (o), and (p)
 41 Annotated Code of Maryland

1 (2009 Replacement Volume and 2010 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article – Transportation

4 Section 16-205.1(b)(3)(viii)3., 16-404(c)(2), 16-404.1, 27-101(h), and
5 27-107(g)(2)

6 Annotated Code of Maryland

7 (2009 Replacement Volume and 2010 Supplement)

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

10 ~~**Article – Transportation**~~

11 ~~16-404.1.~~

12 ~~(b) (1) The Administration [may] SHALL establish an Ignition Interlock~~
13 ~~System Program.~~

14 ~~(2) The Administration [may] SHALL establish a protocol for the~~
15 ~~Program by regulations that require certain minimum standards for all service~~
16 ~~providers who service, install, monitor, calibrate, and provide information on ignition~~
17 ~~interlock systems and include requirements that:~~

18 ~~(i) A service provider who applies to the Administration for~~
19 ~~certification as an approved service provider shall demonstrate that the service~~
20 ~~provider is able to competently service, install, monitor, calibrate, and provide~~
21 ~~information TO THE ADMINISTRATION AT LEAST EVERY 30 DAYS on INDIVIDUALS~~
22 ~~REQUIRED TO USE ignition interlock systems;~~

23 ~~(ii) A service provider who applies to the Administration for~~
24 ~~certification as an approved service provider shall be certified by a signed affidavit~~
25 ~~from the manufacturer that the service provider has been trained by an authorized~~
26 ~~manufacturer and that the service provider is competent to service, install, monitor,~~
27 ~~calibrate, and provide information on ignition interlock systems;~~

28 ~~(iii) Approved service providers be deemed to be authorized~~
29 ~~representatives of a manufacturer; and~~

30 ~~(iv) Any service of notice upon an approved service provider, who~~
31 ~~has violated any laws or regulations or whose ignition interlock system has violated~~
32 ~~any laws or regulations, be deemed as service upon the manufacturer who certified the~~
33 ~~approved service provider.~~

34 ~~(3) An individual may be a participant if:~~

1 ~~(i) The individual's license is suspended or revoked for a~~
 2 ~~violation of [§ 21-902(a), (b), or (c)] § 21-902(C) of this article or an accumulation of~~
 3 ~~points under § 16-402(a)(25) or (34) of this subtitle FOR A VIOLATION OF §~~
 4 ~~21-902(C) OF THIS ARTICLE;~~

5 ~~(ii) [The individual is ordered to participate in the Program by a~~
 6 ~~court under § 27-107 of this article;~~

7 ~~(iii)] The individual's license has an alcohol restriction imposed~~
 8 ~~under § 16-113(b) or (g) of this title; or~~

9 ~~[(iv)] (iii) The Administration modifies a suspension or issues a~~
 10 ~~restrictive license to the individual under § 16-205.1(b)(3)(vii) or (n)(2) or (4) of this~~
 11 ~~title.~~

12 ~~(4) AN INDIVIDUAL SHALL BE A PARTICIPANT IF THE INDIVIDUAL~~
 13 ~~IS:~~

14 ~~(i) CONVICTED CONVICTED OF A VIOLATION OF §~~
 15 ~~21-902(A) OR (B) OF THIS ARTICLE; OR~~

16 ~~(ii) SUBJECT TO A LICENSE SUSPENSION UNDER §~~
 17 ~~16-205.1(F) OF THIS ARTICLE FOR REFUSAL TO SUBMIT TO A CHEMICAL TEST~~
 18 ~~OF BLOOD OR BREATH.~~

19 ~~[(4)] (5) The Administration may:~~

20 ~~(i) Issue a restrictive license to an individual who is a~~
 21 ~~participant in the Program during the suspension period as provided under §~~
 22 ~~16-404(e)(3) of this subtitle;~~

23 ~~(ii) Reinstate the driver's license of a participant whose license~~
 24 ~~has been revoked for a violation of § 21-902(a), (b), or (c) of this article or revoked for~~
 25 ~~an accumulation of points under § 16-402(a)(34) of this subtitle for a violation of §~~
 26 ~~21-902(a) of this article; and~~

27 ~~(iii) Notwithstanding any other provision of law, impose on a~~
 28 ~~participant a period of suspension in accordance with § 16-404(e)(2) and (3) of this~~
 29 ~~subtitle in lieu of a license revocation for:~~

30 ~~1. A violation of § 21-902(a), (b), or (c) of this article; or~~

31 ~~2. An accumulation of points under § 16-402(a)(34) of~~
 32 ~~this subtitle for a violation of § 21-902(a) of this article.~~

~~1 [(5)] (6) A notice of suspension or revocation sent to an individual
2 under this title shall include information about the Program and how the individual
3 can qualify for admission to OR BE REQUIRED TO PARTICIPATE IN the Program.~~

~~4 (7) IN THE CASE OF AN INDIVIDUAL WHO IS CONVICTED OF A
5 VIOLATION OF § 21-902(A) OR (B) OF THIS ARTICLE, IN ADDITION TO ANY
6 OTHER PENALTIES REQUIRED UNDER THIS ARTICLE, THE ADMINISTRATION
7 SHALL:~~

~~8 (I) UNLESS A COURT ORDERS A LONGER PERIOD OF
9 PROGRAM PARTICIPATION UNDER § 27-107 OF THIS ARTICLE, REQUIRE THE
10 INDIVIDUAL TO PARTICIPATE IN THE PROGRAM FOR NOT LESS THAN:~~

- ~~11 1. 6 MONTHS FOR A FIRST VIOLATION;~~
- ~~12 2. 1 YEAR FOR A SECOND VIOLATION; AND~~
- ~~13 3. 3 YEARS FOR A THIRD OR SUBSEQUENT
14 VIOLATION;~~

~~15 (H) REQUIRE THE INDIVIDUAL TO SUCCESSFULLY
16 COMPLETE THE PROGRAM;~~

~~17 (HH) SUBJECT TO § 27-107(G)(2) OF THIS ARTICLE, IMPOSE
18 A RESTRICTION ON THE INDIVIDUAL'S LICENSE THAT PROHIBITS THE
19 INDIVIDUAL FROM DRIVING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN
20 IGNITION INTERLOCK SYSTEM FOR THE PERIOD OF TIME THAT THE INDIVIDUAL
21 IS REQUIRED TO PARTICIPATE IN THE PROGRAM UNDER THIS PARAGRAPH; AND~~

~~22 (IV) IF THE INDIVIDUAL FAILS TO SUCCESSFULLY
23 COMPLETE THE PROGRAM AS REQUIRED, SUSPEND THE INDIVIDUAL'S DRIVER'S
24 LICENSE FOR A PERIOD OF:~~

- ~~25 1. 6 MONTHS FOR A FIRST VIOLATION OF §
26 21-902(A) OR (B) OF THIS ARTICLE; AND~~
- ~~27 2. 1 YEAR FOR A SECOND OR SUBSEQUENT
28 VIOLATION OF § 21-902(A) OR (B) OF THIS ARTICLE.~~

~~29 (S) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN THE
30 CASE OF AN INDIVIDUAL WHO IS SUBJECT TO A LICENSE SUSPENSION UNDER §
31 16-205.1(F) OF THIS TITLE FOR REFUSAL TO SUBMIT TO A CHEMICAL TEST OF
32 BLOOD OR BREATH, THE ADMINISTRATION SHALL:~~

1 (i) ~~SUSPEND THE INDIVIDUAL'S LICENSE FOR A PERIOD OF~~
2 ~~45 DAYS;~~

3 (ii) ~~AFTER THE 45 DAY SUSPENSION PERIOD, REQUIRE THE~~
4 ~~INDIVIDUAL TO PARTICIPATE IN THE PROGRAM FOR NOT LESS THAN 1 YEAR;~~

5 (iii) ~~REQUIRE THE INDIVIDUAL TO SUCCESSFULLY~~
6 ~~COMPLETE THE PROGRAM;~~

7 (iv) ~~SUBJECT TO § 27-107(G)(2) OF THIS ARTICLE, IMPOSE~~
8 ~~A RESTRICTION ON THE INDIVIDUAL'S LICENSE THAT PROHIBITS THE~~
9 ~~INDIVIDUAL FROM DRIVING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN~~
10 ~~IGNITION INTERLOCK SYSTEM FOR THE PERIOD OF TIME THAT THE INDIVIDUAL~~
11 ~~IS REQUIRED TO PARTICIPATE IN THE PROGRAM UNDER THIS PARAGRAPH; AND~~

12 (v) ~~IF THE INDIVIDUAL FAILS TO SUCCESSFULLY~~
13 ~~COMPLETE THE PROGRAM AS REQUIRED, SUSPEND THE INDIVIDUAL'S LICENSE~~
14 ~~IN ACCORDANCE WITH § 16-205.1(F) OF THIS TITLE.~~

15 ~~[(6)] (9) (8) The Administration [may] SHALL establish a fee for the~~
16 ~~Program THAT IS SUFFICIENT TO COVER THE COSTS OF THE PROGRAM.~~

17 ~~(f) (1) An individual required to use an ignition interlock system under a~~
18 ~~court order OR UNDER THIS SECTION:~~

19 ~~(i) Shall be monitored by the Administration; and~~

20 ~~(ii) [Shall] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF~~
21 ~~THIS SUBSECTION, SHALL pay the fee required by the Administration under~~
22 ~~subsection [(b)(6)] (B)(9) (B)(8) of this section.~~

23 ~~(2) THE FEE REQUIRED UNDER THIS SUBSECTION SHALL BE~~
24 ~~WAIVED FOR AN INDIVIDUAL WHO IS INDIGENT.~~

25 ~~[(2)] (3) A court order that requires the use of an ignition interlock~~
26 ~~system is not affected by § 16-404(e)(3) of this subtitle.~~

27 ~~(4) IF PROGRAM PARTICIPATION IS REQUIRED UNDER A COURT~~
28 ~~ORDER AND UNDER THIS SECTION, AS A RESULT OF THE SAME INCIDENT, THE~~
29 ~~PERIODS OF PARTICIPATION SHALL RUN CONCURRENTLY.~~

30 ~~27-101.~~

31 ~~(h) Any person who is convicted of a violation of any of the provisions of §~~
32 ~~16-303(a), (b), (c), (d), (e), (f), or (g) of this article ("Driving while license is canceled,~~

1 ~~suspended, refused, or revoked”), § 17-107 of this article (“Prohibitions”), or § 17-110~~
 2 ~~of this article (“Providing false evidence of required security”) is subject to:~~

3 ~~(1) For a first offense, a fine of not more than \$1,000, or imprisonment~~
 4 ~~for not more than 1 year, or both; and~~

5 ~~(2) For any subsequent offense, a fine of not more than \$1,000, or~~
 6 ~~imprisonment for not more than 2 years, or both.~~

7 ~~27-107.~~

8 ~~(g) (2) If a person is required, in the course of the person’s employment, to~~
 9 ~~operate a motor vehicle owned or provided by the person’s employer, the person may~~
 10 ~~operate that motor vehicle in the course of the person’s employment without~~
 11 ~~installation of an ignition interlock system if the court or the Administration has~~
 12 ~~expressly permitted the person to operate in the course of the person’s employment a~~
 13 ~~motor vehicle that is not equipped with an ignition interlock system.~~

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 15 MARYLAND, That Section(s) 16-205.1(o) of Article – Transportation of the Annotated
 16 Code of Maryland be renumbered to be Section(s) 16-205.1(q).

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

19 **Article – Transportation**

20 16-113.

21 (b) (1) Notwithstanding the licensee’s driving record, the Administration
 22 shall impose on each licensee under the age of 21 years an alcohol restriction that
 23 prohibits the licensee from driving or attempting to drive a motor vehicle while having
 24 alcohol in the licensee’s blood.

25 (4) An individual under the age of 21 years who is convicted of a
 26 violation of § 21-902(a), (b), or (c) of this article may be required, for a period of not
 27 more than 3 years, to participate in the Ignition Interlock System Program in order to
 28 retain the individual’s driver’s license.

29 **(K) A PARTICIPANT IN THE IGNITION INTERLOCK SYSTEM PROGRAM**
 30 **UNDER § 16-404.1 OF THIS TITLE MAY NOT DRIVE OR ATTEMPT TO DRIVE A**
 31 **VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM IN**
 32 **VIOLATION OF AN IGNITION INTERLOCK SYSTEM RESTRICTION ON A LICENSE**
 33 **ISSUED TO THE PARTICIPANT.**

34 16-205.

1 (f) (1) Subject to paragraph (2) of this subsection, the Administration may
2 modify any suspension under this section or any suspension under § 16-205.1 of this
3 subtitle and issue a restrictive license to a licensee who participates in the Ignition
4 Interlock System Program established under § 16-404.1 of this title.

5 16-205.1.

6 (b) (3) If the person refuses to take the test or takes a test which results in
7 an alcohol concentration of 0.08 or more at the time of testing, the police officer shall:

8 (viii) Within 72 hours after the issuance of the order of suspension,
9 send any confiscated driver's license, copy of the suspension order, and a sworn
10 statement to the Administration, that states:

11 3. The person was fully advised of the administrative
12 sanctions that shall be imposed, including the fact that a person who refuses to take the
13 test or takes a test that indicates an alcohol concentration of 0.15 or more at the time of
14 testing is ineligible for modification of a suspension or issuance of a restrictive license
15 under subsection [(n)(1) or (2)] (O) of this section.

16 [(n) (1) The Administration may modify a suspension under this section or
17 issue a restrictive license if:

18 (i) The licensee did not refuse to take a test;

19 (ii) The licensee has not had a license suspended under this
20 section during the past 5 years;

21 (iii) The licensee has not been convicted under § 21-902 of this
22 article during the past 5 years;

23 (iv) The licensee has a test result indicating an alcohol
24 concentration of less than 0.15; and

25 (v) 1. The licensee is required to drive a motor vehicle in the
26 course of employment;

27 2. The license is required for the purpose of attending an
28 alcoholic prevention or treatment program;

29 3. The Administration finds that the licensee has no
30 alternative means of transportation available to or from the licensee's place of
31 employment and, without the license, the licensee's ability to earn a living would be
32 severely impaired; or

1 4. The Administration finds that the license is required
2 for the purpose of obtaining health care treatment, including a prescription, that is
3 necessary for the licensee or a member of the licensee's immediate family and the
4 licensee and the licensee's immediate family have no alternative means of
5 transportation available to obtain the health care treatment.

6 (2) In addition to the authority to modify a suspension or issue a
7 restrictive license under paragraph (1) or (4) of this subsection, the Administration may
8 modify a suspension under this section or issue a restrictive license, including a
9 restriction that prohibits the licensee from driving or attempting to drive a motor
10 vehicle unless the licensee is a participant in the Ignition Interlock System Program
11 established under § 16-404.1 of this title, if:

12 (i) The licensee did not refuse to take a test;

13 (ii) The licensee has not been convicted under § 21-902 of this
14 article;

15 (iii) The licensee has a test result indicating an alcohol
16 concentration of less than 0.15; and

17 (iv) The license is required for the purpose of attending:

18 1. A noncollegiate educational institution as defined in §
19 2-206(a) of the Education Article; or

20 2. A regular program at an institution of postsecondary
21 education.

22 (3) If the licensee refused to take a test or took a test that indicated an
23 alcohol concentration of 0.15 or more at the time of testing, the Administration may not
24 modify a suspension under this section or issue a restrictive license except as provided
25 under paragraph (4) of this subsection.

26 (4) (i) In addition to the authority to modify a suspension or issue a
27 restrictive license under subsection (b)(3)(vii) of this section or paragraph (1) or (2) of
28 this subsection, the Administration may modify a suspension under this section or issue
29 a restrictive license to a licensee as provided in this paragraph.

30 (ii) If the licensee refused to take a test or took a test that
31 indicated an alcohol concentration of 0.15 or more, the Administration may modify a
32 suspension under this section or issue a restrictive license if the licensee participates in
33 the Ignition Interlock System Program for 1 year.

34 (5) (i) If the Administration modifies a suspension or issues a
35 restrictive license under subsection (b)(3)(vii) of this section or paragraph (4) of this
36 subsection and the licensee does not successfully complete the licensee's required

1 participation in the Ignition Interlock System Program, the Administration shall
2 summarily suspend the licensee's driver's license or driving privilege for the full period
3 of suspension specified in this section for the applicable administrative offense.

4 (ii) The Administration shall notify a licensee of a suspension
5 under this paragraph.

6 (iii) A licensee may request an administrative hearing on a
7 suspension imposed under this paragraph.]

8 **(N) (1) THIS SUBSECTION APPLIES ONLY TO A LICENSEE:**

9 **(I) WHO TAKES A TEST THAT INDICATES AN ALCOHOL**
10 **CONCENTRATION OF AT LEAST 0.08 BUT LESS THAN 0.15;**

11 **(II) WHOSE LICENSE HAS NOT BEEN SUSPENDED UNDER**
12 **THIS SECTION DURING THE PAST 5 YEARS; AND**

13 **(III) WHO HAS NOT BEEN CONVICTED UNDER § 21-902 OF**
14 **THIS ARTICLE DURING THE PAST 5 YEARS.**

15 **(2) THE ADMINISTRATION MAY MODIFY A SUSPENSION UNDER**
16 **THIS SECTION OR ISSUE A RESTRICTIVE LICENSE IF THE ADMINISTRATION**
17 **FINDS THAT:**

18 **(I) THE LICENSEE IS REQUIRED TO DRIVE A MOTOR**
19 **VEHICLE IN THE COURSE OF EMPLOYMENT;**

20 **(II) THE LICENSE IS REQUIRED FOR THE PURPOSE OF**
21 **ATTENDING AN ALCOHOL PREVENTION OR TREATMENT PROGRAM;**

22 **(III) THE LICENSEE HAS NO ALTERNATIVE MEANS OF**
23 **TRANSPORTATION AVAILABLE TO OR FROM THE LICENSEE'S PLACE OF**
24 **EMPLOYMENT AND, WITHOUT THE LICENSE, THE LICENSEE'S ABILITY TO EARN A**
25 **LIVING WOULD BE SEVERELY IMPAIRED;**

26 **(IV) THE LICENSE IS REQUIRED FOR THE PURPOSE OF**
27 **OBTAINING HEALTH CARE TREATMENT, INCLUDING A PRESCRIPTION, THAT IS**
28 **NECESSARY FOR THE LICENSEE OR A MEMBER OF THE LICENSEE'S IMMEDIATE**
29 **FAMILY AND THE LICENSEE AND THE LICENSEE'S IMMEDIATE FAMILY HAVE NO**
30 **ALTERNATIVE MEANS OF TRANSPORTATION AVAILABLE TO OBTAIN THE HEALTH**
31 **CARE TREATMENT; OR**

1 (V) THE LICENSE IS REQUIRED FOR THE PURPOSE OF
2 ATTENDING A NONCOLLEGIATE EDUCATIONAL INSTITUTION AS DEFINED IN §
3 2-206(A) OF THE EDUCATION ARTICLE OR A REGULAR PROGRAM AT AN
4 INSTITUTION OF POSTSECONDARY EDUCATION.

5 (O) (1) THIS SUBSECTION APPLIES ONLY TO A LICENSEE WHO:

6 (I) REFUSED TO TAKE A TEST;

7 (II) TOOK A TEST THAT INDICATED AN ALCOHOL
8 CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING; OR

9 (III) TOOK A TEST THAT INDICATED AN ALCOHOL
10 CONCENTRATION OF AT LEAST 0.08 BUT LESS THAN 0.15 AT THE TIME OF
11 TESTING AND WHO IS INELIGIBLE FOR A MODIFICATION OF A SUSPENSION OR
12 ISSUANCE OF A RESTRICTIVE LICENSE UNDER SUBSECTION (N) OF THIS
13 SECTION.

14 (2) THE ADMINISTRATION MAY MODIFY A SUSPENSION UNDER
15 THIS SECTION OR ISSUE A RESTRICTIVE LICENSE ONLY IF THE LICENSEE
16 PARTICIPATES IN THE IGNITION INTERLOCK SYSTEM PROGRAM FOR 1 YEAR.

17 (P) (1) IF THE ADMINISTRATION MODIFIES A SUSPENSION UNDER
18 THIS SECTION OR ISSUES A RESTRICTIVE LICENSE ON CONDITION THAT THE
19 LICENSEE PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM AND
20 THE LICENSEE DOES NOT SUCCESSFULLY COMPLETE THE PROGRAM, THE
21 ADMINISTRATION SHALL SUSPEND THE LICENSEE'S DRIVER'S LICENSE OR
22 DRIVING PRIVILEGE FOR THE FULL PERIOD OF SUSPENSION SPECIFIED IN THIS
23 SECTION FOR THE APPLICABLE VIOLATION.

24 (2) THE ADMINISTRATION SHALL NOTIFY A LICENSEE OF A
25 SUSPENSION UNDER THIS SUBSECTION.

26 (3) A LICENSEE MAY REQUEST AN ADMINISTRATIVE HEARING ON
27 A SUSPENSION IMPOSED UNDER THIS SUBSECTION.

28 (4) IF A LICENSEE REQUESTS A HEARING UNDER THIS
29 SUBSECTION, THE SUSPENSION SHALL BE STAYED PENDING THE DECISION AT
30 THE ADMINISTRATIVE HEARING.

31 16-404.

32 (c) (2) Subject to the provisions of paragraph (3) of this subsection, the
33 following suspension periods may apply to a suspension for an accumulation of points

1 under § 16-402(a)(25) of this subtitle for a violation of § 21-902(b) or (c) of this article
 2 or a suspension imposed under [§ 16-404.1(b)(4)(iii)] ~~§ 16-404.1(E)(1)(III)~~ §
 3 16-404.1(F)(1)(III) of this subtitle:

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

5 (ii) For a second conviction at least 5 years after the date of the
 6 first conviction, not more than 9 months;

7 (iii) For a second conviction less than 5 years after the date of the
 8 first conviction or for a third conviction, not more than 12 months; and

9 (iv) For a fourth or subsequent conviction, not more than 24
 10 months.

11 (3) The Administration may issue a restrictive license for the period of
 12 the suspension to an individual who participates in the Administration's Ignition
 13 Interlock System Program under § 16-404.1 of this subtitle.

14 16-404.1.

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

16 (2) "Approved service provider" means a person who is certified by:

17 (i) The Administration to service, install, monitor, calibrate,
 18 and provide information on ignition interlock systems; and

19 (ii) A manufacturer to be qualified to service, install, monitor,
 20 calibrate, and provide information on ignition interlock systems.

21 (3) "Manufacturer" means a person who manufactures ignition
 22 interlock systems and who certifies that approved service providers are qualified to
 23 service, install, monitor, calibrate, and provide information on ignition interlock
 24 systems.

25 (4) "Participant" means a participant in the Ignition Interlock System
 26 Program.

27 (5) "Program" means the Ignition Interlock System Program.

28 (b) (1) The Administration [may] SHALL establish an Ignition Interlock
 29 System Program IN ACCORDANCE WITH THIS SECTION.

30 (2) The Administration [may] SHALL establish a protocol for the
 31 Program by regulations that require certain minimum standards for all service

1 providers who service, install, monitor, calibrate, and provide information on ignition
2 interlock systems and include requirements that:

3 (i) A service provider who applies to the Administration for
4 certification as an approved service provider shall demonstrate that the service provider
5 is able to competently service, install, monitor, calibrate, and provide information TO
6 THE ADMINISTRATION AT LEAST EVERY 30 DAYS on INDIVIDUALS REQUIRED TO
7 USE ignition interlock systems;

8 (ii) A service provider who applies to the Administration for
9 certification as an approved service provider shall be certified by a signed affidavit
10 from the manufacturer that the service provider has been trained by an authorized
11 manufacturer and that the service provider is competent to service, install, monitor,
12 calibrate, and provide information on ignition interlock systems;

13 (iii) Approved service providers be deemed to be authorized
14 representatives of a manufacturer; and

15 (iv) Any service of notice upon an approved service provider, who
16 has violated any laws or regulations or whose ignition interlock system has violated
17 any laws or regulations, be deemed as service upon the manufacturer who certified the
18 approved service provider.

19 [(3)] (C) An individual may be a participant if:

20 [(i)] (1) The individual's license is suspended or revoked
21 UNDER § 16-205 OF THIS TITLE for a violation of § 21-902(a), (b), or (c) of this article
22 or § 16-404 OF THIS SUBTITLE FOR an accumulation of points under § 16-402(a)(25)
23 or (34) of this subtitle;

24 [(ii)] The individual is ordered to participate in the Program by a
25 court under § 27-107 of this article;

26 [(iii)] (2) The individual's license has an alcohol restriction
27 imposed under [§ 16-113(b) or (g)] § 16-113(G)(1) of this title; or

28 [(iv)] (3) The Administration modifies a suspension or issues a
29 restrictive license to the individual under [§ 16-205.1(b)(3)(vii) or (n)(2) or (4)] §
30 16-205.1 of this title.

31 (D) (1) (I) NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION,
32 AN INDIVIDUAL SHALL BE A PARTICIPANT IF THE INDIVIDUAL IS CONVICTED OF
33 A VIOLATION OF § 21-902(A) OF THIS ARTICLE AND HAD AN ALCOHOL
34 CONCENTRATION AT THE TIME OF TESTING OF 0.15 OR MORE.

1 (II) IF AN INDIVIDUAL IS SUBJECT TO THIS PARAGRAPH AND
2 FAILS TO PARTICIPATE IN THE PROGRAM OR SUCCESSFULLY COMPLETE THE
3 PROGRAM, THE ADMINISTRATION SHALL SUSPEND, NOTWITHSTANDING §
4 16-208 OF THIS TITLE, THE INDIVIDUAL'S LICENSE UNTIL THE INDIVIDUAL
5 SUCCESSFULLY COMPLETES THE PROGRAM.

6 (III) NOTHING CONTAINED IN THIS PARAGRAPH LIMITS THE
7 AUTHORITY OF THE ADMINISTRATION TO MODIFY A SUSPENSION IMPOSED
8 UNDER THIS PARAGRAPH TO ALLOW AN INDIVIDUAL TO BE A PARTICIPANT IN
9 ACCORDANCE WITH SUBSECTION (E) OR (O) OF THIS SECTION.

10 (2) (I) NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION,
11 AN INDIVIDUAL SHALL BE A PARTICIPANT AS A CONDITION OF MODIFICATION OF
12 A SUSPENSION OR REVOCATION OF A LICENSE OR ISSUANCE OF A RESTRICTIVE
13 LICENSE IF THE INDIVIDUAL:

14 1. IS REQUIRED TO BE A PARTICIPANT BY A COURT
15 ORDER UNDER § 27-107 OF THIS ARTICLE;

16 2. IS CONVICTED OF A VIOLATION OF § 21-902(A) OR
17 (B) OF THIS ARTICLE AND WITHIN THE PRECEDING 5 YEARS THE INDIVIDUAL
18 HAS BEEN CONVICTED OF ANY VIOLATION OF § 21-902 OF THIS ARTICLE; OR

19 3. WAS UNDER THE AGE OF 21 YEARS ON THE DATE
20 OF A VIOLATION BY THE INDIVIDUAL OF:

21 A. AN ALCOHOL RESTRICTION IMPOSED UNDER §
22 16-113(B)(1) OF THIS TITLE; OR

23 B. § 21-902(A), (B), OR (C) OF THIS ARTICLE.

24 (II) IF AN INDIVIDUAL IS SUBJECT TO THIS PARAGRAPH AND
25 THE INDIVIDUAL FAILS TO PARTICIPATE IN THE PROGRAM OR DOES NOT
26 SUCCESSFULLY COMPLETE THE PROGRAM, THE ADMINISTRATION SHALL
27 SUSPEND THE INDIVIDUAL'S LICENSE FOR 1 YEAR.

28 (III) NOTHING CONTAINED IN THIS PARAGRAPH LIMITS THE
29 AUTHORITY OF THE ADMINISTRATION TO MODIFY A SUSPENSION IMPOSED
30 UNDER THIS PARAGRAPH TO ALLOW AN INDIVIDUAL TO BE A PARTICIPANT IN
31 ACCORDANCE WITH SUBSECTION (E) OR (O) OF THIS SECTION.

32 (3) AN INDIVIDUAL WHO IS SUBJECT TO THIS SUBSECTION SHALL
33 PARTICIPATE IN THE PROGRAM FOR:

1 (I) 6 MONTHS THE FIRST TIME THE INDIVIDUAL IS
 2 REQUIRED UNDER THIS SUBSECTION TO PARTICIPATE IN THE PROGRAM;

3 (II) 1 YEAR THE SECOND TIME THE INDIVIDUAL IS REQUIRED
 4 UNDER THIS SUBSECTION TO PARTICIPATE IN THE PROGRAM; AND

5 (III) 3 YEARS THE THIRD OR ANY SUBSEQUENT TIME THE
 6 INDIVIDUAL IS REQUIRED UNDER THIS SUBSECTION TO PARTICIPATE IN THE
 7 PROGRAM.

8 (4) PARAGRAPH (3) OF THIS SUBSECTION DOES NOT LIMIT A
 9 LONGER PERIOD OF PROGRAM PARTICIPATION THAT IS REQUIRED BY:

10 (I) A COURT ORDER UNDER § 27-107 OF THIS ARTICLE; OR

11 (II) THE ADMINISTRATION IN ACCORDANCE WITH ANOTHER
 12 PROVISION OF THIS TITLE.

13 (E) IF AN INDIVIDUAL SUBJECT TO SUBSECTION (C) OR (D) OF THIS
 14 SECTION DOES NOT INITIALLY BECOME A PARTICIPANT:

15 (1) THE INDIVIDUAL MAY APPLY LATER TO THE ADMINISTRATION
 16 TO BE A PARTICIPANT; AND

17 (2) THE ADMINISTRATION MAY RECONSIDER ANY SUSPENSION OR
 18 REVOCAION OF THE DRIVER'S LICENSE OF THE INDIVIDUAL ARISING OUT OF
 19 THE SAME CIRCUMSTANCES AND ALLOW THE INDIVIDUAL TO PARTICIPATE IN
 20 THE PROGRAM.

21 ~~[(4)]~~ (F) (1) The Administration may:

22 (i) Issue a restrictive license to an individual who is a
 23 participant in the Program during the suspension period as provided under [§
 24 16-404(c)(3)] § 16-205 OR § 16-205.1 OF THIS TITLE OR § 16-404 of this subtitle;

25 (ii) Reinstate the driver's license of a participant whose license
 26 has been revoked for a violation of § 21-902(a), (b), or (c) of this article or revoked for
 27 an accumulation of points under § 16-402(a)(34) of this subtitle for a violation of §
 28 21-902(a) of this article; and

29 (iii) Notwithstanding any other provision of law, impose on a
 30 participant a period of suspension in accordance with § 16-404(c)(2) and (3) of this
 31 subtitle in lieu of a license revocation for:

32 1. A violation of § 21-902(a), (b), or (c) of this article; or

1 2. An accumulation of points under § 16-402(a)(34) of
2 this subtitle for a violation of § 21-902(a) of this article.

3 ~~[(5)]~~ **(2)** A notice of suspension or revocation sent to an individual
4 under this title shall include information about the Program and how [the individual
5 can qualify for admission to] INDIVIDUALS PARTICIPATE IN the Program.

6 ~~[(6)]~~ **(3)** The Administration [may] SHALL establish a fee for the
7 Program THAT IS SUFFICIENT TO COVER THE COSTS OF THE PROGRAM.

8 **(G) SUBJECT TO § 27-107(G)(2) OF THIS ARTICLE, THE**
9 **ADMINISTRATION SHALL IMPOSE A RESTRICTION ON THE INDIVIDUAL'S**
10 **LICENSE THAT PROHIBITS THE INDIVIDUAL FROM DRIVING A MOTOR VEHICLE**
11 **THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM FOR THE PERIOD**
12 **OF TIME THAT THE INDIVIDUAL IS REQUIRED TO PARTICIPATE IN THE PROGRAM**
13 **UNDER THIS SECTION.**

14 ~~[(c)]~~ **(H)** [For purposes of § 16-404(c)(3) of this subtitle and subsection (d) of
15 this section, a] A participant is considered to begin participation in the Program when
16 the participant provides evidence of the installation of an ignition interlock system by
17 an approved service provider in a manner required by the Administration.

18 ~~[(d)]~~ **(I)** An individual whose license is suspended under § 16-404(c)(2)(iv)
19 of this subtitle is a habitual offender whose license may not be reinstated unless the
20 individual participates in the Program for at least 24 months.

21 ~~[(e)]~~ **(J)** **(1)** For purposes of an ignition interlock system used under §
22 16-205(f) of this title, this section, or a court order under § 27-107 of this article, the
23 Administration shall permit only the use of an ignition interlock system that meets or
24 exceeds the technical standards for breath alcohol ignition interlock devices published
25 in the Federal Register from time to time.

26 **(2)** For purposes of an ignition interlock system used under this section,
27 the Administration shall require the Program protocol adopted by the Administration.

28 ~~[(f)]~~ **(K)** **(1)** An individual required to use an ignition interlock system
29 under a court order **OR THIS SECTION:**

30 **(i)** Shall be monitored by the Administration; and

31 **(ii)** [Shall] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF**
32 **THIS SUBSECTION, SHALL** pay the fee required by the Administration under
33 subsection ~~[(b)(6)]~~ **(F)(3)** of this section.

1 **(2) THE ADMINISTRATION SHALL WAIVE THE FEE REQUIRED**
2 **UNDER THIS SUBSECTION FOR AN INDIVIDUAL WHO IS INDIGENT.**

3 **[(2)] (L) A court order that requires the use of an ignition interlock**
4 **system is not affected by § 16-404(c)(3) of this subtitle.**

5 **(M) IF AN INDIVIDUAL PARTICIPATES IN THE PROGRAM UNDER THIS**
6 **SECTION AND PARTICIPATES IN THE PROGRAM IN ACCORDANCE WITH ANY**
7 **OTHER PROVISION OF LAW ARISING OUT OF THE SAME INCIDENT, THE PERIODS**
8 **OF PARTICIPATION IN THE PROGRAM SHALL BE CONCURRENT.**

9 **(N) IF AN INDIVIDUAL SUCCESSFULLY COMPLETES THE PROGRAM AND**
10 **THE INDIVIDUAL'S LICENSE IS NOT REFUSED, REVOKED, SUSPENDED, OR**
11 **CANCELED UNDER ANOTHER PROVISION OF THIS ARTICLE, THE**
12 **ADMINISTRATION SHALL IMMEDIATELY ISSUE A LICENSE TO THE LICENSEE.**

13 **(O) (1) NOTWITHSTANDING § 16-208 OF THIS TITLE, IF THE**
14 **ADMINISTRATION REMOVES AN INDIVIDUAL FROM THE PROGRAM BECAUSE THE**
15 **INDIVIDUAL VIOLATED REQUIREMENTS OF THE PROGRAM, THE**
16 **ADMINISTRATION MAY ALLOW THE INDIVIDUAL TO REENTER THE PROGRAM**
17 **AFTER A PERIOD OF 30 DAYS FROM THE DATE OF REMOVAL.**

18 **(2) IF AN INDIVIDUAL REENTERS THE PROGRAM UNDER THIS**
19 **SUBSECTION, THE INDIVIDUAL SHALL PARTICIPATE IN THE PROGRAM FOR THE**
20 **ENTIRE PERIOD OF TIME THAT WAS INITIALLY NECESSARY FOR SUCCESSFUL**
21 **COMPLETION OF THE PROGRAM WITHOUT ANY CREDIT FOR THE PERIOD OF**
22 **PARTICIPATION BEFORE THE INDIVIDUAL WAS REMOVED FROM THE PROGRAM.**

23 **(3) NOTHING CONTAINED IN PARAGRAPH (2) OF THIS**
24 **SUBSECTION LIMITS A PERIOD OF PARTICIPATION IN THE PROGRAM REQUIRED**
25 **UNDER ANY OTHER PROVISION OF THIS TITLE OR § 27-107 OF THIS ARTICLE.**

26 **(P) A SUSPENSION OR REVOCATION OF A LICENSE OF AN INDIVIDUAL**
27 **SUBJECT TO SUBSECTION (C) OR (D) OF THIS SECTION THAT IS IMPOSED AS A**
28 **RESULT OF THE FAILURE OF THE INDIVIDUAL TO PARTICIPATE IN THE PROGRAM**
29 **OR SUCCESSFULLY COMPLETE THE PROGRAM SHALL BE CONCURRENT WITH ANY**
30 **OTHER SUSPENSION OR REVOCATION ARISING OUT OF THE SAME INCIDENT FOR**
31 **WHICH THE INDIVIDUAL IS SUBJECT TO SUBSECTION (C) OR (D) OF THIS**
32 **SECTION.**

33 **(Q) (1) IF A PERSON IS CONVICTED OF ANY VIOLATION OF § 21-902 OF**
34 **THIS ARTICLE, THE ADMINISTRATION SHALL INCLUDE IN THE NOTICE OF**
35 **PROPOSED SUSPENSION OR REVOCATION A WARNING IN BOLD CONSPICUOUS**
36 **TYPE THAT THE PERSON SHALL PARTICIPATE IN THE PROGRAM IF THE PERSON**

1 IS SUBSEQUENTLY CONVICTED OF A VIOLATION OF § 21-902(A) OR (B) OF THIS
2 ARTICLE AS DESCRIBED IN THIS SECTION.

3 (2) AT THE TIME THAT THE ADMINISTRATION ISSUES A LICENSE
4 TO A PERSON WHO IS UNDER THE AGE OF 21 YEARS, THE ADMINISTRATION
5 SHALL PROVIDE TO THE PERSON A WRITTEN WARNING IN BOLD CONSPICUOUS
6 TYPE THAT THE PERSON SHALL PARTICIPATE IN THE PROGRAM IF THE
7 ADMINISTRATION FINDS THE PERSON VIOLATED THE ALCOHOL RESTRICTION
8 ON A DRIVER UNDER THE AGE OF 21 YEARS OR THE PERSON VIOLATED ANY
9 PROVISION OF § 21-902 OF THIS ARTICLE.

10 (3) A PERSON MAY NOT RAISE THE ABSENCE OF THE WARNING
11 DESCRIBED UNDER THIS SUBSECTION OR THE FAILURE TO RECEIVE THAT
12 WARNING AS A BASIS FOR LIMITING THE AUTHORITY OF THE ADMINISTRATION
13 TO REQUIRE THAT THE PERSON PARTICIPATE IN THE PROGRAM IN ACCORDANCE
14 WITH THIS SECTION.

15 21-902.

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

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

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

22 27-101.

23 (h) Any person who is convicted of a violation of any of the provisions of §
24 16-113(k) OF THIS ARTICLE (“IGNITION INTERLOCK SYSTEM PROGRAM
25 PARTICIPANT DRIVING VEHICLE WITHOUT IGNITION INTERLOCK”), § 16-303(a),
26 (b), (c), (d), (e), (f), or (g) of this article (“Driving while license is canceled, suspended,
27 refused, or revoked”), § 17-107 of this article (“Prohibitions”), or § 17-110 of this article
28 (“Providing false evidence of required security”) is subject to:

29 (1) For a first offense, a fine of not more than \$1,000, or imprisonment
30 for not more than 1 year, or both; and

31 (2) For any subsequent offense, a fine of not more than \$1,000, or
32 imprisonment for not more than 2 years, or both.

33 27-107.

1 ***(b)*** *In addition to any other penalties provided in this title for a violation of*
 2 *any of the provisions of § 21-902(a) of this article (“Driving while under the influence of*
 3 *alcohol or under the influence of alcohol per se”), or § 21-902(b) of this article (“Driving*
 4 *while impaired by alcohol”), or in addition to any other condition of probation, a court*
 5 *may prohibit a person who is convicted of, or granted probation under § 6-220 of the*
 6 *Criminal Procedure Article for, a violation of § 21-902(a) or §*
 7 *21-902(b) of this article from operating for not more than 3 years a motor vehicle that is*
 8 *not equipped with an ignition interlock system.*

9 ***(g) (2) (I)*** ***THIS PARAGRAPH DOES NOT LIMIT OR OTHERWISE***
 10 ***AFFECT ANY PROVISION OF FEDERAL OR STATE LAW RELATING TO A HOLDER OF***
 11 ***A COMMERCIAL DRIVER’S LICENSE.***

12 ***(II)*** *If a person is required, in the course of the person’s*
 13 *employment, to operate a motor vehicle owned or provided by the person’s employer, the*
 14 *person may operate that motor vehicle in the course of the person’s employment without*
 15 *installation of an ignition interlock system if the court or the Administration has*
 16 *expressly permitted the person to operate in the course of the person’s employment a*
 17 *motor vehicle that is not equipped with an ignition interlock system.*

18 ***(III)*** ***THE ADMINISTRATION MAY ALLOW A PARTICIPANT IN***
 19 ***THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1 OF THIS***
 20 ***ARTICLE TO OPERATE IN THE COURSE OF THE PERSON’S EMPLOYMENT A MOTOR***
 21 ***VEHICLE OWNED OR PROVIDED BY THE PERSON’S EMPLOYER THAT IS NOT***
 22 ***EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM IF THE PERSON PROVIDES***
 23 ***INFORMATION ACCEPTABLE TO THE ADMINISTRATION REGARDING THE***
 24 ***PERSON’S CURRENT EMPLOYMENT AND THE NEED FOR THE PERSON TO***
 25 ***OPERATE THE MOTOR VEHICLE IN THE COURSE OF EMPLOYMENT.***

26 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
 27 effect October 1, 2011.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.