

# HOUSE BILL 430

R3

5lr0473

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By: **Delegates Folden and Afzali**

Introduced and read first time: February 9, 2015

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Drunk Driving – Accidents Resulting in Death – Sanctions for Administrative**  
3 **Per Se Offenses**

4 FOR the purpose of altering the administrative sanctions for certain alcohol-related  
5 administrative per se offenses applicable to a person who was involved in a motor  
6 vehicle accident that resulted in the death of another person; expanding the list of  
7 issues that may be considered during a certain hearing to include whether a certain  
8 person was involved in a motor vehicle accident that resulted in the death of another  
9 person; altering the circumstances under which the Motor Vehicle Administration is  
10 required to take certain actions and the actions the Administration may take against  
11 a person's driver's license for certain administrative per se offenses; authorizing the  
12 Administration, under certain circumstances, to issue a certain restrictive license to  
13 allow for participation in the Ignition Interlock System Program by a person whose  
14 license is suspended or revoked under this Act; making conforming changes; and  
15 generally relating to motor vehicle accidents resulting in death and administrative  
16 sanctions for alcohol-related administrative per se offenses.

17 BY repealing and reenacting, with amendments,

18 Article – Transportation

19 Section 16–205.1(b)(1)(i) and (ii), (f)(4), (7), and (8)(i) and (v), and (j) and 16–404.1(f)

20 Annotated Code of Maryland

21 (2012 Replacement Volume and 2014 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

23 That the Laws of Maryland read as follows:

24 **Article – Transportation**

25 16–205.1.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) Except as provided in subsection (c) of this section, a person may not be  
2 compelled to take a test. However, the detaining officer shall advise the person that, on  
3 receipt of a sworn statement from the officer that the person was so charged and refused to  
4 take a test, or was tested and the result indicated an alcohol concentration of 0.08 or more,  
5 the Administration shall:

6 (i) In the case of a person licensed under this title:

7 1. Except as provided in [item 2] **ITEMS 2, 3, AND 4** of this  
8 item, for a test result indicating an alcohol concentration of 0.08 or more at the time of  
9 testing:

10 A. For a first offense, suspend the driver's license for 45 days;

11 or

12 B. For a second or subsequent offense, suspend the driver's  
13 license for 90 days;

14 2. **[For] EXCEPT AS PROVIDED IN ITEM 4 OF THIS ITEM,**  
15 **FOR** a test result indicating an alcohol concentration of 0.15 or more at the time of testing:

16 A. For a first offense, suspend the person's driving privilege  
17 for 90 days; or

18 B. For a second or subsequent offense, suspend the person's  
19 driving privilege for 180 days; [or]

20 3. **EXCEPT AS PROVIDED IN ITEM 4 OF THIS ITEM, FOR A**  
21 **TEST RESULT INDICATING AN ALCOHOL CONCENTRATION OF 0.08 OR MORE AT THE**  
22 **TIME OF TESTING, IF THE PERSON WAS INVOLVED IN A MOTOR VEHICLE ACCIDENT**  
23 **THAT RESULTED IN THE DEATH OF ANOTHER PERSON:**

24 A. **FOR A FIRST OFFENSE, SUSPEND THE PERSON'S**  
25 **DRIVING PRIVILEGE FOR 6 MONTHS; OR**

26 B. **FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND**  
27 **THE PERSON'S DRIVING PRIVILEGE FOR 1 YEAR;**

28 4. **FOR A TEST RESULT INDICATING AN ALCOHOL**  
29 **CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING, IF THE PERSON WAS**  
30 **INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF**  
31 **ANOTHER PERSON:**

32 A. **FOR A FIRST OFFENSE, SUSPEND THE PERSON'S**  
33 **DRIVING PRIVILEGE FOR 1 YEAR; OR**

1                   **B. FOR A SECOND OR SUBSEQUENT OFFENSE, REVOKE**  
2 **THE PERSON'S DRIVING PRIVILEGE; OR**

3                   **5.** For a test refusal:

4                   A. For a first offense, suspend the driver's license for 120  
5 days; or

6                   B. For a second or subsequent offense, suspend the driver's  
7 license for 1 year;

8                   (ii) In the case of a nonresident or unlicensed person:

9                   1. Except as provided in [item 2] **ITEMS 2, 3, AND 4** of this  
10 item, for a test result indicating an alcohol concentration of 0.08 or more at the time of  
11 testing:

12                   A. For a first offense, suspend the person's driving privilege  
13 for 45 days; or

14                   B. For a second or subsequent offense, suspend the person's  
15 driving privilege for 90 days;

16                   2. **[For] EXCEPT AS PROVIDED IN ITEM 4 OF THIS ITEM,**  
17 **FOR** a test result indicating an alcohol concentration of 0.15 or more at the time of testing:

18                   A. For a first offense, suspend the person's driving privilege  
19 for 90 days; or

20                   B. For a second or subsequent offense, suspend the person's  
21 driving privilege for 180 days; [or]

22                   3. **EXCEPT AS PROVIDED IN ITEM 4 OF THIS ITEM, FOR A**  
23 **TEST RESULT INDICATING AN ALCOHOL CONCENTRATION OF 0.08 OR MORE AT THE**  
24 **TIME OF TESTING, IF THE PERSON WAS INVOLVED IN A MOTOR VEHICLE ACCIDENT**  
25 **THAT RESULTED IN THE DEATH OF ANOTHER PERSON:**

26                   **A. FOR A FIRST OFFENSE, SUSPEND THE PERSON'S**  
27 **DRIVING PRIVILEGE FOR 6 MONTHS; OR**

28                   **B. FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND**  
29 **THE PERSON'S DRIVING PRIVILEGE FOR 1 YEAR;**

1                   **4. FOR A TEST RESULT INDICATING AN ALCOHOL**  
 2 **CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING, IF THE PERSON WAS**  
 3 **INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF**  
 4 **ANOTHER PERSON:**

5                   **A. FOR A FIRST OFFENSE, SUSPEND THE PERSON'S**  
 6 **DRIVING PRIVILEGE FOR 1 YEAR; OR**

7                   **B. FOR A SECOND OR SUBSEQUENT OFFENSE, REVOKE**  
 8 **THE PERSON'S DRIVING PRIVILEGE; OR**

9                   **5.** For a test refusal:

10                   A. For a first offense, suspend the person's driving privilege  
 11 for 120 days; or

12                   B. For a second or subsequent offense, suspend the person's  
 13 driving privilege for 1 year; and

14           (f)   (4) If a hearing request is not made at the time of or within 10 days after  
 15 the issuance of the order of suspension **OR REVOCATION**, the Administration shall:

16                   (i) Make the [suspension] order effective [suspending the license]  
 17 **AND SHALL:**

18                   1. Except as provided in [item 2] **ITEMS 2, 3, AND 4** of this  
 19 item, for a test result indicating an alcohol concentration of 0.08 or more at the time of  
 20 testing:

21                   A. For a first offense, **SUSPEND THE DRIVER'S LICENSE** for  
 22 45 days; or

23                   B. For a second or subsequent offense, **SUSPEND THE**  
 24 **DRIVER'S LICENSE** for 90 days;

25                   2. **[For] EXCEPT AS PROVIDED IN ITEM 4 OF THIS ITEM,**  
 26 **FOR** a test result indicating an alcohol concentration of 0.15 or more at the time of testing:

27                   A. For a first offense, **SUSPEND THE DRIVER'S LICENSE** for  
 28 90 days; or

29                   B. For a second or subsequent offense, **SUSPEND THE**  
 30 **DRIVER'S LICENSE** for 180 days; **[or]**

1                   3.     **EXCEPT AS PROVIDED IN ITEM 4 OF THIS ITEM, FOR A**  
2 **TEST RESULT INDICATING AN ALCOHOL CONCENTRATION OF 0.08 OR MORE AT THE**  
3 **TIME OF TESTING, IF THE PERSON WAS INVOLVED IN A MOTOR VEHICLE ACCIDENT**  
4 **THAT RESULTED IN THE DEATH OF ANOTHER PERSON:**

5                   A.     **FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S**  
6 **LICENSE FOR 6 MONTHS; OR**

7                   B.     **FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND**  
8 **THE DRIVER'S LICENSE FOR 1 YEAR;**

9                   4.     **FOR A TEST RESULT INDICATING AN ALCOHOL**  
10 **CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING, IF THE PERSON WAS**  
11 **INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF**  
12 **ANOTHER PERSON:**

13                  A.     **FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S**  
14 **LICENSE FOR 1 YEAR; OR**

15                  B.     **FOR A SECOND OR SUBSEQUENT OFFENSE, REVOKE**  
16 **THE DRIVER'S LICENSE; OR**

17                  5.     For a test refusal:

18                  A.     For a first offense, **SUSPEND THE DRIVER'S LICENSE** for  
19 120 days; or

20                  B.     For a second offense or subsequent offense, **SUSPEND THE**  
21 **DRIVER'S LICENSE** for 1 year; and

22                  (ii) 1.     In the case of a person operating a commercial motor  
23 vehicle or who holds a commercial instructional permit or a commercial driver's license who  
24 refuses to take a test, disqualify the person from operating a commercial motor vehicle for  
25 a period of 1 year for a first offense, 3 years for a first offense which occurs while  
26 transporting hazardous materials required to be placarded, and for life for a second or  
27 subsequent offense which occurs while operating any commercial vehicle; or

28                  2.     In the case of a person operating a commercial motor  
29 vehicle who refuses to take a test, and who holds a commercial instructional permit or a  
30 commercial driver's license issued by another state, disqualify the person's privilege to  
31 operate a commercial motor vehicle in this State and report the refusal and disqualification  
32 to the person's resident state which may result in further penalties imposed by the person's  
33 resident state.

1 (7) (i) At a hearing under this section, the person has the rights  
2 described in § 12–206 of this article, but at the hearing the only issues shall be:

3 1. Whether the police officer who stops or detains a person  
4 had reasonable grounds to believe the person was driving or attempting to drive while  
5 under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug,  
6 any combination of drugs, or a combination of one or more drugs and alcohol that the person  
7 could not drive a vehicle safely, while impaired by a controlled dangerous substance, in  
8 violation of an alcohol restriction, or in violation of § 16–813 of this title;

9 2. Whether there was evidence of the use by the person of  
10 alcohol, any drug, any combination of drugs, a combination of one or more drugs and  
11 alcohol, or a controlled dangerous substance;

12 3. Whether the police officer requested a test after the person  
13 was fully advised, as required under subsection (b)(2) of this section, of the administrative  
14 sanctions that shall be imposed;

15 4. Whether the person refused to take the test;

16 5. Whether the person drove or attempted to drive a motor  
17 vehicle while having an alcohol concentration of 0.08 or more at the time of testing;

18 6. Whether the person drove or attempted to drive a motor  
19 vehicle while having an alcohol concentration of 0.15 or more at the time of testing; [or]

20 7. If the hearing involves disqualification of a commercial  
21 instructional permit or a commercial driver's license, whether the person was operating a  
22 commercial motor vehicle or held a commercial instructional permit or a commercial  
23 driver's license; **OR**

24 **8. WHETHER THE PERSON WAS INVOLVED IN A MOTOR**  
25 **VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF ANOTHER PERSON.**

26 (ii) The sworn statement of the police officer and of the test  
27 technician or analyst shall be prima facie evidence of a test refusal, a test result indicating  
28 an alcohol concentration of 0.08 or more at the time of testing, or a test result indicating an  
29 alcohol concentration of 0.15 or more at the time of testing.

30 (8) (i) After a hearing, the Administration shall suspend **OR REVOKE**  
31 the driver's license or privilege to drive of the person charged under subsection (b) or (c) of  
32 this section if:

33 1. The police officer who stopped or detained the person had  
34 reasonable grounds to believe the person was driving or attempting to drive while under  
35 the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any

1 combination of drugs, or a combination of one or more drugs and alcohol that the person  
2 could not drive a vehicle safely, while impaired by a controlled dangerous substance, in  
3 violation of an alcohol restriction, or in violation of § 16–813 of this title;

4                   2.       There was evidence of the use by the person of alcohol, any  
5 drug, any combination of drugs, a combination of one or more drugs and alcohol, or a  
6 controlled dangerous substance;

7                   3.       The police officer requested a test after the person was  
8 fully advised, as required under subsection (b)(2) of this section, of the administrative  
9 sanctions that shall be imposed; [and]

10                   4.       A.       The person refused to take the test; or

11                   B.       A test to determine alcohol concentration was taken and  
12 the test result indicated an alcohol concentration of 0.08 or more at the time of testing; **AND**

13                   **5.       WHEN APPLICABLE, THE PERSON WAS INVOLVED IN A**  
14 **MOTOR VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF ANOTHER PERSON.**

15                   (v)       The suspension imposed shall be:

16                   1.       Except as provided in [item 2] **ITEMS 2 AND 3** of this  
17 subparagraph, for a test result indicating an alcohol concentration of 0.08 or more at the  
18 time of testing:

19                   A.       For a first offense, a suspension for 45 days; or

20                   B.       For a second or subsequent offense, a suspension for 90  
21 days;

22                   2.       **[For] EXCEPT AS PROVIDED IN ITEM 3 OF THIS**  
23 **SUBPARAGRAPH, FOR** a test result indicating an alcohol concentration of 0.15 or more at  
24 the time of testing:

25                   A.       For a first offense, a suspension of 90 days; or

26                   B.       For a second or subsequent offense, a suspension of 180  
27 days; [or]

28                   3.       **EXCEPT AS PROVIDED IN ITEM 4 OF THIS**  
29 **SUBPARAGRAPH, FOR A TEST RESULT INDICATING AN ALCOHOL CONCENTRATION**  
30 **OF 0.08 OR MORE AT THE TIME OF TESTING, IF THE PERSON WAS INVOLVED IN A**  
31 **MOTOR VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF ANOTHER PERSON:**

1                   **A. FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S**  
2 **LICENSE FOR 6 MONTHS; OR**

3                   **B. FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND**  
4 **THE DRIVER'S LICENSE FOR 1 YEAR;**

5                   **4. FOR A TEST RESULT INDICATING AN ALCOHOL**  
6 **CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING, IF THE PERSON WAS**  
7 **INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF**  
8 **ANOTHER PERSON:**

9                   **A. FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S**  
10 **LICENSE FOR 1 YEAR; OR**

11                   **B. FOR A SECOND OR SUBSEQUENT OFFENSE, REVOKE**  
12 **THE DRIVER'S LICENSE; OR**

13                   **5.** For a test refusal:

14                   A. For a first offense, a suspension for 120 days; or

15                   B. For a second or subsequent offense, a suspension for 1  
16 year.

17           (j) If the Administration imposes a suspension, **REVOCA****TION**, or disqualification  
18 after a hearing, the person whose license or privilege to drive has been suspended,  
19 **REVO****KED**, or disqualified may appeal the final order of suspension **OR REVOCA****TION** as  
20 provided in Title 12, Subtitle 2 of this article.

21 16-404.1.

22           (f) (1) The Administration may:

23                   (i) Issue a restrictive license to an individual who is a participant in  
24 the Program during the suspension period as provided under § 16-205 or § 16-205.1 of this  
25 title or § 16-404 of this subtitle;

26                   (ii) Reinstate the driver's license of a participant whose license has  
27 been revoked **[for]**:

28                   **1. FOR** a violation of § 21-902(a), (b), or (c) of this article **[or**  
29 **revoked for]**;

30                   **2. FOR** an accumulation of points under § 16-402(a)(37) of  
31 this subtitle for a violation of § 21-902(a) of this article; **OR**



1                                   **3.     UNDER § 16–205.1(B) OR (F) OF THIS TITLE; and**

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

5                                   1.     **[A] FOR A** violation of § 21–902(a), (b), or (c) of this article;  
6 **[or]**

7                                   2.     **[An] FOR AN** accumulation of points under §  
8 16–402(a)(37) of this subtitle for a violation of § 21–902(a) of this article; **OR**

9                                   **3.     UNDER § 16–205.1(B) OR (F) OF THIS TITLE.**

10                               (2) A notice of suspension or revocation sent to an individual under this  
11 title shall include information about the Program and how individuals participate in the  
12 Program.

13                               (3) The Administration shall establish a fee for the Program that is  
14 sufficient to cover the costs of the Program.

15                               SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2015.