

SENATE BILL 945

R3, R4

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CF HB 1342

By: Senators Raskin, Brochin, Feldman, Guzzone, King, Lee, Madaleno, Manno, Muse, Ramirez, Ready, Rosapepe, Young, Zirkin, and Zucker

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2016

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 suspensions;
11 requiring the Administration to modify certain suspensions on the driver's license of
12 a person who is convicted of certain offenses relating to driving under the influence
13 of alcohol and driving while impaired; repealing the opportunity for a certain
14 restricted license after a conviction of driving under the influence of alcohol;
15 repealing a person's right to a hearing on financial hardship regarding the
16 installation of an ignition interlock on a motor vehicle owned by the person;
17 increasing the suspension periods for the driver's license of a person who has refused
18 or has certain results after a test for breath alcohol concentration; adding
19 advisements a police officer must give to certain detainees; altering the length of
20 time a certain person must participate in the Program; requiring a certain person
21 whose license is suspended by the Administration after the person refuses or has
22 certain results from a test for breath alcohol concentration to participate in the
23 Program; authorizing the Administration to extend a certain person's participation
24 period in the Program under certain circumstances; altering the period of time a

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.



1 certain person must participate in the Program; requiring the Administration to
 2 modify the suspension of a certain Program participant's license and issue the
 3 participant a restricted license; providing that a certain person who participates in
 4 the Program must receive credit for future participation; establishing certain
 5 completion requirements; ~~requiring a certain person convicted of reckless or~~
 6 ~~negligent driving to participate in the Program;~~ altering the employer-based
 7 exception for a person who has a restricted license that requires an ignition interlock;
 8 making conforming changes; and generally relating to required participation in the
 9 Ignition Interlock System Program.

10 BY repealing and reenacting, with amendments,
 11 Article – Transportation
 12 Section 16–205, 16–205.1, 16–404.1, and 27–107
 13 Annotated Code of Maryland
 14 (2012 Replacement Volume and 2015 Supplement)

15 ~~BY repealing and reenacting, without amendments,~~
 16 ~~Article – Transportation~~
 17 ~~Section 21–901.1 and 27–101(a), (b), and (g)~~
 18 ~~Annotated Code of Maryland~~
 19 ~~(2012 Replacement Volume and 2015 Supplement)~~

20 ~~BY adding to~~
 21 ~~Article – Transportation~~
 22 ~~Section 27–101(gg)~~
 23 ~~Annotated Code of Maryland~~
 24 ~~(2012 Replacement Volume and 2015 Supplement)~~

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

27 Article – Transportation

28 16–205.

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

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

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

1 (i) § 21-902(a) of this article of driving or attempting to drive a
2 motor vehicle while under the influence of alcohol or while under the influence of alcohol
3 per se;

4 (ii) § 21-902(b) of this article of driving or attempting to drive a
5 motor vehicle while impaired by alcohol;

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

9 (iv) § 21-902(d) of this article of driving or attempting to drive a
10 motor vehicle while impaired by a controlled dangerous substance.

11 (b) The Administration:

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

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

20 (c) **(1)** Subject to [subsection (d-1)] **SUBSECTIONS (D) AND (E)** of this section,
21 the Administration [may] **SHALL** suspend [for not more than 60 days the license of any
22 person who] **A PERSON'S LICENSE TO DRIVE FOR:**

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

27 **(II) 6 MONTHS IF THE PERSON IS CONVICTED UNDER §**
28 **21-902(A) OF THIS ARTICLE; OR**

29 **(III) 1 YEAR IF WITHIN A 5-YEAR PERIOD THE PERSON IS**
30 **CONVICTED OF A VIOLATION OF § 21-902 OF THIS ARTICLE AFTER THE PERSON WAS**
31 **PREVIOUSLY CONVICTED OF A VIOLATION OF § 21-902 OF THIS ARTICLE.**

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

1 (d) (1) [Subject to subsection (d-1) and subsection (e) of this section, the
2 Administration may suspend for not more than 1 year the license of any person who, within
3 a 5-year period, is convicted of any violation of § 21-902 of this article after the person was
4 previously convicted of any violation under § 21-902 of this article.

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

8 (3) A suspension under this subsection shall be concurrent with any other
9 suspension or revocation imposed by the Administration that arises out of the
10 circumstances of the conviction for the violation of § 21-902 of this article described in this
11 subsection.

12 (d-1) (1) Notwithstanding [subsections] **SUBSECTION** (c) [and (d)] of this
13 section, for a person who is under the age of 21 years on the date of a violation of § 21-902
14 of this article, and who is subsequently convicted of the violation under § 21-902 of this
15 article, the Administration shall suspend the person's license to drive for:

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

17 (ii) 2 years for a second or subsequent conviction of § 21-902 of this
18 article.

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

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

23 (ii) Receive credit for any suspension period imposed under §
24 16-113(f) of this title or § 16-205.1 of this subtitle that arises out of the circumstances of
25 the conviction for a violation of § 21-902 of this article described in this subsection.

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

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

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

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

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

9 (2) [Subject to the provisions of this subsection, the Administration shall
10 suspend for 1 year the license of a person who is convicted of:

11 (i) A violation of § 21–902(a) of this article more than once within a
12 5–year period;

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

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

17 (3) On receiving a record of a conviction of a person for a violation described
18 in [paragraph (2)] **SUBSECTION (C)** of this [subsection] **SECTION**, the Administration
19 shall issue to the person a notice of suspension of the person’s license that:

20 (i) States that the person’s license shall be suspended for [1 year]
21 **THE PERIOD PROVIDED IN SUBSECTION (C) OF THIS SECTION;**

22 (ii) [States that a restricted license may be issued during the 1–year
23 period of suspension if:

24 1. The person maintains an ignition interlock system on a
25 motor vehicle owned or operated by the person for 1 year;

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

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

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

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

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

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

12 (iv)] Advises the person of the right to request a hearing on a
13 suspension under this paragraph; [and]

14 [(v)] (III) Advises the person of the right, instead of requesting a
15 hearing on a suspension under this paragraph, to [be subject to a 1–year period of
16 suspension, during which, the person may be issued a restricted license under this
17 paragraph if the following conditions are met:

18 1. The person’s driver’s license is not currently suspended,
19 revoked, canceled, or refused;

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

22 3. The person surrenders a valid Maryland driver’s license or
23 signs a statement certifying that the driver’s license is no longer in the person’s possession;
24 and

25 4. The person elects in writing, within the same time limit
26 for requesting a hearing, to meet the ignition interlock system requirements under this
27 paragraph for 1 year] **PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM**
28 **UNDER § 16–404.1 OF THIS TITLE; AND**

29 **(IV) PROVIDES INFORMATION ABOUT THE IGNITION INTERLOCK**
30 **SYSTEM PROGRAM AND HOW A PERSON PARTICIPATES IN THE PROGRAM AS**
31 **REQUIRED UNDER § 16–404.1 OF THIS TITLE.**

32 [(4)] (3) After notice under paragraph [(3)] (2) of this subsection, the
33 Administration shall suspend a person’s license under this subsection if:

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

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

3 1. A VIOLATION OF § 21-902(A), (B), OR (C) OF THIS
4 ARTICLE; OR

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

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

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

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

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

16 (i) Order the person to maintain for 1 year an ignition interlock
17 system on a motor 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 months
8 and not more than 1 year, dating from the expiration of the 1-year period of suspension,
9 an ignition interlock system on each motor vehicle owned by the person;

10 (ii) States that the Administration shall impose a restriction on the
11 person's license that prohibits the person from driving a motor vehicle that is not equipped
12 with an ignition interlock system for a period of not less than 3 months and not more than
13 1 year, dating from the expiration of the 1-year period of suspension; and

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

16 (8) After notice under paragraph (7) of this subsection, or a waiver of
17 notice, the Administration shall order a person to maintain for not less than 3 months and
18 not more than 1 year, dating from the expiration of the 1-year period of suspension, an
19 ignition interlock system on each motor vehicle owned by the person and impose a license
20 restriction that prohibits the person from driving a motor vehicle that is not equipped with
21 an ignition interlock system if:

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

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

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

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

31 (i) Shall impose a restriction on the license of the person for not less
32 than 3 months and not more than 1 year, dating from the expiration of the 1-year period
33 of suspension, that prohibits the person from driving any motor vehicle that is not equipped
34 with an ignition interlock system; and

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

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

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

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

6 (11) If a person requests a hearing and the Administration finds that the
7 person does not own a motor vehicle at the expiration of the 1-year period of suspension,
8 the Administration shall impose a restriction on the license of the person for not less than
9 3 months and not more than 1 year, dating from the expiration of the 1-year period of
10 suspension, that prohibits the person from driving any motor vehicle that is not equipped
11 with an ignition interlock system.]

12 [(12)] (4) Each notice and hearing under this subsection shall meet the
13 requirements of Title 12, Subtitle 2 of this article.

14 [(13)] (5) This subsection does not limit any provision of this article that
15 allows or requires the Administration to:

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

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

19 [(14) A suspension imposed under this subsection shall be concurrent with
20 any other suspension or revocation imposed by the Administration that arises out of the
21 circumstances of the conviction for a violation of § 21-902(a) or (d) of this article described
22 in this subsection.

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

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

31 (2) The Administration may not modify a suspension and issue a restrictive
32 license during a mandatory period of suspension described in subsection (e) of this section.]

1 [(g)] (F) When a suspension imposed under [subsection (c), (d), (d-1), or (e) of
2 this section or] § 16-206(b) of this subtitle expires, the Administration immediately shall
3 return the license or reinstate the privilege of the driver, unless the license or privilege has
4 been refused, revoked, suspended, or canceled under any other provisions of the Maryland
5 Vehicle Law.

6 16-205.1.

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

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

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

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

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

15 3. Both:

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

18 B. 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.

20 (iv) “Under the influence of alcohol” includes under the influence of
21 alcohol per se as defined by § 11-174.1 of this article.

22 (2) Any person who drives or attempts to drive a motor vehicle on a
23 highway or on any private property that is used by the public in general in this State is
24 deemed to have consented, subject to the provisions of §§ 10-302 through 10-309, inclusive,
25 of the Courts and Judicial Proceedings Article, to take a test if the person should be
26 detained on suspicion of driving or attempting to drive while under the influence of alcohol,
27 while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or
28 a combination of one or more drugs and alcohol that the person could not drive a vehicle
29 safely, while impaired by a controlled dangerous substance, in violation of an alcohol
30 restriction, or in violation of § 16-813 of this title.

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

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

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 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 person's driving privilege
11 for ~~[90]~~ **180** days; or

12 B. For a second or subsequent offense, suspend the person's
13 driving privilege 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 person's driving privilege
18 for 6 months; or

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

26 B. For a second or subsequent offense, revoke the person's
27 driving privilege; 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 A. For a first offense, suspend the person's driving privilege
2 for [120] **270** days; or

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

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

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

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

15 B. A federal law; or

16 C. Any other state's law; or

17 2. If the person holds a commercial instructional permit or a
18 commercial driver's license issued by another state, disqualify the person's privilege to
19 operate a commercial motor vehicle and report the refusal and disqualification to the
20 person's resident state which may result in further penalties imposed by the person's
21 resident state.

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

30 (i) Detain the person;

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

32 (iii) Advise the person of the administrative sanctions, **INCLUDING**
33 **A REQUIREMENT THAT THE PERSON PARTICIPATE IN THE IGNITION INTERLOCK**
34 **SYSTEM PROGRAM UNDER § 16–404.1 OF THIS TITLE**, that shall be imposed for A

1 **REFUSAL TO TAKE THE TEST AND FOR** test results indicating an alcohol concentration of
2 at least 0.08 [but less than 0.15] at the time of testing; **AND**

3 (iv) [Advise the person of the administrative sanctions, including
4 ineligibility for modification of a suspension or issuance of a restrictive license unless the
5 person participates in the Ignition Interlock System Program under § 16–404.1 of this title,
6 that shall be imposed for refusal to take the test and for test results indicating an alcohol
7 concentration of 0.15 or more at the time of testing; and

8 (v)] Advise the person of the additional criminal penalties that may
9 be imposed under § 27–101(x) of this article on conviction of a violation of § 21–902 of this
10 article if the person knowingly refused to take a test arising out of the same circumstances
11 as the violation.

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

14 (i) Confiscate the person’s driver’s license issued by this State;

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

17 (iii) Issue a temporary license to drive;

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

20 (v) Inform the person that:

21 1. The person has a right to request, at that time or within
22 10 days, a hearing to show cause why the driver’s license should not be suspended
23 concerning the refusal to take the test or for test results indicating an alcohol concentration
24 of 0.08 or more at the time of testing, and the hearing will be scheduled within 45 days; and

25 2. If a hearing request is not made at that time or within 10
26 days, but within 30 days the person requests a hearing, a hearing to show cause why the
27 driver’s license should not be suspended concerning the refusal to take the test or for test
28 results indicating an alcohol concentration of 0.08 or more at the time of testing will be
29 scheduled, but a request made after 10 days does not extend a temporary license issued by
30 the police officer that allows the person to continue driving for 45 days;

31 (vi) Advise the person of the administrative sanctions that shall be
32 imposed in the event of failure to request a hearing, failure to attend a requested hearing,
33 or upon an adverse finding by the hearing officer, **INCLUDING A REQUIREMENT THAT**
34 **THE PERSON PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER**
35 **§ 16–404.1 OF THIS TITLE;**

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

6 1. The person’s driver’s license is not currently suspended,
7 revoked, canceled, or refused;

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

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

13 A. Surrenders a valid Maryland driver’s license or signs a
14 statement certifying that the driver’s license is no longer in the person’s possession; and

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

18 (viii) **PROVIDE INFORMATION ABOUT THE IGNITION INTERLOCK**
19 **SYSTEM PROGRAM AND HOW A PERSON PARTICIPATES IN THE PROGRAM AS**
20 **REQUIRED UNDER § 16–404.1 OF THIS TITLE; AND**

21 (IX) Within 72 hours after the issuance of the order of suspension,
22 send any confiscated driver’s license, copy of the suspension order, and a sworn statement
23 to the Administration, that states:

24 1. The officer had reasonable grounds to believe that the
25 person had been driving or attempting to drive a motor vehicle on a highway or on any
26 private property that is used by the public in general in this State while under the influence
27 of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination
28 of drugs, or a combination of one or more drugs and alcohol that the person could not drive
29 a vehicle safely, while impaired by a controlled dangerous substance, in violation of an
30 alcohol restriction, or in violation of § 16–813 of this title;

31 2. The person refused to take a test when requested by the
32 police officer, the person submitted to the test which indicated an alcohol concentration of
33 0.08 or more at the time of testing, or the person submitted to the test which indicated an
34 alcohol concentration of 0.15 or more at the time of testing; and

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

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

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

16 (ii) One specimen of the person’s blood, to determine alcohol
17 concentration or to determine the drug or controlled dangerous substance content of the
18 person’s blood; or

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

21 (2) If a police officer directs that a person be tested, then the provisions of
22 § 10–304 of the Courts and Judicial Proceedings Article shall apply.

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

26 (d) (1) If a police officer has reasonable grounds to believe that a person has
27 been driving or attempting to drive a motor vehicle while under the influence of alcohol,
28 while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or
29 a combination of one or more drugs and alcohol that the person could not drive a vehicle
30 safely, while impaired by a controlled dangerous substance, or in violation of § 16–813 of
31 this title, and if the police officer determines that the person is unconscious or otherwise
32 incapable of refusing to take a test, the police officer shall:

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

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

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

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

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

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

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

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

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

21 2. The person refused to take a test.

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

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

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

28 (i) Make the order effective and shall:

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

31 A. For a first offense, suspend the driver's license for **[45] 90**
32 days; or

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

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

5 A. For a first offense, suspend the driver's license for ~~[90]~~
6 **180** days; or

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

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

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

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

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

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

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

23 5. For a test refusal:

24 A. For a first offense, suspend the driver's license for ~~[120]~~
25 **270** days; or

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

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

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

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

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

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

17 1. Both the person and the Administration agree to the
18 postponement;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 1. Both the person and the Administration agree to the
30 postponement;

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

33 3. Under circumstances in which the person made a request,
34 within 10 days of the date that the person requested a hearing under this paragraph, for
35 the issuance of a subpoena under § 12-108 of this article except as time limits are changed
36 by this paragraph:

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

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

7 C. A witness for whom the subpoena was requested fails to
8 comply with the subpoena, for good cause shown, at an initial or subsequent hearing under
9 this paragraph held within the 45-day period that begins on the date of the request for a
10 hearing under this paragraph.

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

14 (v) If a hearing is postponed beyond the 45-day period that begins
15 on the date of the request for a hearing under this paragraph under circumstances
16 described in subparagraph (iii) of this paragraph, the Administration shall stay the
17 suspension and issue a temporary license that authorizes the person to drive only until the
18 date of the rescheduled hearing.

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

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

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

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

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

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

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

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

5 7. If the hearing involves disqualification of a commercial
6 instructional permit or a commercial driver's license, whether the person was operating a
7 commercial motor vehicle or held a commercial instructional permit or a commercial
8 driver's license; or

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

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

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

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

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

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

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

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

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

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

3 1. The person was detained while operating a commercial
4 motor vehicle or while holding a commercial instructional permit or a commercial driver's
5 license;

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

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

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

17 5. The person refused to take the test.

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

22 1. The person was detained while operating a commercial
23 motor vehicle or while holding a commercial instructional permit or a commercial driver's
24 license;

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

27 3. The police officer did not have reasonable grounds to
28 believe the driver was driving while under the influence of alcohol, driving while impaired
29 by alcohol, while so far impaired by any drug, any combination of drugs, or a combination
30 of one or more drugs and alcohol that the person could not drive a vehicle safely, or while
31 impaired by a controlled dangerous substance; and

32 4. The driver refused to take a test.

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

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

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

5 (v) The suspension imposed **UNDER SUBPARAGRAPHS (I) AND**
6 **(IV) OF THIS PARAGRAPH** shall be:

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

9 A. For a first offense, a suspension for **[45] 90** days; or

10 B. For a second or subsequent offense, a suspension for **[90]**
11 **180** days;

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

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

15 B. For a second or subsequent offense, a suspension of **[180]**
16 **270** days;

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

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

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

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

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

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

- 1 5. For a test refusal:
- 2 A. For a first offense, a suspension for [120] **270** days; or
- 3 B. For a second or subsequent offense, a suspension for [1
- 4 year] **2 YEARS**.

5 (vi) A disqualification imposed under subparagraph (ii) or (iii) of this

6 paragraph shall be for a period of 1 year for a first offense, 3 years for a first offense which

7 occurs while transporting hazardous material required to be placarded, and life for a second

8 or subsequent offense which occurs while operating or attempting to operate any

9 commercial motor vehicle.

10 (vii) A disqualification of a commercial instructional permit or a

11 commercial driver's license is not subject to any modifications, nor may a restricted

12 commercial instructional permit or commercial driver's license be issued in lieu of a

13 disqualification.

14 (viii) A disqualification for life may be reduced if permitted by §

15 16-812(d) of this title.

16 (g) **INSTEAD OF REQUESTING A HEARING UNDER SUBSECTION (F) OF THIS**

17 **SECTION, A PERSON MAY REQUEST TO PARTICIPATE IN THE IGNITION INTERLOCK**

18 **SYSTEM PROGRAM UNDER § 16-404.1 OF THIS TITLE IF:**

19 (1) **THE PERSON'S DRIVER'S LICENSE IS NOT CURRENTLY**

20 **SUSPENDED, REVOKED, CANCELED, OR REFUSED;**

21 (2) **THE PERSON WAS NOT CHARGED WITH A MOVING VIOLATION**

22 **ARISING OUT OF THE SAME CIRCUMSTANCES AS AN ADMINISTRATIVE OFFENSE**

23 **UNDER THIS SECTION THAT INVOLVED A DEATH OF, OR SERIOUS PHYSICAL INJURY**

24 **TO, ANOTHER PERSON; AND**

25 (3) **WITHIN THE SAME TIME LIMITS SET FORTH IN SUBSECTION (F) OF**

26 **THIS SECTION, THE PERSON:**

27 (i) **SURRENDERS A VALID MARYLAND DRIVER'S LICENSE OR**

28 **SIGNS A STATEMENT CERTIFYING THAT THE DRIVER'S LICENSE IS NO LONGER IN**

29 **THE PERSON'S POSSESSION; AND**

30 (ii) **ELECTS IN WRITING TO PARTICIPATE IN THE IGNITION**

31 **INTERLOCK SYSTEM PROGRAM FOR THE PERIOD EQUAL TO THE ENTIRE**

32 **SUSPENSION PERIOD SPECIFIED IN THIS SECTION FOR THE APPLICABLE VIOLATION.**

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

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

5 (i) Is unequivocal;

6 (ii) Does not substantially interfere with the timely and efficacious
7 administration of the test; and

8 (iii) Is given by the person:

9 1. Before the delay in testing would materially affect the
10 outcome of the test; and

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

13 B. For the purpose of a test for determining the drug or
14 controlled dangerous substance content of the person's blood, within 4 hours of the person's
15 apprehension.

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

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

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

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

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

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

29 (iv) Whether the delay in testing would have interfered with the
30 attention to other duties of the arresting officer or a qualified person, as defined in §
31 10–304 of the Courts Article;

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

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

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

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

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

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

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

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

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

29 (i) Designed to train and certify police officers as drug recognition
30 experts; and

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

34 1. In conjunction with the National Highway Traffic Safety
35 Administration; or

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

5 (3) May only be requested as described under subsection (b) of this section,
6 required as described under subsection (c) of this section, or directed as described under
7 subsection (d) of this section:

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

- 12 1. The Department of State Police;
- 13 2. The Baltimore City Police Department;
- 14 3. A police department, bureau, or force of a county;
- 15 4. A police department, bureau, or force of an incorporated
16 city or town;
- 17 5. The Maryland Transit Administration Police Force;
- 18 6. The Maryland Port Administration Police Force of the
19 Department of Transportation;
- 20 7. The Maryland Transportation Authority Police Force;
- 21 8. The Police Force of the University of Maryland or Morgan
22 State University;
- 23 9. The police force for a State university or college under the
24 direction and control of the University System of Maryland;
- 25 10. A sheriff's department of any county or Baltimore City;
- 26 11. The Natural Resources Police Force or the Forest and Park
27 Service Police Force of the Department of Natural Resources; or
- 28 12. The Maryland Capitol Police of the Department of General
29 Services; or

30 (ii) In the case of a police officer who has been trained as a drug
31 recognition expert, if the police officer is a member of, and certified as a drug recognition

1 expert by the head of one of the law enforcement agencies described in [items (3)(i)1] ITEM
2 (I)1 through 12 of this [subsection] ITEM.

3 [(j)] (K) If the Administration imposes a suspension, revocation, or
4 disqualification after a hearing, the person whose license or privilege to drive has been
5 suspended, revoked, or disqualified may appeal the final order of suspension or revocation
6 as provided in Title 12, Subtitle 2 of this article.

7 [(k)] (L) Subject to § 16–812(p) of this title, this section does not prohibit the
8 imposition of further administrative sanctions if the person is convicted for any violation of
9 the Maryland Vehicle Law arising out of the same occurrence.

10 [(l)] (M) (1) The determination of any facts by the Administration is
11 independent of the determination of the same or similar facts in the adjudication of any
12 criminal charges arising out of the same occurrence.

13 (2) The disposition of those criminal charges may not affect any suspension
14 imposed under this section.

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

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

20 [(n)] (1) This subsection applies only to a licensee:

21 (i) Who takes a test that indicates an alcohol concentration of at
22 least 0.08 but less than 0.15;

23 (ii) Whose license has not been suspended under this section during
24 the past 5 years; and

25 (iii) Who has not been convicted under § 21–902 of this article during
26 the past 5 years.

27 (2) The Administration may modify a suspension under this section or
28 issue a restrictive license if the Administration finds that:

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

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

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

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

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

11 (o) (1) This subsection applies only to a licensee who:

12 (i) Refused to take a test;

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

15 (iii) Took a test that indicated an alcohol concentration of at least
16 0.08 but less than 0.15 at the time of testing and who is ineligible for a modification of a
17 suspension or issuance of a restrictive license under subsection (n) of this section.

18 (2) The Administration may modify a suspension under this section or
19 issue a restrictive license only if the licensee participates in the Ignition Interlock System
20 Program for 1 year.

21 (p) (1) If the Administration modifies a suspension under this section or issues
22 a restrictive license on condition that the licensee participate in the Ignition Interlock
23 System Program and the licensee does not successfully complete the Program, the
24 Administration shall suspend the licensee's driver's license or driving privilege for the full
25 period of suspension specified in this section for the applicable violation.

26 (2) The Administration shall notify a licensee of a suspension under this
27 subsection.

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

30 (4) If a licensee requests a hearing under this subsection, the suspension
31 shall be stayed pending the decision at the administrative hearing.]

32 [(q)] (O) The provisions of this section relating to disqualification do not apply
33 to offenses committed by an individual in a noncommercial motor vehicle before:

34 (1) September 30, 2005; or

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

3 16-404.1.

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

5 (2) “Approved service provider” means a person who is certified by:

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

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

10 (3) “Manufacturer” means a person who manufactures ignition interlock
11 systems and who certifies that approved service providers are qualified to service, install,
12 monitor, calibrate, and provide information on ignition interlock systems.

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

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

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

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

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

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

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

1 (iv) Any service of notice upon an approved service provider, who has
2 violated any laws or regulations or whose ignition interlock system has violated any laws
3 or regulations, be deemed as service upon the manufacturer who certified the approved
4 service provider.

5 (c) An individual [may] **SHALL** be a participant if:

6 (1) The individual's license is suspended or revoked under § 16–205 of this
7 title for a violation of § 21–902(a), (b), or (c) of this article or § 16–404 of this subtitle for an
8 accumulation of points under § 16–402(a)(28) or (37) of this subtitle;

9 (2) The individual's license has an alcohol restriction imposed under §
10 16–113(g)(1) of this title; [or]

11 (3) The [Administration modifies a suspension or issues a restrictive
12 license to the individual] **INDIVIDUAL'S LICENSE IS SUSPENDED** under § 16–205.1 of this
13 title;

14 (4) **THE INDIVIDUAL'S LICENSE IS REVOKED UNDER § 16–205(B) OF**
15 **THIS TITLE FOR HOMICIDE BY MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF**
16 **ALCOHOL, IMPAIRED BY ALCOHOL, OR IMPAIRED BY A COMBINATION OF ONE OR**
17 **MORE DRUGS AND ALCOHOL; OR**

18 (5) **THE INDIVIDUAL IS REQUIRED TO PARTICIPATE BY A COURT**
19 **ORDER UNDER § 27–107 OF THIS ARTICLE.**

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

22 1. § 21–902(a)(1) or (2) of this article and had an alcohol
23 concentration at the time of testing of 0.15 or more; or

24 2. § 21–902(a)(3) or (b)(2) of this article and the minor who
25 was transported was under the age of 16 years.]

26 [(ii) (I) If an individual is subject to [this paragraph]
27 **SUBSECTION (C) OF THIS SECTION** and fails to participate in the Program or successfully
28 complete the Program, the Administration shall suspend, notwithstanding § 16–208 of this
29 title, the individual's license until the individual successfully completes the Program.

30 [(iii) (II) Nothing contained in this paragraph limits the authority
31 of the Administration to modify a suspension imposed under this paragraph to allow an
32 individual to be a participant in accordance with subsection (e) or [(o) (P) of this section.

1 (2) [(i) Notwithstanding subsection (c) of this section, an individual
2 shall be a participant as a condition of modification of a suspension or revocation of a license
3 or issuance of a restrictive license if the individual:

4 1. Is required to be a participant by a court order under §
5 27–107 of this article;

6 2. Is convicted of a violation of § 21–902(a) or (b) of this
7 article and within the preceding 5 years the individual has been convicted of any violation
8 of § 21–902 of this article; or

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

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

13 B. § 21–902(a), (b), or (c) of this article.

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

17 (iii) Nothing contained in this paragraph limits the authority of the
18 Administration to modify a suspension imposed under this paragraph to allow an
19 individual to be a participant in accordance with subsection (e) or (o) of this section] **THE**
20 **ADMINISTRATION SHALL ISSUE A RESTRICTED LICENSE TO AN INDIVIDUAL WHO IS**
21 **REQUIRED TO PARTICIPATE IN THE PROGRAM UNDER THIS SECTION.**

22 (3) An individual who is subject to this subsection shall participate in the
23 Program for **THE LENGTH OF THE SUSPENSION IMPOSED ON THE INDIVIDUAL’S**
24 **LICENSE OR IF NO SUSPENSION LENGTH IS SPECIFIED:**

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

27 (ii) 1 year the second time the individual is required under this
28 [subsection] **SECTION** to participate in the Program; and

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

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

33 (i) A court order under § 27–107 of this article; or

1 (ii) The Administration in accordance with another provision of this
2 title.

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

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

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

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

11 (i) [Issue] **MODIFY A SUSPENSION AND ISSUE** a [restrictive]
12 **RESTRICTED** license to an individual who is a participant in the Program during the
13 suspension period as provided under § 16–205 or § 16–205.1 of this title or § 16–404 of this
14 subtitle;

15 (ii) Reinstate the driver's license of a participant whose license has
16 been revoked:

17 1. For a violation of § 21–902(a), (b), or (c) of this article;

18 2. For an accumulation of points under § 16–402(a)(37) of
19 this subtitle for a violation of § 21–902(a) of this article; or

20 3. Under § 16–205.1(b) or (f) of this title; and

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

24 1. For a violation of § 21–902(a), (b), or (c) of this article;

25 2. For an accumulation of points under § 16–402(a)(37) of
26 this subtitle for a violation of § 21–902(a) of this article; or

27 3. Under § 16–205.1(b) or (f) of this title.

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

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

3 (g) Subject to [§ 27–107(g)(2)] **§ 27–107(H)** of this article, the Administration
4 shall impose a restriction on the individual’s license that prohibits the individual from
5 driving a motor vehicle that is not equipped with an ignition interlock system for the period
6 of time that the individual is required to participate in the Program under this section.

7 (h) A participant is considered to begin participation in the Program when the
8 participant provides evidence of the installation of an ignition interlock system by an
9 approved service provider in a manner required by the Administration.

10 (i) An individual whose license is suspended under § 16–404(c)(2)(iv) of this
11 subtitle is a habitual offender whose license may not be reinstated unless the individual
12 participates in the Program for at least 24 months.

13 (j) (1) For purposes of an ignition interlock system used under [§ 16–205(f) of
14 this title,] this section[,] or a court order under § 27–107 of this article, the Administration
15 shall permit only the use of an ignition interlock system that meets or exceeds the technical
16 standards for breath alcohol ignition interlock devices published in the Federal Register
17 from time to time.

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

20 (k) (1) An individual required to use an ignition interlock system under a court
21 order or this section:

22 (i) Shall be monitored by the Administration; and

23 (ii) Except as provided in paragraph (2) of this subsection, shall pay
24 the fee required by the Administration under subsection (f)(3) of this section.

25 (2) The Administration shall waive the fee required under this subsection
26 for an individual who is indigent.

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

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

32 **(2) IF AN INDIVIDUAL PARTICIPATES IN THE PROGRAM UNDER §**
33 **16–205.1 OF THIS TITLE, THE INDIVIDUAL SHALL RECEIVE CREDIT TOWARD THE**

1 LENGTH OF PARTICIPATION IN THE PROGRAM ARISING OUT OF THE SAME INCIDENT
2 AS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

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

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

12 (2) A FAILURE TO TAKE OR PASS A RANDOM TEST WITH A BREATH
13 ALCOHOL CONCENTRATION OF 0.025 OR LOWER UNLESS A SUBSEQUENT TEST
14 PERFORMED WITHIN 10 MINUTES REGISTERED A BREATH ALCOHOL
15 CONCENTRATION LOWER THAN 0.025; OR

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

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

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

27 (2) If an individual reenters the Program under this subsection, the
28 individual shall participate in the Program for the entire period of time that was initially
29 necessary for successful completion of the Program without any credit for the period of
30 participation before the individual was removed from the Program.

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

34 [(p)] (Q) A suspension or revocation of a license of an individual subject to
35 subsection (c) or (d) of this section that is imposed as a result of the failure of the individual
36 to participate in the Program or successfully complete the Program shall be concurrent with

1 any other suspension or revocation arising out of the same incident for which the individual
2 is subject to subsection (c) or (d) of this section.

3 ~~[(q)]~~ **(R)** (1) If a person is convicted of any violation of § 21-902 of this article,
4 the Administration shall include in the notice of proposed suspension or revocation a
5 warning in bold conspicuous type that the person shall participate in the Program [if the
6 person is subsequently convicted of a violation of § 21-902(a) or (b) of this article as
7 described in this section].

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

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

17 ~~21-901.1.~~

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

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

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

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

24 ~~27-101.~~

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

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

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

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

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

~~(1) § 13-704 (“Fraud in application”);~~

~~(2) § 21-706 (“Overtaking and passing school vehicle”); or~~

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

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

27-107.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (ii) May establish a payment schedule.

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

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

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

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

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

33 (ii) If a person is required, in the course of the person's employment,
34 to operate a motor vehicle owned or provided by the person's employer, the person may

1 operate that motor vehicle in the course of the person's employment without installation of
2 an ignition interlock system if:

3 1. The person has not been convicted of:

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

6 B. 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 C. 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 and

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

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

19 1. The person provides information acceptable to the
20 Administration regarding the person's current employment and the need for the person to
21 operate the motor vehicle in the course of employment; and

22 2. The person has not been convicted of:

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

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

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

30 **(H) (1) THIS SUBSECTION DOES NOT LIMIT OR OTHERWISE AFFECT ANY**
31 **PROVISION OF FEDERAL OR STATE LAW RELATING TO A HOLDER OF A COMMERCIAL**
32 **DRIVER'S LICENSE.**

1 **(2) SUBJECT TO THE REQUIREMENTS IN PARAGRAPH (3) OF THIS**
2 **SUBSECTION, IF A PERSON IS REQUIRED TO OPERATE AN EMPLOYER'S MOTOR**
3 **VEHICLE IN THE COURSE AND SCOPE OF EMPLOYMENT AND THE BUSINESS ENTITY**
4 **THAT OWNS THE VEHICLE IS NOT OWNED OR CONTROLLED BY THE PERSON, THE**
5 **EMPLOYER MAY PROVIDE AND THE PERSON MAY OPERATE A MOTOR VEHICLE**
6 **WITHOUT AN IGNITION INTERLOCK SYSTEM TO BE USED IN THE COURSE OF THE**
7 **PERSON'S EMPLOYMENT.**

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

12 **(I) A DESCRIPTION OF THE PERSON'S LICENSE RESTRICTION**
13 **REQUIRING THAT THE PERSON OPERATE ONLY VEHICLES EQUIPPED WITH AN**
14 **IGNITION INTERLOCK SYSTEM;**

15 **(II) A STATEMENT THAT THE PERSON MAY OPERATE THE**
16 **EMPLOYER'S VEHICLES ONLY IN THE COURSE AND SCOPE OF THE PERSON'S**
17 **EMPLOYMENT;**

18 **(III) THE EMPLOYER'S NAME, TITLE, AND TELEPHONE NUMBER;**

19 **(IV) A NOTARIZED SIGNATURE OF THE EMPLOYER**
20 **ACKNOWLEDGING THE CONTENTS OF THE FORM;**

21 **(V) THE PERSON'S SIGNATURE ACKNOWLEDGING THAT THE**
22 **PERSON MUST KEEP THE FORM IN THE PERSON'S POSSESSION AT ALL TIMES WHILE**
23 **OPERATING THE EMPLOYER'S VEHICLE; AND**

24 **(VI) A STAMP OR SIGNATURE FROM AN AUTHORIZED EMPLOYEE**
25 **OF THE ADMINISTRATION.**

26 **(4) THE PERSON SHALL PROVIDE TO THE PERSON'S EMPLOYER AND**
27 **THE ADMINISTRATION A COPY OF THE COMPLETED FORM.**

28 **(5) THE ADMINISTRATION SHALL CREATE A STANDARDIZED FORM**
29 **THAT COMPLIES WITH THE REQUIREMENTS OF PARAGRAPH (3) OF THIS**
30 **SUBSECTION.**

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.