

SENATE BILL 945

R3, R4

(6lr1936)

ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by **Senators Raskin, Brochin, Feldman, Guzzone, King, Lee, Madaleno, Manno, Muse, Ramirez, Ready, Rosapepe, Young, Zirkin, and Zucker**

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 Reduction Act of 2016**
3 **(Noah's Law)**

4 FOR the purpose of ~~increasing the suspension periods for the driver's license of a person~~
5 ~~who is convicted of certain offenses relating to driving under the influence of alcohol~~
6 ~~and driving while impaired~~; requiring the Motor Vehicle Administration to require
7 a person who is convicted of certain offenses relating to driving under the influence
8 of alcohol ~~and driving while impaired~~ to participate in the Ignition Interlock System
9 Program for certain periods of time; requiring that the Administration include
10 certain information about the Program in notifications regarding *certain revocations*
11 *and* suspensions; requiring the Administration to modify certain ~~suspensions on~~
12 *revocations of* the driver's license of a person who is convicted of certain offenses
13 relating to driving under the influence of alcohol ~~and driving while impaired~~;
14 ~~repealing the opportunity for a certain restricted license after a conviction of driving~~

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.



~~under the influence of alcohol; repealing a person's right to a hearing on financial hardship regarding the installation of an ignition interlock on a motor vehicle owned by the person; increasing the suspension periods for the driver's license of a person who has refused or has certain results after a test for breath alcohol concentration; adding advisements a police officer must give to certain detainees; altering the length of time a certain person must participate in the Program under certain circumstances; requiring a certain person whose license is suspended by the Administration after the person ~~refuses or~~ has certain results from a certain test ~~for breath alcohol concentration~~ to participate in the Program; ~~authorizing the Administration to extend a certain person's participation period in the Program under certain circumstances~~ repealing certain disqualifying criteria from participation in the Program; altering the period of time a certain person must participate in the Program; requiring the Administration to modify the suspension of a certain Program participant's license and issue the participant a restricted license; providing that a certain person who participates in the Program must receive credit for certain participation toward certain future participation; requiring a court to order a person to participate in the Program under certain circumstances; providing for the construction of a certain provision of law; establishing certain completion requirements; authorizing the Maryland Department of Transportation to publicize this Act in a certain manner; ~~establishing certain completion requirements; requiring a certain person convicted of reckless or negligent driving to participate in the Program; altering the employer-based exception for a person who has a restricted license that requires an ignition interlock;~~ making conforming changes; and generally relating to ~~required~~ participation in the Ignition Interlock System Program.~~

26 BY repealing and reenacting, with amendments,
 27 Article – Transportation
 28 Section 16–205, 16–205.1, and 16–404.1, ~~and 27–107~~
 29 Annotated Code of Maryland
 30 (2012 Replacement Volume and 2015 Supplement)

31 BY adding to
 32 Article – Transportation
 33 Section 27–107.1
 34 Annotated Code of Maryland
 35 (2012 Replacement Volume and 2015 Supplement)

~~36 BY repealing and reenacting, without amendments,
 37 Article – Transportation
 38 Section 21–901.1 and 27–101(a), (b), and (g)
 39 Annotated Code of Maryland
 40 (2012 Replacement Volume and 2015 Supplement)~~

41 ~~BY adding to~~
 42 ~~Article – Transportation~~
 43 ~~Section 27–101(gg)~~

~~Annotated Code of Maryland~~
~~(2012 Replacement Volume and 2015 Supplement)~~

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

Article – Transportation

16–205.

(a) **(1)** The Administration may revoke the license of any person who:

~~(i)~~ **(I)** Is convicted under § 21–902(a) or (d) of this article of driving or attempting to drive a motor vehicle while under the influence of alcohol, while under the influence of alcohol per se, or while impaired by a controlled dangerous substance; or

~~(ii)~~ **(II)** Within a 3–year period, is convicted under § 21–902(b) or (c) of this article of driving or attempting to drive a motor vehicle while impaired by alcohol or while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a vehicle safely and who was previously convicted of any combination of two or more violations under:

~~(i)~~ **1.** § 21–902(a) of this article of driving or attempting to drive a motor vehicle while under the influence of alcohol or while under the influence of alcohol per se;

~~(ii)~~ **2.** § 21–902(b) of this article of driving or attempting to drive a motor vehicle while impaired by alcohol;

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

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

(2) IN THE NOTICE OF PROPOSED REVOCATION, THE ADMINISTRATION SHALL ADVISE AN INDIVIDUAL WHO IS CONVICTED UNDER § 21–902(A) OF THIS ARTICLE THAT THE INDIVIDUAL, IF ELIGIBLE, IS REQUIRED TO PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM FOR THE FOLLOWING PERIODS:

(1) 6 MONTHS THE FIRST TIME THE INDIVIDUAL IS REQUIRED TO PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM;

1 (II) 1 YEAR THE SECOND TIME THE INDIVIDUAL IS REQUIRED TO
 2 PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM; AND

3 (III) 3 YEARS THE THIRD OR ANY SUBSEQUENT TIME THE
 4 INDIVIDUAL IS REQUIRED TO PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM
 5 PROGRAM.

6 (b) The Administration:

7 (1) Shall revoke the license of any person who has been convicted, under
 8 Title 2, Subtitle 5 of the Criminal Law Article, of homicide by a motor vehicle while under
 9 the influence of alcohol, impaired by alcohol, or impaired by any drug, any combination of
 10 drugs, a combination of one or more drugs and alcohol, or a controlled dangerous substance;
 11 and

12 (2) May not issue a temporary license to drive for any person whose license
 13 has been revoked under item (1) of this subsection during an administrative appeal of the
 14 revocation.

15 (c) (1) Subject to ~~subsection (d-1)~~ ~~SUBSECTIONS (D) AND (E)~~ of this section
 16 AND § 16-404.1 OF THIS TITLE, the Administration ~~may~~ ~~SHALL~~ suspend ~~for not more~~
 17 than 60 days the license of any person who ~~A PERSON'S LICENSE TO DRIVE FOR:~~

18 ~~(I) 90 DAYS IF THE PERSON~~ is convicted under § 21-902(b) or (c) of
 19 this article of driving or attempting to drive a motor vehicle while impaired by alcohol or
 20 while so far impaired by any drug, any combination of drugs, or a combination of one or
 21 more drugs and alcohol that the person cannot drive a vehicle safely;

22 ~~(II) 6 MONTHS IF THE PERSON IS CONVICTED UNDER §~~
 23 ~~21-902(A) OF THIS ARTICLE; OR~~

24 ~~(III) 1 YEAR IF WITHIN A 5 YEAR PERIOD THE PERSON IS~~
 25 ~~CONVICTED OF A VIOLATION OF § 21-902 OF THIS ARTICLE AFTER THE PERSON WAS~~
 26 ~~PREVIOUSLY CONVICTED OF A VIOLATION OF § 21-902 OF THIS ARTICLE.~~

27 (2) A SUSPENSION UNDER THIS SUBSECTION SHALL BE CONCURRENT
 28 WITH ANY OTHER SUSPENSION OR REVOCATION IMPOSED BY THE ADMINISTRATION
 29 THAT ARISES OUT OF THE CIRCUMSTANCES OF THE CONVICTION FOR A VIOLATION
 30 OF § 21-902 OF THIS ARTICLE DESCRIBED IN THIS SUBSECTION.

31 (d) (1) ~~Subject to subsection (d-1) and subsection (e) of this section~~ AND §
 32 16-404.1 OF THIS TITLE, the Administration may suspend for not more than 1 year the
 33 license of any person who, within a 5-year period, is convicted of any violation of § 21-902
 34 of this article after the person was previously convicted of any violation under § 21-902 of
 35 this article.

1 (2) If requested by the person, the Administration may issue a restricted
2 license for the period of a suspension to a person who participates in the Ignition Interlock
3 System Program under § 16–404.1 of this title.

4 (3) A suspension under this subsection shall be concurrent with any other
5 suspension or revocation imposed by the Administration that arises out of the
6 circumstances of the conviction for the violation of § 21–902 of this article described in this
7 subsection.

8 (d–1) (1) ~~Notwithstanding [subsections] SUBSECTION (c) [and (d)]~~ of this
9 section **AND SUBJECT TO § 16–404.1 OF THIS TITLE**, for a person who is under the age of
10 21 years on the date of a violation of § 21–902 of this article, and who is subsequently
11 convicted of the violation under § 21–902 of this article, the Administration shall suspend
12 the person’s license to drive for:

13 (i) 1 year for a first conviction of § 21–902 of this article; and

14 (ii) 2 years for a second or subsequent conviction of § 21–902 of this
15 article.

16 (2) A suspension imposed under this subsection shall:

17 (i) Be concurrent with any other suspension or revocation imposed
18 by the Administration that arises out of the circumstances of the conviction for a violation
19 of § 21–902 of this article described in this subsection; and

20 (ii) Receive credit for any suspension period imposed under §
21 16–113(f) of this title or § 16–205.1 of this subtitle that arises out of the circumstances of
22 the conviction for a violation of § 21–902 of this article described in this subsection.

23 (3) (i) Subject to the provisions of this paragraph, a person may request
24 on the record that a hearing on a suspension under this subsection and any other hearing
25 on another suspension or revocation under this section, § 16–206(c)(3) or § 16–213 of this
26 subtitle, or § 16–404 of this title that arises out of the circumstances of the conviction for a
27 violation of § 21–902 of this article described in this subsection be consolidated.

28 (ii) A person who requests consolidation of hearings under this
29 paragraph shall waive on the record each applicable notice of right to request a hearing
30 required under Title 12, Subtitle 1 or 2 of this article or Title 10, Subtitle 2 of the State
31 Government Article that applies to the other suspensions or revocations arising out of the
32 same circumstances.

33 (iii) A hearing under this paragraph may not be postponed at the
34 request of the person who requests consolidation of hearings under subparagraph (i) of this
35 paragraph due to a consolidation of the hearings.

(iv) Subject to the provisions of this paragraph, the Administration shall consolidate the hearings described in this paragraph unless the administrative law judge finds in writing that good cause exists not to consolidate the hearings.

(e) (1) In this subsection, “motor vehicle” does not include a commercial motor vehicle.

(2) ~~Subject to the provisions of this subsection~~ AND § 16-404.1 OF THIS TITLE, the Administration shall suspend for 1 year the license of a person who is convicted of:

(i) A violation of § 21-902(a) of this article more than once within a 5-year period;

(ii) A violation of § 21-902(a) of this article within a 5-year period after the person was previously convicted of a violation of § 21-902(d) of this article; or

(iii) A violation of § 21-902(d) of this article within a 5-year period after the person was previously convicted of a violation of § 21-902(a) of this article.

(3) ~~On receiving a record of a conviction of a person for a violation described in paragraph (2) of this subsection~~ ~~SECTION~~, the Administration shall issue to the person a notice of suspension of the person’s license that:

(i) States that the person’s license shall be suspended for ~~1 year~~ SUBJECT TO § 16-404.1 OF THIS TITLE ~~THE PERIOD PROVIDED IN SUBSECTION (C) OF THIS SECTION~~;

(ii) ~~States that a restricted license may be issued during the 1-year period of suspension if:~~

1. The person maintains an ignition interlock system on a motor vehicle owned or operated by the person for 1 year; OR A LONGER PERIOD IF REQUIRED UNDER § 16-404.1 OF THIS TITLE; AND

2. The license is restricted to prohibit the person from driving a motor vehicle that is not equipped with an ignition interlock system;

~~3. The license is restricted to permit the person to drive only to and from work, school, an alcohol treatment program, or an ignition interlock system service facility, if the person was convicted of a violation of § 21-902(a) of this article more than once within a 5-year period; and~~

~~4. The license is restricted to permit the person to drive only to and from work, school, an alcohol treatment program, a drug treatment program, or an ignition interlock system service facility, if the person was convicted of:~~

1 ~~A. A violation of § 21-902(a) of this article within a 5-year~~
 2 ~~period after the person was previously convicted of a violation of § 21-902(d) of this article;~~
 3 ~~or~~

4 ~~B. A violation of § 21-902(d) of this article within a 5-year~~
 5 ~~period after the person was previously convicted of a violation of § 21-902(a) of this article;~~

6 (iii) Advises the person of the requirements under paragraph (7) of
 7 this subsection for a person who does not participate in the Ignition Interlock System
 8 Program in accordance with this paragraph during the 1-year period of suspension;

9 (iv) Advises the person of the right to request a hearing on a
 10 suspension under this paragraph; ~~and~~

11 ~~(v) (iii)~~ Advises the person of the right, instead of requesting a
 12 hearing on a suspension under this paragraph, to ~~be~~ subject to a 1-year period of
 13 suspension, during which, the person may be issued a restricted license under this
 14 paragraph if the following conditions are met:

15 1. The person's driver's license is not currently suspended,
 16 revoked, canceled, or refused;

17 2. ~~The violation did not arise out of circumstances that~~
 18 ~~involved a death of, or serious physical injury to, another person;~~

19 ~~or~~ The person surrenders a valid Maryland driver's license or
 20 signs a statement certifying that the driver's license is no longer in the person's possession;
 21 and

22 ~~3.~~ 3. The person elects in writing, within the same time limit
 23 for requesting a hearing, to meet the ignition interlock system requirements under this
 24 paragraph for 1 year ~~PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM~~
 25 ~~UNDER § 16-404.1 OF THIS TITLE; AND~~

26 ~~(iv) (vi)~~ **PROVIDES INFORMATION ABOUT THE IGNITION**
 27 **INTERLOCK SYSTEM PROGRAM AND HOW A PERSON PARTICIPATES IN THE**
 28 **PROGRAM AS REQUIRED UNDER § 16-404.1 OF THIS TITLE.**

29 ~~(4) (3)~~ After notice under paragraph ~~(3) (2)~~ of this subsection, the
 30 Administration shall suspend a person's license under this subsection if:

31 (i) The person does not request a hearing;

32 (ii) After a hearing, the Administration finds that the person was
 33 convicted of:

1 1. ~~A VIOLATION OF § 21-902(A), (B), OR (C) OF THIS~~
 2 ~~ARTICLE; OR A VIOLATION OF § 21-902(A) OF THIS ARTICLE MORE THAN ONCE~~
 3 ~~WITHIN A 5-YEAR PERIOD;~~

4 ~~2. More than one violation of [§ 21-902(a)] § 21-902 of this~~
 5 ~~article within a 5-year period; OR~~

6 ~~2.~~ A violation of § 21-902(a) of this article within a 5-year
 7 period after the person was previously convicted of a violation of § 21-902(d) of this article;
 8 or

9 3. A violation of § 21-902(d) of this article within a 5-year
 10 period after the person was previously convicted of a violation of § 21-902(a) of this article;
 11 or~~1~~

12 (iii) The person fails to appear for a hearing requested by the person.

13 ~~4~~(5) The Administration may modify a suspension under paragraph (4) of
 14 this subsection to:

15 (i) Order the person to maintain for 1 year ***OR A LONGER PERIOD***
 16 ***IF REQUIRED UNDER § 16-404.1 OF THIS TITLE*** an ignition interlock system on a motor
 17 vehicle owned or operated by the person; and

18 (ii) Impose a restriction on the person's license ~~for 1 year~~ that
 19 prohibits the person from driving a motor vehicle that is not equipped with an ignition
 20 interlock system ~~and permits the person to drive only to and from:~~

21 ~~1. Work, school, an alcohol treatment program, or an ignition~~
 22 ~~interlock system service facility, if the person was convicted of a violation of § 21-902(a) of~~
 23 ~~this article more than once within a 5-year period;~~

24 ~~2. Work, school, an alcohol treatment program, a drug~~
 25 ~~treatment program, or an ignition interlock system service facility, if the person was~~
 26 ~~convicted of:~~

27 A. ~~A violation of § 21-902(a) of this article within a 5-year~~
 28 ~~period after the person was previously convicted of a violation of § 21-902(d) of this article;~~
 29 ~~or~~

30 B. ~~A violation of § 21-902(d) of this article within a 5-year~~
 31 ~~period after the person was previously convicted of a violation of § 21-902(a) of this article.~~

1 (6) A person who participates in the Ignition Interlock System Program for
2 at least 1 year under paragraph (5) of this subsection is exempt from the requirements of
3 paragraphs (7) through (11) of this subsection.

4 (7) The Administration shall, within 90 days of the expiration of the 1-year
5 period of suspension, issue to the person a notice, unless this notice requirement was
6 waived at a hearing described in paragraph (4) of this subsection, that:

7 (i) States that the person shall maintain for not less than ~~3~~ **6**
8 months and not ~~more than 1 year~~ **LESS THAN THE PERIOD REQUIRED UNDER § 16-401.1**
9 **OF THIS TITLE**, dating from the expiration of the 1-year period of suspension, an ignition
10 interlock system on each motor vehicle owned by the person;

11 (ii) States that the Administration shall impose a restriction on the
12 person's license that prohibits the person from driving a motor vehicle that is not equipped
13 with an ignition interlock system for a period of not less than ~~3~~ **6** months and not ~~more~~
14 ~~than 1 year~~ **LESS THAN THE PERIOD REQUIRED UNDER § 16-401.1 OF THIS TITLE**,
15 dating from the expiration of the 1-year period of suspension; and

16 (iii) Advises the person of the right to request a hearing under this
17 paragraph.

18 (8) After notice under paragraph (7) of this subsection, or a waiver of
19 notice, the Administration shall order a person to maintain for not less than ~~3~~ **6** months
20 and not ~~more than 1 year~~ **LESS THAN THE PERIOD REQUIRED UNDER § 16-401.1 OF**
21 **THIS TITLE**, dating from the expiration of the 1-year period of suspension, an ignition
22 interlock system on each motor vehicle owned by the person and impose a license restriction
23 that prohibits the person from driving a motor vehicle that is not equipped with an ignition
24 interlock system if:

25 (i) The person does not request a hearing;

26 (ii) The Administration finds at a hearing that the person owns one
27 or more motor vehicles and that no financial hardship, as described in paragraphs (9) and
28 (10) of this subsection, will be created by requiring the person to maintain an ignition
29 interlock system on each motor vehicle owned by the person; or

30 (iii) The person fails to appear for a hearing requested by the person.

31 (9) If the Administration finds at a hearing that maintenance of an ignition
32 interlock system on a motor vehicle owned by the person creates a financial hardship on
33 the person, the family of the person, or a co-owner of the motor vehicle, the Administration:

34 (i) Shall impose a restriction on the license of the person for not less
35 than ~~3~~ **6** months and not ~~more than 1 year~~ **LESS THAN THE PERIOD REQUIRED UNDER §**
36 **16-401.1 OF THIS TITLE**, dating from the expiration of the 1-year period of suspension,

1 that prohibits the person from driving any motor vehicle that is not equipped with an
2 ignition interlock system; and

3 (ii) May not require the person to maintain an ignition interlock
4 system on any motor vehicle to which the financial hardship applies.

5 (10) An exemption under paragraph (9)(ii) of this subsection applies only
6 under circumstances that:

7 (i) Are specific to the person's motor vehicle; and

8 (ii) Meet criteria contained in regulations that shall be adopted by
9 the Administration.

10 (11) If a person requests a hearing and the Administration finds that the
11 person does not own a motor vehicle at the expiration of the 1-year period of suspension,
12 the Administration shall impose a restriction on the license of the person for not less than
13 ~~3~~ **6** months and not ~~more than 1 year~~ **LESS THAN THE PERIOD REQUIRED UNDER §**
14 **16-401.1 OF THIS TITLE**, dating from the expiration of the 1-year period of suspension,
15 that prohibits the person from driving any motor vehicle that is not equipped with an
16 ignition interlock system.‡

17 ~~‡(12)‡~~ ~~(4)~~ Each notice and hearing under this subsection shall meet the
18 requirements of Title 12, Subtitle 2 of this article.

19 ~~‡(13)‡~~ ~~(5)~~ This subsection does not limit any provision of this article that
20 allows or requires the Administration to:

21 (i) Revoke or suspend a license of a person; or

22 (ii) Prohibit a person from driving a motor vehicle that is not
23 equipped with an ignition interlock system.

24 ~~‡(14)~~ A suspension imposed under this subsection shall be concurrent with
25 any other suspension or revocation imposed by the Administration that arises out of the
26 circumstances of the conviction for a violation of § 21-902(a) or (d) of this article described
27 in this subsection.

28 (15) Notwithstanding any other provision of this subsection, a person who
29 is subject to suspension under paragraph (2) of this subsection may not operate a motor
30 vehicle owned or provided by the person's employer that is not equipped with an ignition
31 interlock device, as set forth in § 27-107(g) of this article.

32 (f) (1) Subject to paragraph (2) of this subsection, the Administration may
33 modify any suspension under this section or any suspension under § 16-205.1 of this

1 subtitle and issue a ~~restrictive~~ **RESTRICTED** license to a licensee who participates in the
2 Ignition Interlock System Program established under § 16–404.1 of this title.

3 (2) The Administration may not modify a suspension and issue a ~~restrictive~~
4 **RESTRICTED** license during a mandatory period of suspension described in subsection (e)
5 of this section.†

6 †(g)† (†) When a suspension imposed under †subsection (c), (d), (d–1), or (e) of
7 this section or† § 16–206(b) of this subtitle expires, the Administration immediately shall
8 return the license or reinstate the privilege of the driver, unless the license or privilege has
9 been refused, revoked, suspended, or canceled under any other provisions of the Maryland
10 Vehicle Law.

11 16–205.1.

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

13 (ii) “Specimen of blood” and “1 specimen of blood” means 1 sample of
14 blood that is taken, in a single procedure, in 2 or more portions in 2 or more separate vials.

15 (iii) “Test” means, unless the context requires otherwise:

16 1. A test of a person’s breath or of 1 specimen of a person’s
17 blood to determine alcohol concentration;

18 2. A test or tests of 1 specimen of a person’s blood to
19 determine the drug or controlled dangerous substance content of the person’s blood; or

20 3. Both:

21 A. A test of a person’s breath or a test of 1 specimen of a
22 person’s blood, to determine alcohol concentration; and

23 B. A test or tests of 1 specimen of a person’s blood to
24 determine the drug or controlled dangerous substance content of the person’s blood.

25 (iv) “Under the influence of alcohol” includes under the influence of
26 alcohol per se as defined by § 11–174.1 of this article.

27 (2) Any person who drives or attempts to drive a motor vehicle on a
28 highway or on any private property that is used by the public in general in this State is
29 deemed to have consented, subject to the provisions of §§ 10–302 through 10–309, inclusive,
30 of the Courts and Judicial Proceedings Article, to take a test if the person should be
31 detained on suspicion of driving or attempting to drive while under the influence of alcohol,
32 while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or
33 a combination of one or more drugs and alcohol that the person could not drive a vehicle

1 safely, while impaired by a controlled dangerous substance, in violation of an alcohol
2 restriction, or in violation of § 16–813 of this title.

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

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

9 1. Except as provided in items 2, 3, and 4 of this item, for a
10 test result indicating an alcohol concentration of 0.08 or more at the time of testing:

11 A. For a first offense, suspend the driver's license for [45] ~~90~~
12 180 days; or

13 B. For a second or subsequent offense, suspend the driver's
14 license for [90] **180** days;

15 2. Except as provided in item 4 of this item, for a test result
16 indicating an alcohol concentration of 0.15 or more at the time of testing:

17 A. For a first offense, suspend the person's driving privilege
18 for [90] **180** days; or

19 B. For a second or subsequent offense, suspend the person's
20 driving privilege for [180] **270** days;

21 3. Except as provided in item 4 of this item, for a test result
22 indicating an alcohol concentration of 0.08 or more at the time of testing, if the person was
23 involved in a motor vehicle accident that resulted in the death of another person:

24 A. For a first offense, suspend the person's driving privilege
25 for 6 months; or

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

28 4. For a test result indicating an alcohol concentration of 0.15
29 or more at the time of testing, if the person was involved in a motor vehicle accident that
30 resulted in the death of another person:

31 A. For a first offense, suspend the person's driving privilege
32 for 1 year; or

- 1 B. For a second or subsequent offense, revoke the person's
2 driving privilege; or
- 3 5. For a test refusal:
- 4 A. For a first offense, suspend the driver's license for [120]
5 **270** days; or
- 6 B. For a second or subsequent offense, suspend the driver's
7 license for [1 year] **2 YEARS**;
- 8 (ii) In the case of a nonresident or unlicensed person:
- 9 1. Except as provided in items 2, 3, and 4 of this item, for a
10 test result indicating an alcohol concentration of 0.08 or more at the time of testing:
- 11 A. For a first offense, suspend the person's driving privilege
12 for [45] ~~90~~ 180 days; or
- 13 B. For a second or subsequent offense, suspend the person's
14 driving privilege for [90] **180** days;
- 15 2. Except as provided in item 4 of this item, for a test result
16 indicating an alcohol concentration of 0.15 or more at the time of testing:
- 17 A. For a first offense, suspend the person's driving privilege
18 for [90] **180** days; or
- 19 B. For a second or subsequent offense, suspend the person's
20 driving privilege for [180] **270** days;
- 21 3. Except as provided in item 4 of this item, for a test result
22 indicating an alcohol concentration of 0.08 or more at the time of testing, if the person was
23 involved in a motor vehicle accident that resulted in the death of another person:
- 24 A. For a first offense, suspend the person's driving privilege
25 for 6 months; or
- 26 B. For a second or subsequent offense, suspend the person's
27 driving privilege for 1 year;
- 28 4. For a test result indicating an alcohol concentration of 0.15
29 or more at the time of testing, if the person was involved in a motor vehicle accident that
30 resulted in the death of another person:

1 A. For a first offense, suspend the person's driving privilege
2 for 1 year; or

3 B. For a second or subsequent offense, revoke the person's
4 driving privilege; or

5 5. For a test refusal:

6 A. For a first offense, suspend the person's driving privilege
7 for [120] **270** days; or

8 B. For a second or subsequent offense, suspend the person's
9 driving privilege for [1 year] **2 YEARS**; and

10 (iii) In addition to any applicable driver's license suspensions
11 authorized under this section, in the case of a person operating a commercial motor vehicle
12 or who holds a commercial instructional permit or a commercial driver's license who refuses
13 to take a test:

14 1. Disqualify the person's commercial instructional permit or
15 commercial driver's license for a period of 1 year for a first offense, 3 years for a first offense
16 which occurs while transporting hazardous materials required to be placarded, and
17 disqualify for life if the person's commercial instructional permit or commercial driver's
18 license has been previously disqualified for at least 1 year under:

19 A. § 16–812(a) or (b) of this title;

20 B. A federal law; or

21 C. Any other state's law; or

22 2. If the person holds a commercial instructional permit or a
23 commercial driver's license issued by another state, disqualify the person's privilege to
24 operate a commercial motor vehicle and report the refusal and disqualification to the
25 person's resident state which may result in further penalties imposed by the person's
26 resident state.

27 (2) Except as provided in subsection (c) of this section, if a police officer
28 stops or detains any person who the police officer has reasonable grounds to believe is or
29 has been driving or attempting to drive a motor vehicle while under the influence of alcohol,
30 while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or
31 a combination of one or more drugs and alcohol that the person could not drive a vehicle
32 safely, while impaired by a controlled dangerous substance, in violation of an alcohol
33 restriction, or in violation of § 16–813 of this title, and who is not unconscious or otherwise
34 incapable of refusing to take a test, the police officer shall:

35 (i) Detain the person;

1 (ii) Request that the person permit a test to be taken;

2 (iii) Advise the person of the administrative sanctions, ~~INCLUDING~~
 3 ~~A REQUIREMENT THAT THE PERSON PARTICIPATE IN THE IGNITION INTERLOCK~~
 4 ~~SYSTEM PROGRAM UNDER § 16-404.1 OF THIS TITLE,~~ that shall be imposed for ~~A~~
 5 ~~REFUSAL TO TAKE THE TEST AND FOR~~ test results indicating an alcohol concentration of
 6 at least 0.08 ~~but less than 0.15~~ at the time of testing; ~~AND~~

7 (iv) ~~Advise~~ Advise the person of the administrative sanctions, including
 8 ineligibility for modification of a suspension or issuance of a ~~restrictive~~ **RESTRICTED**
 9 license unless the person participates in the Ignition Interlock System Program under §
 10 16-404.1 of this title, that shall be imposed for refusal to take the test and for test results
 11 indicating an alcohol concentration of 0.15 or more at the time of testing; ~~and~~

12 (v) ~~Advise~~ Advise the person of the additional criminal penalties that may
 13 be imposed under § 27-101(x) of this article on conviction of a violation of § 21-902 of this
 14 article if the person knowingly refused to take a test arising out of the same circumstances
 15 as the violation; **AND**

16 **(VI) ADVISE THE PERSON THAT A COURT SHALL IMPOSE**
 17 **PARTICIPATION IN THE IGNITION INTERLOCK SYSTEM PROGRAM AS PART OF THE**
 18 **SENTENCE IN ACCORDANCE WITH § 27-107.1 OF THIS ARTICLE.**

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

21 (i) Confiscate the person's driver's license issued by this State;

22 (ii) Acting on behalf of the Administration, personally serve an order
 23 of suspension on the person;

24 (iii) Issue a temporary license to drive;

25 (iv) Inform the person that the temporary license allows the person
 26 to continue driving for 45 days if the person is licensed under this title;

27 (v) Inform the person that:

28 1. The person has a right to request, at that time or within
 29 10 days, a hearing to show cause why the driver's license should not be suspended
 30 concerning the refusal to take the test or for test results indicating an alcohol concentration
 31 of 0.08 or more at the time of testing, and the hearing will be scheduled within 45 days; and

32 2. If a hearing request is not made at that time or within 10
 33 days, but within 30 days the person requests a hearing, a hearing to show cause why the

1 driver's license should not be suspended concerning the refusal to take the test or for test
 2 results indicating an alcohol concentration of 0.08 or more at the time of testing will be
 3 scheduled, but a request made after 10 days does not extend a temporary license issued by
 4 the police officer that allows the person to continue driving for 45 days;

5 (vi) Advise the person of the administrative sanctions that shall be
 6 imposed in the event of failure to request a hearing, failure to attend a requested hearing,
 7 or upon an adverse finding by the hearing officer, ~~INCLUDING A REQUIREMENT THAT~~
 8 ~~THE PERSON PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER~~
 9 ~~§ 16-404.1 OF THIS TITLE;~~

10 (vii) Inform the person that, if the person refuses a test or takes a test
 11 that indicates an alcohol concentration of [0.15] **0.08** or more at the time of testing, the
 12 person may participate in the Ignition Interlock System Program under § 16-404.1 of this
 13 title instead of requesting a hearing under this paragraph, if the following conditions are
 14 met:

15 1. The person's driver's license is not currently suspended,
 16 revoked, canceled, or refused; AND

17 2. ~~The person was not charged with a moving violation~~
 18 ~~arising out of the same circumstances as an administrative offense under this section that~~
 19 ~~involved a death of, or serious physical injury to, another person; and~~

20 ~~3.~~ Within the same time limits set forth in item (v) of this
 21 paragraph, the person:

22 A. Surrenders a valid Maryland driver's license or signs a
 23 statement certifying that the driver's license is no longer in the person's possession; and

24 B. Elects in writing to participate in the Ignition Interlock
 25 System Program for [1 year] ~~A PERIOD EQUAL TO THE ENTIRE LENGTH OF A~~
 26 ~~SUSPENSION UNDER PARAGRAPH (1) OF THIS SUBSECTION; [and]~~

27 (viii) **PROVIDE INFORMATION ABOUT THE IGNITION INTERLOCK**
 28 **SYSTEM PROGRAM AND HOW A PERSON PARTICIPATES IN THE PROGRAM AS**
 29 **REQUIRED UNDER § 16-404.1 OF THIS TITLE; AND**

30 (IX) Within 72 hours after the issuance of the order of suspension,
 31 send any confiscated driver's license, copy of the suspension order, and a sworn statement
 32 to the Administration, that states:

33 1. The officer had reasonable grounds to believe that the
 34 person had been driving or attempting to drive a motor vehicle on a highway or on any
 35 private property that is used by the public in general in this State while under the influence
 36 of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination

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

4 2. The person refused to take a test when requested by the
5 police officer, the person submitted to the test which indicated an alcohol concentration of
6 0.08 or more at the time of testing, or the person submitted to the test which indicated an
7 alcohol concentration of 0.15 or more at the time of testing; and

8 3. The person was fully advised of the administrative
9 sanctions that shall be imposed, including the fact that a person who refuses to take the
10 test or takes a test that indicates an alcohol concentration of ~~{0.15} 0.08~~ or more at the
11 time of testing is ~~[ineligible]~~ **ELIGIBLE** for modification of a suspension or issuance of a
12 ~~[restrictive] RESTRICTED~~ license ~~under [subsection (n) of this section] § 16–404.1 OF~~
13 ~~THIS TITLE.~~

14 (c) (1) If a person is involved in a motor vehicle accident that results in the
15 death of, or a life threatening injury to, another person and the person is detained by a
16 police officer who has reasonable grounds to believe that the person has been driving or
17 attempting to drive while under the influence of alcohol, while impaired by alcohol, while
18 so far impaired by any drug, any combination of drugs, or a combination of one or more
19 drugs and alcohol that the person could not drive a vehicle safely, while impaired by a
20 controlled dangerous substance, or in violation of § 16–813 of this title, the person shall be
21 required to submit, as directed by the officer, to a test of:

22 (i) The person’s breath to determine alcohol concentration;

23 (ii) One specimen of the person’s blood, to determine alcohol
24 concentration or to determine the drug or controlled dangerous substance content of the
25 person’s blood; or

26 (iii) Both the person’s breath under item (i) of this paragraph and one
27 specimen of the person’s blood under item (ii) of this paragraph.

28 (2) If a police officer directs that a person be tested, then the provisions of
29 § 10–304 of the Courts and Judicial Proceedings Article shall apply.

30 (3) Any medical personnel who perform any test required by this section
31 are not liable for any civil damages as the result of any act or omission related to such test,
32 not amounting to gross negligence.

33 (d) (1) If a police officer has reasonable grounds to believe that a person has
34 been driving or attempting to drive a motor vehicle while under the influence of alcohol,
35 while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or
36 a combination of one or more drugs and alcohol that the person could not drive a vehicle
37 safely, while impaired by a controlled dangerous substance, or in violation of § 16–813 of

1 this title, and if the police officer determines that the person is unconscious or otherwise
2 incapable of refusing to take a test, the police officer shall:

3 (i) Obtain prompt medical attention for the person;

4 (ii) If necessary, arrange for removal of the person to a nearby
5 medical facility; and

6 (iii) If a test would not jeopardize the health or well-being of the
7 person, direct a qualified medical person to withdraw blood for a test.

8 (2) If a person regains consciousness or otherwise becomes capable of
9 refusing before the taking of a test, the police officer shall follow the procedure set forth in
10 subsection (b) or (c) of this section.

11 (e) (1) The tests to determine alcohol concentration may be administered by
12 an individual who has been examined and is certified by the Department of State Police as
13 sufficiently equipped and trained to administer the tests.

14 (2) The Department of State Police may adopt regulations for the
15 examination and certification of individuals trained to administer tests to determine
16 alcohol concentration.

17 (f) (1) Subject to the provisions of this subsection, at the time of, or within 30
18 days from the date of, the issuance of an order of suspension, a person may submit a written
19 request for a hearing before an officer of the Administration if:

20 (i) The person is arrested for driving or attempting to drive a motor
21 vehicle while under the influence of alcohol, while impaired by alcohol, while so far
22 impaired by any drug, any combination of drugs, or a combination of one or more drugs and
23 alcohol that the person could not drive a vehicle safely, while impaired by a controlled
24 dangerous substance, in violation of an alcohol restriction, or in violation of § 16–813 of this
25 title; and

26 (ii) 1. There is an alcohol concentration of 0.08 or more at the
27 time of testing; or

28 2. The person refused to take a test.

29 (2) A request for a hearing made by mail shall be deemed to have been
30 made on the date of the United States Postal Service postmark on the mail.

31 (3) If the driver's license has not been previously surrendered, the license
32 must be surrendered at the time the request for a hearing is made.

33 (4) If a hearing request is not made at the time of or within 10 days after
34 the issuance of the order of suspension or revocation, the Administration shall:

1 (i) Make the order effective and shall:

2 1. Except as provided in items 2, 3, and 4 of this item, for a
3 test result indicating an alcohol concentration of 0.08 or more at the time of testing:

4 A. For a first offense, suspend the driver's license for ~~[45] 90~~
5 180 days; or

6 B. For a second or subsequent offense, suspend the driver's
7 license for ~~[90] 180~~ days;

8 2. Except as provided in item 4 of this item, for a test result
9 indicating an alcohol concentration of 0.15 or more at the time of testing:

10 A. For a first offense, suspend the driver's license for ~~[90]~~
11 **180** days; or

12 B. For a second or subsequent offense, suspend the driver's
13 license for ~~[180] 270~~ days;

14 3. Except as provided in item 4 of this item, for a test result
15 indicating an alcohol concentration of 0.08 or more at the time of testing, if the person was
16 involved in a motor vehicle accident that resulted in the death of another person:

17 A. For a first offense, suspend the driver's license for 6
18 months; or

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

21 4. For a test result indicating an alcohol concentration of 0.15
22 or more at the time of testing, if the person was involved in a motor vehicle accident that
23 resulted in the death of another person:

24 A. For a first offense, suspend the driver's license for 1 year;
25 or

26 B. For a second or subsequent offense, revoke the driver's
27 license; or

28 5. For a test refusal:

29 A. For a first offense, suspend the driver's license for ~~[120]~~
30 **270** days; or

1 B. For a second offense or subsequent offense, suspend the
2 driver's license for [1 year] **2 YEARS**; and

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

9 2. In the case of a person operating a commercial motor
10 vehicle who refuses to take a test, and who holds a commercial instructional permit or a
11 commercial driver's license issued by another state, disqualify the person's privilege to
12 operate a commercial motor vehicle in this State and report the refusal and disqualification
13 to the person's resident state which may result in further penalties imposed by the person's
14 resident state.

15 (5) (i) If the person requests a hearing at the time of or within 10 days
16 after the issuance of the order of suspension and surrenders the driver's license or, if
17 applicable, the person's commercial instructional permit or commercial driver's license, the
18 Administration shall set a hearing for a date within 30 days of the receipt of the request.

19 (ii) Subject to the provisions of this paragraph, a postponement of a
20 hearing under this paragraph does not extend the period for which the person is authorized
21 to drive and the suspension and, if applicable, the disqualification shall become effective on
22 the expiration of the 45-day period after the issuance of the order of suspension.

23 (iii) A postponement of a hearing described under this paragraph
24 shall extend the period for which the person is authorized to drive if:

25 1. Both the person and the Administration agree to the
26 postponement;

27 2. The Administration cannot provide a hearing within the
28 period required under this paragraph; or

29 3. Under circumstances in which the person made a request,
30 within 10 days of the date that the order of suspension was served under this section, for
31 the issuance of a subpoena under § 12-108 of this article except as time limits are changed
32 by this paragraph:

33 A. The subpoena was not issued by the Administration;

34 B. An adverse witness for whom the subpoena was requested,
35 and on whom the subpoena was served not less than 5 days before the hearing described
36 under this paragraph, fails to comply with the subpoena at an initial or subsequent hearing
37 described under this paragraph held within the 45-day period; or

1 C. A witness for whom the subpoena was requested fails to
2 comply with the subpoena, for good cause shown, at an initial or subsequent hearing
3 described under this paragraph held within the 45-day period after the issuance of the
4 order of suspension.

5 (iv) If a witness is served with a subpoena for a hearing under this
6 paragraph, the witness shall comply with the subpoena within 20 days from the date that
7 the subpoena is served.

8 (v) If a hearing is postponed beyond the 45-day period after the
9 issuance of the order of suspension under the circumstances described in subparagraph (iii)
10 of this paragraph, the Administration shall stay the suspension and issue a temporary
11 license that authorizes the person to drive only until the date of the rescheduled hearing
12 described under this paragraph.

13 (vi) To the extent possible, the Administration shall expeditiously
14 reschedule a hearing that is postponed under this paragraph.

15 (6) (i) If a hearing request is not made at the time of, or within 10 days
16 from the date of the issuance of an order of suspension, but within 30 days of the date of
17 the issuance of an order of suspension, the person requests a hearing and surrenders the
18 driver's license or, if applicable, the person's commercial instructional permit or commercial
19 driver's license, the Administration shall:

20 1. A. Make a suspension order effective suspending the
21 license for the applicable period of time described under paragraph (4)(i) of this subsection;
22 and

23 B. In the case of a person operating a commercial motor
24 vehicle or who holds a commercial instructional permit or a commercial driver's license who
25 refuses to take a test, disqualify the person's commercial instructional permit or
26 commercial driver's license, or privilege to operate a commercial motor vehicle in this State,
27 for the applicable period of time described under paragraph (4)(ii) of this subsection; and

28 2. Set a hearing for a date within 45 days of the receipt of a
29 request for a hearing under this paragraph.

30 (ii) A request for a hearing scheduled under this paragraph does not
31 extend the period for which the person is authorized to drive, and the suspension and, if
32 applicable, the disqualification shall become effective on the expiration of the 45-day period
33 that begins on the date of the issuance of the order of suspension.

34 (iii) A postponement of a hearing described under this paragraph
35 shall stay the suspension only if:

1 1. Both the person and the Administration agree to the
2 postponement;

3 2. The Administration cannot provide a hearing under this
4 paragraph within the period required under this paragraph; or

5 3. Under circumstances in which the person made a request,
6 within 10 days of the date that the person requested a hearing under this paragraph, for
7 the issuance of a subpoena under § 12–108 of this article except as time limits are changed
8 by this paragraph:

9 A. The subpoena was not issued by the Administration;

10 B. An adverse witness for whom the subpoena was requested,
11 and on whom the subpoena was served not less than 5 days before the hearing, fails to
12 comply with the subpoena at an initial or subsequent hearing under this paragraph held
13 within the 45–day period that begins on the date of the request for a hearing under this
14 paragraph; or

15 C. A witness for whom the subpoena was requested fails to
16 comply with the subpoena, for good cause shown, at an initial or subsequent hearing under
17 this paragraph held within the 45–day period that begins on the date of the request for a
18 hearing under this paragraph.

19 (iv) If a witness is served with a subpoena for a hearing under this
20 paragraph, the witness shall comply with the subpoena within 20 days from the date that
21 the subpoena is served.

22 (v) If a hearing is postponed beyond the 45–day period that begins
23 on the date of the request for a hearing under this paragraph under circumstances
24 described in subparagraph (iii) of this paragraph, the Administration shall stay the
25 suspension and issue a temporary license that authorizes the person to drive only until the
26 date of the rescheduled hearing.

27 (vi) To the extent possible, the Administration shall expeditiously
28 reschedule a hearing that is postponed under this paragraph.

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

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

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

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

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

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

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

12 7. If the hearing involves disqualification of a commercial
13 instructional permit or a commercial driver's license, whether the person was operating a
14 commercial motor vehicle or held a commercial instructional permit or a commercial
15 driver's license; or

16 8. Whether the person was involved in a motor vehicle
17 accident that resulted in the death of another person.

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

22 (8) (i) After a hearing, the Administration shall suspend or revoke the
23 [driver's] **PERSON'S** license or privilege to drive [of the person charged under subsection
24 (b) or (c) of this section] if:

25 1. The police officer who stopped or detained the person had
26 reasonable grounds to believe the person was driving or attempting to drive while under
27 the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any
28 combination of drugs, or a combination of one or more drugs and alcohol that the person
29 could not drive a vehicle safely, while impaired by a controlled dangerous substance, in
30 violation of an alcohol restriction, or in violation of § 16–813 of this title;

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

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

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

2 B. A test to determine alcohol concentration was taken and
3 the test result indicated an alcohol concentration of 0.08 or more at the time of testing; and

4 5. When applicable, the person was involved in a motor
5 vehicle accident that resulted in the death of another person.

6 (ii) After a hearing, the Administration shall disqualify the person
7 from driving a commercial motor vehicle if:

8 1. The person was detained while operating a commercial
9 motor vehicle or while holding a commercial instructional permit or a commercial driver's
10 license;

11 2. The police officer who stopped or detained the person had
12 reasonable grounds to believe that the person was driving or attempting to drive while
13 under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug,
14 any combination of drugs, or a combination of one or more drugs and alcohol that the person
15 could not drive a vehicle safely, while impaired by a controlled dangerous substance, in
16 violation of an alcohol restriction, or in violation of § 16–813 of this title;

17 3. There was evidence of the use by the person of alcohol, any
18 drug, any combination of drugs, a combination of one or more drugs and alcohol, or a
19 controlled dangerous substance;

20 4. The police officer requested a test after the person was
21 fully advised of the administrative sanctions that shall be imposed; and

22 5. The person refused to take the test.

23 (iii) If the person is licensed to drive a commercial motor vehicle or
24 holds a commercial instructional permit, the Administration shall disqualify the person in
25 accordance with subparagraph (ii) of this paragraph, but may not impose a suspension
26 under subparagraph (i) of this paragraph, if:

27 1. The person was detained while operating a commercial
28 motor vehicle or while holding a commercial instructional permit or a commercial driver's
29 license;

30 2. The police officer had reasonable grounds to believe the
31 person was in violation of an alcohol restriction or in violation of § 16–813 of this title;

32 3. The police officer did not have reasonable grounds to
33 believe the driver was driving while under the influence of alcohol, driving while impaired
34 by alcohol, while so far impaired by any drug, any combination of drugs, or a combination

1 of one or more drugs and alcohol that the person could not drive a vehicle safely, or while
2 impaired by a controlled dangerous substance; and

3 4. The driver refused to take a test.

4 (iv) In the absence of a compelling reason for failure to attend a
5 hearing, failure of a person to attend a hearing is prima facie evidence of the person's
6 inability to answer the sworn statement of the police officer or the test technician or
7 analyst, and the Administration summarily shall:

8 1. Suspend the driver's license or privilege to drive; and

9 2. If the driver is detained in a commercial motor vehicle or
10 holds a commercial instructional permit or a commercial driver's license, disqualify the
11 person from operating a commercial motor vehicle.

12 (v) The suspension imposed ~~UNDER SUBPARAGRAPHS (I) AND~~
13 ~~(IV) OF THIS PARAGRAPH~~ shall be:

14 1. Except as provided in items 2 and 3 of this subparagraph,
15 for a test result indicating an alcohol concentration of 0.08 or more at the time of testing:

16 A. For a first offense, a suspension for [45] ~~90~~ 180 days; or

17 B. For a second or subsequent offense, a suspension for [90]
18 **180** days;

19 2. Except as provided in item 3 of this subparagraph, for a
20 test result indicating an alcohol concentration of 0.15 or more at the time of testing:

21 A. For a first offense, a suspension of [90] **180** days; or

22 B. For a second or subsequent offense, a suspension of [180]
23 **270** days;

24 3. Except as provided in item 4 of this subparagraph, for a
25 test result indicating an alcohol concentration of 0.08 or more at the time of testing, if the
26 person was involved in a motor vehicle accident that resulted in the death of another
27 person:

28 A. For a first offense, suspend the driver's license for 6
29 months; or

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

1 4. For a test result indicating an alcohol concentration of 0.15
2 or more at the time of testing, if the person was involved in a motor vehicle accident that
3 resulted in the death of another person:

4 A. For a first offense, suspend the driver's license for 1 year;
5 or

6 B. For a second or subsequent offense, revoke the driver's
7 license; or

8 5. For a test refusal:

9 A. For a first offense, a suspension for [120] **270** days; or

10 B. For a second or subsequent offense, a suspension for [1
11 year] **2 YEARS**.

12 (vi) A disqualification imposed under subparagraph (ii) or (iii) of this
13 paragraph shall be for a period of 1 year for a first offense, 3 years for a first offense which
14 occurs while transporting hazardous material required to be placarded, and life for a second
15 or subsequent offense which occurs while operating or attempting to operate any
16 commercial motor vehicle.

17 (vii) A disqualification of a commercial instructional permit or a
18 commercial driver's license is not subject to any modifications, nor may a restricted
19 commercial instructional permit or commercial driver's license be issued in lieu of a
20 disqualification.

21 (viii) A disqualification for life may be reduced if permitted by §
22 16-812(d) of this title.

23 (g) **INSTEAD OF REQUESTING A HEARING OR ON A SUSPENSION OR**
24 **REVOCAION UNDER SUBSECTION (F) OF THIS SECTION, A PERSON MAY REQUEST TO**
25 **PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1**
26 **OF THIS TITLE IF:**

27 **(1) THE PERSON'S DRIVER'S LICENSE IS NOT CURRENTLY**
28 **SUSPENDED, REVOKED, CANCELED, OR REFUSED; AND**

29 **(2) ~~THE PERSON WAS NOT CHARGED WITH A MOVING VIOLATION~~**
30 **~~ARISING OUT OF THE SAME CIRCUMSTANCES AS AN ADMINISTRATIVE OFFENSE~~**
31 **~~UNDER THIS SECTION THAT INVOLVED A DEATH OF, OR SERIOUS PHYSICAL INJURY~~**
32 **~~TO, ANOTHER PERSON; AND~~**

1 **~~(3)~~** **WITHIN THE SAME TIME LIMITS SET FORTH IN SUBSECTION (F) OF**
 2 **THIS SECTION, THE PERSON:**

3 **(I) SURRENDERS A VALID MARYLAND DRIVER'S LICENSE OR**
 4 **SIGNS A STATEMENT CERTIFYING THAT THE DRIVER'S LICENSE IS NO LONGER IN**
 5 **THE PERSON'S POSSESSION; AND**

6 **~~(H) ELECTS IN WRITING TO PARTICIPATE IN THE IGNITION~~**
 7 **~~INTERLOCK SYSTEM PROGRAM FOR THE PERIOD EQUAL TO THE ENTIRE~~**
 8 **~~SUSPENSION PERIOD SPECIFIED IN THIS SECTION FOR THE APPLICABLE VIOLATION.~~**

9 **(II) ELECTS IN WRITING TO PARTICIPATE IN THE IGNITION**
 10 **INTERLOCK SYSTEM PROGRAM FOR:**

11 **1. 180 DAYS FOR AN OFFENSE OF A TEST RESULT**
 12 **INDICATING AN ALCOHOL CONCENTRATION OF AT LEAST 0.08 BUT NOT MORE THAN**
 13 **0.14;**

14 **2. 1 YEAR FOR AN OFFENSE OF A TEST RESULT**
 15 **INDICATING AN ALCOHOL CONCENTRATION OF 0.15 OR MORE; OR**

16 **3. 1 YEAR FOR AN OFFENSE OF A TEST REFUSAL.**

17 **(H) (1)** An initial refusal to take a test that is withdrawn as provided in this
 18 subsection is not a refusal to take a test.

19 **(2)** A person who initially refuses to take a test may withdraw the initial
 20 refusal and subsequently consent to take the test if the subsequent consent:

21 **(i)** Is unequivocal;

22 **(ii)** Does not substantially interfere with the timely and efficacious
 23 administration of the test; and

24 **(iii)** Is given by the person:

25 **1.** Before the delay in testing would materially affect the
 26 outcome of the test; and

27 **2. A.** For the purpose of a test for determining alcohol
 28 concentration, within 2 hours of the person's apprehension; or

29 **B.** For the purpose of a test for determining the drug or
 30 controlled dangerous substance content of the person's blood, within 4 hours of the person's
 31 apprehension.

1 (3) In determining whether a person has withdrawn an initial refusal for
2 the purposes of paragraph (1) of this subsection, among the factors that the Administration
3 shall consider are the following:

4 (i) Whether the test would have been administered properly:

5 1. For the purpose of a test for determining alcohol
6 concentration, within 2 hours of the person's apprehension; or

7 2. For the purpose of a test for determining the drug or
8 controlled dangerous substance content of the person's blood, within 4 hours of the person's
9 apprehension;

10 (ii) Whether a qualified person, as defined in § 10–304 of the Courts
11 Article, to administer the test and testing equipment were readily available;

12 (iii) Whether the delay in testing would have interfered with the
13 administration of a test to another person;

14 (iv) Whether the delay in testing would have interfered with the
15 attention to other duties of the arresting officer or a qualified person, as defined in §
16 10–304 of the Courts Article;

17 (v) Whether the person's subsequent consent to take the test was
18 made in good faith; and

19 (vi) Whether the consent after the initial refusal was while the
20 person was still in police custody.

21 (4) In determining whether a person has withdrawn an initial refusal for
22 the purposes of paragraph (1) of this subsection, the burden of proof rests with the person
23 to establish by a preponderance of the evidence the requirements of paragraph (2) of this
24 subsection.

25 **[(h)] (I)** Notwithstanding any other provision of this section, if a driver's license
26 is suspended based on multiple administrative offenses of refusal to take a test, or a test to
27 determine alcohol concentration taken that indicated an alcohol concentration of 0.08 or
28 more at the time of testing, or any combination of these administrative offenses committed
29 at the same time, or arising out of circumstances simultaneous in time and place, or arising
30 out of the same incident, the Administration:

31 (1) Shall suspend the driver's license for the administrative offense that
32 results in the lengthiest period of suspension; and

33 (2) May not impose any additional periods of suspension for the remainder
34 of the administrative offenses.

1 **[(i)] (J)** Notwithstanding any other provision of this section, a test for drug or
2 controlled dangerous substance content under this section:

3 (1) May not be requested as described under subsection (b) of this section,
4 required as described under subsection (c) of this section, or directed as described under
5 subsection (d) of this section, by a police officer unless the law enforcement agency of which
6 the officer is a member has the capacity to have such tests conducted;

7 (2) May only be requested as described under subsection (b) of this section,
8 required as described under subsection (c) of this section, or directed as described under
9 subsection (d) of this section, by a police officer who is a trainee, has been trained, or is
10 participating directly or indirectly in a program of training that is:

11 (i) Designed to train and certify police officers as drug recognition
12 experts; and

13 (ii) Conducted by a law enforcement agency of the State, or any
14 county, municipal, or other law enforcement agency in the State described in **[items] ITEM**
15 **(3)(i)**1 through 12 of this subsection:

16 1. In conjunction with the National Highway Traffic Safety
17 Administration; or

18 2. As a program of training of police officers as drug
19 recognition experts that contains requirements for successful completion of the training
20 program that are the substantial equivalent of the requirements of the Drug Recognition
21 Training Program developed by the National Highway Traffic Safety Administration; and

22 (3) May only be requested as described under subsection (b) of this section,
23 required as described under subsection (c) of this section, or directed as described under
24 subsection (d) of this section:

25 (i) In the case of a police officer who is a trainee, or who is
26 participating directly or indirectly in a program of training described in **[paragraph] ITEM**
27 **(2)** of this subsection, if the police officer is a member of, and is designated as a trainee or
28 a participant by the head of:

29 1. The Department of State Police;

30 2. The Baltimore City Police Department;

31 3. A police department, bureau, or force of a county;

32 4. A police department, bureau, or force of an incorporated
33 city or town;

1 [(m)] (N) (1) Except as otherwise provided in this subsection, a suspension
2 imposed under this section may not be stayed by the Administration pending appeal.

3 (2) If the person files an appeal and requests in writing a stay of a
4 suspension imposed under this section, the Director of the Division of Administrative
5 Adjudication of the Administration may stay a suspension imposed under this section.

6 ~~(m)~~ (O) (1) This subsection applies only to a licensee:

7 ~~(i)~~ ~~Who~~ **WHO** takes a test that indicates an alcohol concentration of
8 at least 0.08 but less than 0.15 **AND DID NOT ELECT TO PARTICIPATE IN THE IGNITION**
9 **INTERLOCK SYSTEM PROGRAM**;

10 ~~(ii)~~ ~~Whose license has not been suspended under this section during~~
11 ~~the past 5 years; and~~

12 ~~(iii)~~ ~~Who has not been convicted under § 21-902 of this article during~~
13 ~~the past 5 years.~~

14 (2) The Administration may modify a suspension under this section or
15 issue a ~~restrictive~~ **RESTRICTED** license if the Administration finds that:

16 (i) The licensee is required to drive a motor vehicle in the course of
17 employment;

18 (ii) The license is required for the purpose of attending an alcohol
19 prevention or treatment program;

20 (iii) The licensee has no alternative means of transportation
21 available to or from the licensee's place of employment and, without the license, the
22 licensee's ability to earn a living would be severely impaired;

23 (iv) The license is required for the purpose of obtaining health care
24 treatment, including a prescription, that is necessary for the licensee or a member of the
25 licensee's immediate family and the licensee and the licensee's immediate family have no
26 alternative means of transportation available to obtain the health care treatment; or

27 (v) The license is required for the purpose of attending a
28 noncollegiate educational institution as defined in § 2-206(a) of the Education Article or a
29 regular program at an institution of postsecondary education.

30 ~~(m)~~ (P) (1) This subsection applies only to a licensee who:

31 (i) Refused to take a test; **OR**

1 (ii) Took a test that indicated an alcohol concentration of 0.15 or
2 more at the time of testing; ~~or~~

3 ~~(iii) Took a test that indicated an alcohol concentration of at least~~
4 ~~0.08 but less than 0.15 at the time of testing and who is ineligible for a modification of a~~
5 ~~suspension or issuance of a restrictive license under subsection (n) of this section.~~

6 (2) The Administration may modify a suspension under this section or
7 issue a ~~restrictive~~ **RESTRICTED** license only if the licensee participates in the Ignition
8 Interlock System Program for 1 year.

9 ~~(p)~~ **(Q)** (1) If the Administration modifies a suspension under this section or
10 issues a ~~restrictive~~ **RESTRICTED** license on condition that the licensee participate in the
11 Ignition Interlock System Program and the licensee does not successfully complete the
12 Program, the Administration shall suspend the licensee's driver's license or driving
13 privilege for the full period of suspension specified in this section for the applicable
14 violation.

15 (2) The Administration shall notify a licensee of a suspension under this
16 subsection.

17 (3) A licensee may request an administrative hearing on a suspension
18 imposed under this subsection.

19 (4) If a licensee requests a hearing under this subsection, the suspension
20 shall be stayed pending the decision at the administrative hearing.†

21 **[(q)]** ~~**(Q)**~~ **(R)** The provisions of this section relating to disqualification do not
22 apply to offenses committed by an individual in a noncommercial motor vehicle before:

23 (1) September 30, 2005; or

24 (2) The initial issuance to the individual of a commercial instructional
25 permit by any state.

26 16-404.1.

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

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

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

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

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

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

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

7 (b) (1) The Administration shall establish an Ignition Interlock System
8 Program in accordance with this section.

9 (2) The Administration shall establish a protocol for the Program by
10 regulations that require certain minimum standards for all service providers who service,
11 install, monitor, calibrate, and provide information on ignition interlock systems and
12 include requirements that:

13 (i) A service provider who applies to the Administration for
14 certification as an approved service provider shall demonstrate that the service provider is
15 able to competently service, install, monitor, calibrate, and provide information to the
16 Administration at least every 30 days on individuals required to use ignition interlock
17 systems;

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

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

25 (iv) Any service of notice upon an approved service provider, who has
26 violated any laws or regulations or whose ignition interlock system has violated any laws
27 or regulations, be deemed as service upon the manufacturer who certified the approved
28 service provider.

29 (c) An individual ~~may~~ **SHALL** be a participant if:

30 (1) The individual's license is suspended or revoked under § 16-205 of this
31 title for a violation of ~~§ 21-902(a), (b), or (c)~~ **§ 21-902(B) OR (C)** of this article or § 16-404
32 of this subtitle for an accumulation of points under § 16-402(a)(28) ~~or (37)~~ of this subtitle;

33 (2) The individual's license has an alcohol restriction imposed under §
34 16-113(g)(1) of this title; ~~for~~

1 (3) The Administration modifies a suspension or issues a ~~restrictive~~
 2 **RESTRICTED** license to the individual. ~~INDIVIDUAL'S LICENSE IS SUSPENDED~~ under §
 3 16-205.1 of this title;

4 ~~(4) THE INDIVIDUAL'S LICENSE IS REVOKED UNDER § 16-205(B) OF~~
 5 ~~THIS TITLE FOR HOMICIDE BY MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF~~
 6 ~~ALCOHOL, IMPAIRED BY ALCOHOL, OR IMPAIRED BY A COMBINATION OF ONE OR~~
 7 ~~MORE DRUGS AND ALCOHOL; OR~~

8 ~~(5) THE INDIVIDUAL IS REQUIRED TO PARTICIPATE BY A COURT~~
 9 ~~ORDER UNDER § 27-107 OF THIS ARTICLE.~~

10 (d) (1) (i) Notwithstanding subsection (c) of this section, an individual
 11 shall be a participant if ~~the individual is convicted of a violation of:~~

12 1. ~~§ 21-902(a)(1) or (2)~~ **THE INDIVIDUAL IS CONVICTED OF**
 13 **A VIOLATION OF § 21-902(A)** of this article ~~and had an alcohol concentration at the time~~
 14 ~~of testing of 0.15 or more; or~~

15 2. ~~§ 21-902(a)(3) or (b)(2)~~ **THE INDIVIDUAL IS CONVICTED**
 16 **OF A VIOLATION OF § 21-902(B)(2)** of this article and the minor who was transported
 17 was under the age of 16 years;

18 3. **THE INDIVIDUAL'S LICENSE IS SUSPENDED OR**
 19 **REVOKED UNDER § 16-205 OF THIS TITLE OR § 16-402(A)(37) OF THIS SUBTITLE FOR**
 20 **A VIOLATION OF § 21-902(A) OF THIS ARTICLE;**

21 4. **THE INDIVIDUAL'S LICENSE IS REVOKED UNDER §**
 22 **16-205(B) OF THIS TITLE FOR:**

23 **A. HOMICIDE BY MOTOR VEHICLE WHILE UNDER THE**
 24 **INFLUENCE OF ALCOHOL OR ALCOHOL PER SE, HOMICIDE BY MOTOR VEHICLE WHILE**
 25 **IMPAIRED BY ALCOHOL, OR HOMICIDE BY MOTOR VEHICLE WHILE IMPAIRED BY A**
 26 **COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL; OR**

27 **B. LIFE-THREATENING INJURY BY MOTOR VEHICLE**
 28 **WHILE UNDER THE INFLUENCE OF ALCOHOL OR ALCOHOL PER SE,**
 29 **LIFE-THREATENING INJURY BY MOTOR VEHICLE WHILE IMPAIRED BY ALCOHOL, OR**
 30 **LIFE-THREATENING INJURY BY MOTOR VEHICLE WHILE IMPAIRED BY ONE OR MORE**
 31 **DRUGS AND ALCOHOL; OR**

32 5. **THE INDIVIDUAL IS REQUIRED TO BE A PARTICIPANT**
 33 **BY A COURT ORDER UNDER § 27-107.1 OF THIS ARTICLE.**

1 ~~[(ii)] (H)~~ If an individual is subject to ~~[this paragraph]~~
 2 ~~SUBSECTION (C) OF THIS SECTION~~ and fails to participate in the Program or successfully
 3 complete the Program, the Administration shall suspend, notwithstanding § 16–208 of this
 4 title, the individual’s license until the individual successfully completes the Program.

5 ~~[(iii)] (H)~~ Nothing contained in this paragraph limits the authority
 6 of the Administration to modify a suspension imposed under this paragraph to allow an
 7 individual to be a participant in accordance with subsection (e) or ~~[(o)] (P)~~ of this section.

8 **(IV) THE ADMINISTRATION SHALL ISSUE A RESTRICTED**
 9 **LICENSE TO AN INDIVIDUAL WHO IS REQUIRED TO PARTICIPATE IN THE PROGRAM**
 10 **UNDER THIS SECTION AND WHO IS OTHERWISE ELIGIBLE.**

11 (2) ~~[(i)]~~ Notwithstanding subsection (c) of this section, an individual
 12 shall be a participant as a condition of modification of a suspension or revocation of a license
 13 or issuance of a ~~restrictive~~ **RESTRICTED** license if the individual:

14 1. Is required to be a participant by a court order under §
 15 27–107 of this article;

16 2. Is convicted of a violation of ~~§ 21–902(a) or (b)~~ **§ 21–902(B)**
 17 of this article and within the preceding 5 years the individual has been convicted of any
 18 violation of § 21–902 of this article; or

19 3. Was under the age of 21 years on the date of a violation by
 20 the individual of:

21 A. An alcohol restriction imposed under § 16–113(b)(1) of this
 22 title; or

23 B. ~~§ 21–902(a), (b), or (c)~~ **§ 21–902(B) OR (C)** of this article.

24 (ii) If an individual is subject to this paragraph and the individual
 25 fails to participate in the Program or does not successfully complete the Program, the
 26 Administration shall suspend the individual’s license for 1 year.

27 (iii) Nothing contained in this paragraph limits the authority of the
 28 Administration to modify a suspension imposed under this paragraph to allow an
 29 individual to be a participant in accordance with subsection (e) or (o) of this section~~].~~

30 **(IV) THE ADMINISTRATION SHALL ISSUE A RESTRICTED**
 31 **LICENSE TO AN INDIVIDUAL WHO IS REQUIRED TO PARTICIPATE IN THE PROGRAM**
 32 **UNDER THIS SECTION AND WHO IS OTHERWISE ELIGIBLE.**

1 (3) ~~AN~~ **EXCEPT AS PROVIDED IN § 16-205 OF THIS TITLE, AN** individual
 2 who is subject to this subsection shall participate in the Program for ~~THE LENGTH OF THE~~
 3 ~~SUSPENSION IMPOSED ON THE INDIVIDUAL'S LICENSE OR IF NO SUSPENSION~~
 4 ~~LENGTH IS SPECIFIED:~~

5 (i) 6 months the first time the individual is required under this
 6 ~~[subsection] SECTION~~ to participate in the Program;

7 (ii) 1 year the second time the individual is required under this
 8 ~~[subsection] SECTION~~ to participate in the Program; and

9 (iii) 3 years the third or any subsequent time the individual is
 10 required under this ~~[subsection] SECTION~~ to participate in the Program.

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

13 (i) A court order under § 27-107 of this article; or

14 (ii) The Administration in accordance with another provision of this
 15 title.

16 (e) If an individual subject to subsection (c) ~~[or (d)]~~ of this section does not
 17 initially become a participant:

18 (1) The individual may apply later to the Administration to be a
 19 participant; and

20 (2) The Administration may reconsider any suspension or revocation of the
 21 driver's license of the individual arising out of the same circumstances and allow the
 22 individual to participate in the Program.

23 (f) (1) The Administration ~~[may]~~ **SHALL**:

24 (i) **[Issue] MODIFY A SUSPENSION AND ISSUE** a **[restrictive]**
 25 **RESTRICTED** license to an individual who is a participant in the Program ~~during the~~
 26 ~~suspension period~~ as provided under § 16-205 or § 16-205.1 of this title or § 16-404 of this
 27 subtitle;

28 (ii) Reinstatement of the driver's license of a participant whose license has
 29 been revoked:

30 1. For a violation of ~~§ 21-902(a), (b), or (c)~~ **§ 21-902(B) OR**
 31 **(C)** of this article;

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

3 (m) (1) If an individual participates in the Program under this section and
4 participates in the Program in accordance with any other provision of law arising out of the
5 same incident, the periods of participation in the Program shall be concurrent.

6 (2) IF AN INDIVIDUAL PARTICIPATES IN THE PROGRAM UNDER §
7 16-205.1 OF THIS TITLE, THE INDIVIDUAL SHALL RECEIVE CREDIT TOWARD THE
8 LENGTH OF PARTICIPATION IN THE PROGRAM ARISING OUT OF THE SAME INCIDENT
9 AS ~~REQUIRED~~ AUTHORIZED UNDER SUBSECTION (C) OF THIS SECTION OR AS
10 REQUIRED UNDER SUBSECTION (D) OF THIS SECTION.

11 (N) THE ADMINISTRATION SHALL CONSIDER A PARTICIPANT TO HAVE
12 SUCCESSFULLY COMPLETED THE PROGRAM IF THE ADMINISTRATION RECEIVES
13 FROM THE PARTICIPANT'S APPROVED SERVICE PROVIDER A CERTIFICATION THAT
14 IN THE ~~4~~ 3 CONSECUTIVE MONTHS BEFORE A PARTICIPANT'S DATE OF RELEASE
15 FROM THE PROGRAM THERE WAS NOT:

16 (1) AN ATTEMPT TO START THE VEHICLE WITH A BREATH ALCOHOL
17 CONCENTRATION OF 0.04 OR MORE UNLESS A SUBSEQUENT TEST PERFORMED
18 WITHIN 10 MINUTES REGISTERED A BREATH ALCOHOL CONCENTRATION LOWER
19 THAN 0.04;

20 (2) A FAILURE TO TAKE OR PASS A RANDOM TEST WITH A BREATH
21 ALCOHOL CONCENTRATION OF 0.025 OR LOWER UNLESS A SUBSEQUENT TEST
22 PERFORMED WITHIN 10 MINUTES REGISTERED A BREATH ALCOHOL
23 CONCENTRATION LOWER THAN 0.025; OR

24 (3) A FAILURE OF THE PARTICIPANT TO APPEAR AT THE APPROVED
25 SERVICE PROVIDER WHEN REQUIRED FOR MAINTENANCE, REPAIR, CALIBRATION,
26 MONITORING, INSPECTION, OR REPLACEMENT OF THE DEVICE CAUSING THE DEVICE
27 TO CEASE TO FUNCTION AS REQUIRED UNDER THIS SECTION.

28 [(n)] (O) If an individual successfully completes the Program and the
29 individual's license is not refused, revoked, suspended, or canceled under another provision
30 of this article, the Administration shall immediately issue a license to the licensee.

31 [(o)] (P) (1) Notwithstanding § 16-208 of this title, if the Administration
32 removes an individual from the Program because the individual violated requirements of
33 the Program, the Administration may allow the individual to reenter the Program after a
34 period of 30 days from the date of removal.

35 (2) If an individual reenters the Program under this subsection, the
36 individual shall participate in the Program for the entire period of time that was initially

1 necessary for successful completion of the Program without any credit for the period of
2 participation before the individual was removed from the Program.

3 (3) Nothing contained in paragraph (2) of this subsection limits a period of
4 participation in the Program required under any other provision of this title or § 27-107 of
5 this article.

6 [(p)] (Q) A suspension or revocation of a license of an individual subject to
7 subsection (c) or (d) of this section that is imposed as a result of the failure of the individual
8 to participate in the Program or successfully complete the Program shall be concurrent with
9 any other suspension or revocation arising out of the same incident for which the individual
10 is subject to subsection (c) or (d) of this section.

11 [(q)] (R) (1) If a person is ~~convicted of any violation of § 21-902 of this article~~
12 **REQUIRED TO BE A PARTICIPANT UNDER SUBSECTION (D) OF THIS SECTION**, the
13 Administration shall include in the notice of proposed suspension or revocation a warning
14 in bold conspicuous type that the person shall participate in the Program [if the person is
15 subsequently convicted of a violation of § 21-902(a) or (b) of this article as described in this
16 section].

17 (2) At the time that the Administration issues a license to a person who is
18 under the age of 21 years, the Administration shall provide to the person a written warning
19 in bold conspicuous type that the person shall participate in the Program if the
20 Administration finds the person violated the alcohol restriction on a driver under the age
21 of 21 years or the person violated any provision of § 21-902 of this article.

22 (3) A person may not raise the absence of the warning described under this
23 subsection or the failure to receive that warning as a basis for limiting the authority of the
24 Administration to require that the person participate in the Program in accordance with
25 this section.

26 **27-107.1.**

27 (A) **IN THIS SECTION, "TEST" HAS THE MEANING STATED IN § 16-205.1 OF**
28 **THIS ARTICLE.**

29 (B) **IF A PERSON IS CONVICTED OF A VIOLATION UNDER § 21-902(B) OR (C)**
30 **OF THIS ARTICLE AND THE TRIER OF FACT FINDS BEYOND A REASONABLE DOUBT**
31 **THAT THE PERSON REFUSED TO TAKE A TEST ARISING OUT OF THE SAME**
32 **CIRCUMSTANCES AS THE VIOLATION, THE COURT SHALL REQUIRE THE PERSON TO**
33 **PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1 OF**
34 **THIS ARTICLE FOR 1 YEAR.**

35 (C) **THE PENALTY PROVIDED IN THIS SECTION SHALL BE:**

1 (1) IN ADDITION TO ANY OTHER CRIMINAL PENALTY FOR A VIOLATION
 2 OF § 21-902(B) OR (C) OF THIS ARTICLE;

3 (2) CONCURRENT WITH ANY OTHER PARTICIPATION IN THE IGNITION
 4 INTERLOCK SYSTEM PROGRAM ORDERED BY THE ADMINISTRATION UNDER ANY
 5 OTHER PROVISION OF THIS ARTICLE.

6 (D) IF A PERSON SUBJECT TO THIS SECTION PARTICIPATES IN THE IGNITION
 7 INTERLOCK SYSTEM PROGRAM UNDER § 16-205.1 OF THIS ARTICLE, THE PERSON
 8 SHALL RECEIVE CREDIT TOWARD THE LENGTH OF PARTICIPATION IN THE IGNITION
 9 INTERLOCK SYSTEM PROGRAM ARISING OUT OF THE SAME INCIDENT REQUIRED
 10 UNDER THIS SECTION.

11 ~~21-901.1.~~

12 ~~(a) A person is guilty of reckless driving if he drives a motor vehicle:~~

13 ~~(1) In wanton or willful disregard for the safety of persons or property; or~~

14 ~~(2) In a manner that indicates a wanton or willful disregard for the safety~~
 15 ~~of persons or property.~~

16 ~~(b) A person is guilty of negligent driving if he drives a motor vehicle in a careless~~
 17 ~~or imprudent manner that endangers any property or the life or person of any individual.~~

18 ~~27-101.~~

19 ~~(a) It is a misdemeanor for any person to violate any of the provisions of the~~
 20 ~~Maryland Vehicle Law unless the violation:~~

21 ~~(1) Is declared to be a felony by the Maryland Vehicle Law or by any other~~
 22 ~~law of this State; or~~

23 ~~(2) Is punishable by a civil penalty under the applicable provision of the~~
 24 ~~Maryland Vehicle Law.~~

25 ~~(b) Except as otherwise provided in this section, any person convicted of a~~
 26 ~~misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is~~
 27 ~~subject to a fine of not more than \$500.~~

28 ~~(g) Any person who is convicted of a violation of any of the following sections of~~
 29 ~~this article is subject to a fine of not more than \$1,000:~~

30 ~~(1) § 13-704 ("Fraud in application");~~

31 ~~(2) § 21-706 ("Overtaking and passing school vehicle"); or~~

1 ~~(3) § 21-901.1(a) (“Reckless driving”).~~

2 ~~(GG) IN ADDITION TO THE PENALTIES PROVIDED IN SUBSECTIONS (B) AND~~
 3 ~~(C) OF THIS SECTION, ANY PERSON WHO IS CONVICTED OF A VIOLATION OF §~~
 4 ~~21-901.1(A) OF THIS ARTICLE (“RECKLESS DRIVING”) OR § 21-901.1(B) OF THIS~~
 5 ~~ARTICLE (“NEGLIGENT DRIVING”) AND WHO WAS ORIGINALLY CHARGED WITH A~~
 6 ~~VIOLATION OF § 21-902 OF THIS ARTICLE SHALL PARTICIPATE IN THE IGNITION~~
 7 ~~INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1 OF THIS ARTICLE FOR A PERIOD~~
 8 ~~OF AT LEAST 6 MONTHS.~~

9 ~~27-107.~~

10 ~~(a) In this section, “ignition interlock system” means a device that:~~

11 ~~(1) Connects a motor vehicle ignition system to a breath analyzer that~~
 12 ~~measures a driver’s blood alcohol level; and~~

13 ~~(2) Prevents a motor vehicle ignition from starting if a driver’s blood~~
 14 ~~alcohol level exceeds the calibrated setting on the device.~~

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

23 ~~(c) If the court imposes the use of an ignition interlock system as a sentence, part~~
 24 ~~of a sentence, or a condition of probation, the court:~~

25 ~~(1) Shall state on the record the requirement for, and the period of the use~~
 26 ~~of the system, and so notify the Administration;~~

27 ~~(2) Shall direct that the records of the Administration reflect:~~

28 ~~(i) That the person may not operate a motor vehicle that is not~~
 29 ~~equipped with an ignition interlock system; and~~

30 ~~(ii) Whether the court has expressly permitted the person to operate~~
 31 ~~a motor vehicle without an ignition interlock system under subsection [(g)(2)] (H) of this~~
 32 ~~section;~~

1 ~~(3) Shall direct the Administration to note in an appropriate manner a~~
2 ~~restriction on the person's license imposed under [paragraph] ITEM (2)(i) or (ii) of this~~
3 ~~subsection;~~

4 ~~(4) Shall require proof of the installation of the system and periodic~~
5 ~~reporting by the person for verification of the proper operation of the system;~~

6 ~~(5) Shall require the person to have the system monitored for proper use~~
7 ~~and accuracy by an entity approved by the Administration at least semiannually, or more~~
8 ~~frequently as the circumstances may require; and~~

9 ~~(6) (i) Shall require the person to pay the reasonable cost of leasing or~~
10 ~~buying, monitoring, and maintaining the system; and~~

11 ~~(ii) May establish a payment schedule.~~

12 ~~(d) A person prohibited under this section or Title 16 of this article from operating~~
13 ~~a motor vehicle that is not equipped with an ignition interlock system may not solicit or~~
14 ~~have another person attempt to start or start a motor vehicle equipped with an ignition~~
15 ~~interlock system.~~

16 ~~(e) A person may not attempt to start or start a motor vehicle equipped with an~~
17 ~~ignition interlock system for the purpose of providing an operable motor vehicle to a person~~
18 ~~who is prohibited under this section or Title 16 of this article from operating a motor vehicle~~
19 ~~that is not equipped with an ignition interlock system.~~

20 ~~(f) A person may not tamper with, or in any way attempt to circumvent, the~~
21 ~~operation of an ignition interlock system that has been installed in the motor vehicle of a~~
22 ~~person under this section or Title 16 of this article.~~

23 ~~(g) [(1)] Subject to the provisions of [paragraph (2)] SUBSECTION (H) of this~~
24 ~~[subsection] SECTION, a person may not knowingly furnish a motor vehicle not equipped~~
25 ~~with a functioning ignition interlock system to another person who the person knows is~~
26 ~~prohibited under subsection (b) of this section or Title 16 of this article from operating a~~
27 ~~motor vehicle not equipped with an ignition interlock system.~~

28 ~~[(2) (i) This paragraph does not limit or otherwise affect any provision~~
29 ~~of federal or State law relating to a holder of a commercial driver's license.~~

30 ~~(ii) If a person is required, in the course of the person's employment,~~
31 ~~to operate a motor vehicle owned or provided by the person's employer, the person may~~
32 ~~operate that motor vehicle in the course of the person's employment without installation of~~
33 ~~an ignition interlock system if:~~

34 ~~1. The person has not been convicted of:~~

1 A. ~~A violation of § 21-902(a) of this article more than once~~
2 ~~within a 5-year period;~~

3 B. ~~A violation of § 21-902(a) of this article within a 5-year~~
4 ~~period after the person was previously convicted of a violation of § 21-902(d) of this article;~~
5 ~~or~~

6 C. ~~A violation of § 21-902(d) of this article within a 5-year~~
7 ~~period after the person was previously convicted of a violation of § 21-902(a) of this article;~~
8 ~~and~~

9 ~~2. The court or the Administration has expressly permitted~~
10 ~~the person to operate in the course of the person's employment a motor vehicle that is not~~
11 ~~equipped with an ignition interlock system.~~

12 ~~(iii) The Administration may allow a participant in the Ignition~~
13 ~~Interlock System Program under § 16-404.1 of this article to operate, in the course of the~~
14 ~~person's employment, a motor vehicle owned or provided by the person's employer that is~~
15 ~~not equipped with an ignition interlock system if:~~

16 ~~1. The person provides information acceptable to the~~
17 ~~Administration regarding the person's current employment and the need for the person to~~
18 ~~operate the motor vehicle in the course of employment; and~~

19 ~~2. The person has not been convicted of:~~

20 A. ~~A violation of § 21-902(a) of this article more than once~~
21 ~~within a 5-year period;~~

22 B. ~~A violation of § 21-902(a) of this article within a 5-year~~
23 ~~period after the person was previously convicted of a violation of § 21-902(d) of this article;~~
24 ~~or~~

25 C. ~~A violation of § 21-902(d) of this article within a 5-year~~
26 ~~period after the person was previously convicted of a violation of § 21-902(a) of this article.]~~

27 ~~(H) (1) THIS SUBSECTION DOES NOT LIMIT OR OTHERWISE AFFECT ANY~~
28 ~~PROVISION OF FEDERAL OR STATE LAW RELATING TO A HOLDER OF A COMMERCIAL~~
29 ~~DRIVER'S LICENSE.~~

30 ~~(2) SUBJECT TO THE REQUIREMENTS IN PARAGRAPH (3) OF THIS~~
31 ~~SUBSECTION, IF A PERSON IS REQUIRED TO OPERATE AN EMPLOYER'S MOTOR~~
32 ~~VEHICLE IN THE COURSE AND SCOPE OF EMPLOYMENT AND THE BUSINESS ENTITY~~
33 ~~THAT OWNS THE VEHICLE IS NOT OWNED OR CONTROLLED BY THE PERSON, THE~~
34 ~~EMPLOYER MAY PROVIDE AND THE PERSON MAY OPERATE A MOTOR VEHICLE~~

1 ~~WITHOUT AN IGNITION INTERLOCK SYSTEM TO BE USED IN THE COURSE OF THE~~
2 ~~PERSON'S EMPLOYMENT.~~

3 ~~(3) ANY TIME A PERSON OPERATES A MOTOR VEHICLE IN~~
4 ~~ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, THE PERSON SHALL~~
5 ~~HAVE IN THE PERSON'S POSSESSION AND PRESENT TO A LAW ENFORCEMENT~~
6 ~~OFFICER IF REQUESTED A FORM THAT INCLUDES:~~

7 ~~(I) A DESCRIPTION OF THE PERSON'S LICENSE RESTRICTION~~
8 ~~REQUIRING THAT THE PERSON OPERATE ONLY VEHICLES EQUIPPED WITH AN~~
9 ~~IGNITION INTERLOCK SYSTEM;~~

10 ~~(II) A STATEMENT THAT THE PERSON MAY OPERATE THE~~
11 ~~EMPLOYER'S VEHICLES ONLY IN THE COURSE AND SCOPE OF THE PERSON'S~~
12 ~~EMPLOYMENT;~~

13 ~~(III) THE EMPLOYER'S NAME, TITLE, AND TELEPHONE NUMBER;~~

14 ~~(IV) A NOTARIZED SIGNATURE OF THE EMPLOYER~~
15 ~~ACKNOWLEDGING THE CONTENTS OF THE FORM;~~

16 ~~(V) THE PERSON'S SIGNATURE ACKNOWLEDGING THAT THE~~
17 ~~PERSON MUST KEEP THE FORM IN THE PERSON'S POSSESSION AT ALL TIMES WHILE~~
18 ~~OPERATING THE EMPLOYER'S VEHICLE; AND~~

19 ~~(VI) A STAMP OR SIGNATURE FROM AN AUTHORIZED EMPLOYEE~~
20 ~~OF THE ADMINISTRATION.~~

21 ~~(4) THE PERSON SHALL PROVIDE TO THE PERSON'S EMPLOYER AND~~
22 ~~THE ADMINISTRATION A COPY OF THE COMPLETED FORM.~~

23 ~~(5) THE ADMINISTRATION SHALL CREATE A STANDARDIZED FORM~~
24 ~~THAT COMPLIES WITH THE REQUIREMENTS OF PARAGRAPH (3) OF THIS~~
25 ~~SUBSECTION.~~

26 ~~(6) NOTHING IN THIS SUBSECTION AUTHORIZES A PERSON TO~~
27 ~~OPERATE AN EMPLOYER'S MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK~~
28 ~~SYSTEM TO COMMUTE TO OR FROM WORK OR FOR ANY OTHER PERSONAL USE NOT~~
29 ~~REQUIRED IN THE COURSE AND SCOPE OF THE PERSON'S EMPLOYMENT.~~

30 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
31 ~~October 1, 2016.~~

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Department of
2 Transportation may publicize this Act by public service announcements, stickers to be placed
3 on motor vehicle fuel dispensers, or any other method calculated to make the public aware
4 of the provisions of this Act.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2016.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.