

MARYLAND REGISTER

**Proposed Action on Regulations**

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	06/03/2016	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

**1. Desired date of publication in Maryland Register: 7/8/2016**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

11 11 03 03, .09, .11 and .12

11 11 13 02, .03, .04, .05 and .09

**3. Name of Promulgating Authority**

Department of Transportation

**4. Name of Regulations Coordinator**

Natalie I Henson

**Telephone Number**

410-865-1091

**Mailing Address**

7201 Corporate Center Drive

**City State Zip Code**

Hanover MD 21076

**Email**

nwolfe@mdot.state.md.us

**5. Name of Person to Call About this Document**

Tracey C. Sheffield

**Telephone No.**

410-768-7545

**Email Address**

tsheffield@mdot.state.md.us

**6. Check applicable items:**

- New Regulations

- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: May 25, 2016.

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

**7. Is there emergency text which is identical to this proposal:**

Yes - No

**8. Incorporation by Reference**

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

**10. Children's Environmental Health and Protection**

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Damon Bell, General Counsel, (telephone #410-768-7415) on June 3, 2016. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Christine Nizer

**Title**

Administrator

**Telephone No.**

410-768-7320

**Date**

June 3, 2016

**Title 11**  
**DEPARTMENT OF TRANSPORTATION**  
**Subtitle 11 MOTOR VEHICLE ADMINISTRATION—ADMINISTRATIVE**  
**PROCEDURES**  
**11.11.03 Summary Suspensions for Alcohol and Drug-Related Offenses**  
**Subtitle 11 MOTOR VEHICLE ADMINISTRATION—ADMINISTRATIVE**  
**PROCEDURES**  
**11.11.13 Ignition Interlock Program**

Authority: 11.11.03: State Government Article, §§9-1604(b), 10-201—10-222;  
Transportation Article, §§12-104(b), 12-108, 12-201—12-209, 16-117, and 16-205.1;  
Annotated Code of Maryland 11.11.13: Transportation Article, §§12-104(b), 16-205.1,  
16-404.1, and 27-107, Annotated Code of Maryland

**Notice of Proposed Action**

[]

The Administrator of the Motor Vehicle Administration proposes to amend:

- 1) Regulations .03, .09, .11 and .12 under COMAR 11.11.03 Summary Suspensions for Alcohol and Drug-Related Offenses; and
- 2) Regulations .02, .03, .04, & .05 and adopt new .09 under 11.11.13 Ignition Interlock Program.

**Statement of Purpose**

The purpose of this action is to amend regulations to increase the suspension periods for alcohol-related offenses, expand individual enrollment and participation in the Ignition Interlock System Program and update provisions related to violations of the Program pursuant to Senate Bill 945, Chapter 512, Acts of 2016. This action also updates and clarifies definitions and removes obsolete language.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**

Senate Bill 945, Chapter 512, Acts of 2016 requires everyone who has received an Administrative Per Se order or an alcohol conviction to participate in the Ignition Interlock Program (Program) either by opting in or mandating in after suspension.

The total number of additional participants would be 6,391.

The proposed bill will have an effect on MVA expenditures and revenues. These

expenditures would include, but not be limited to, (a) additional personnel (including fringes) and related costs @ \$310,507 (FY17); (b) external (outside vendor) programming costs estimated to be \$182,000 and (c) forms revision/reprinting costs @ \$16,226. Additionally, internal computer programming would be required but could be handled with existing resources. Therefore, the total expenditure is estimated to be \$508,733.

Additional revenues are anticipated as a result of new participants in the Ignition Interlock program. Assuming the 6,391 is the number of individuals added to the Program, the estimated FY 2017 additional revenue resulting from this proposal is \$225,282 (6,391 cases x \$47 fee x 75%).

NOTE: It is anticipated that, over the short-term, the projected revenue to be realized under this proposal would not be sufficient to cover the estimated cost associated with the proposal.

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
	<hr/>	
A. On issuing agency:	(E+)	508,733
(1)	(R+)	\$ 225,282
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
	<hr/>	
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

A(). MVA revenues would be impacted under this bill. It is anticipated that the number of individuals that would be enrolled in the Ignition Interlock Program would increase. Assuming 6,391 is the number of individuals added to the Program; the estimated additional annual revenue resulting from this proposal is \$300,377 (6,391 cases x \$47 fee). Taking into account the October 1, 2016 effective date, the revenue impact in FY17 is \$225,283 (300,377 x 75%).

The assumption is being made that the population would remain constant in future fiscal years.

The proposal would have a significant fiscal impact on MVA operational expenditures

totaling \$508,733. These expenditures would be related to the need for additional personnel and related costs, external computer programming and forms-related costs.

It is anticipated that 6,391 new participants would be added to the Ignition Interlock Program as a result of this bill. Based on the average 1100 cases per Customer Agent, this proposal would require additional staffing to handle approximately 6,391 additional program participants. Five (5) additional Customer Agent IV positions (6,391 divided by 1100 equals 5) Case Managers and one (1) Customer Agent (CA I) to perform administrative duties. These positions would be needed for document processing to initiate new cases, monitoring program results, and as well as perform other administrative duties. Taking into account the bill's October 1 effective date, the Salary and Fringe Benefits are \$281,620 (FY 17).

Employee related costs for FY 17 is as follows:

Phone - \$1,350 ( $\$300 \times 6 \times 75\%$ )  
Supplies - \$1,359 ( $\$302 \times 6 \times 75\%$ )  
Equipment - \$26,178 ( $\$4,363 \times 6$ )

The total cost associated with personnel (including employee-related costs) is estimated to be \$310,507 in FY17 ( $\$281,620 + 1,350 + \$1,359 + 26,178$ ).

EXTERNAL (OUTSIDE VENDOR) PROGRAMMING @ \$182,000. The changes required would include MVA Web, Document Imaging and Optical Disk System (DIWS). The enhancements would include modifications to DIWS for development and testing with both the Ignition Interlock Program and Office of Administrative Hearings (OAH).

This proposal would require total number of external programming hours of over 900 hours. The changes would include Requirements & Designs, Development, Build, UAT, and Rollout.

FORM REVISION/REPRINTING COSTS - @ \$16,226. It is anticipated that this proposed legislation would have an impact on MVA forms revision/reprinting costs totaling \$16,226. The specific forms that would need to be revised/ reprinted are the DR-15A and DR-15 forms. Based on the most recent unit prices available for these items, the estimated cost incurred for the forms would be as follows:

DR-15A - \$9,612  
DR-15 - 6,446  
Estimated translation costs - 168

Therefore, the additional forms cost related to this proposal would be \$16,226 ( $\$9,612 + \$6,446 + \$168$ ).

INTERNAL PROGRAMMING COST - There would be 532 hours of internal computer

programming required however; any impact could be handled with existing resources.

In summary, external computer programming and forms cost would total \$198,226 (\$182,000 + \$16,226).

Therefore, the total estimates cost associated with this proposal is \$508,733 in FY17 (\$310,507 Personnel and related cost, and \$166,226 Computer Programming and forms).

A(1). (see assumption below)

### **Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

### **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

### **Opportunity for Public Comment**

Comments may be sent to Tracey C. Sheffield, Regulations Coordinator, Motor Vehicle Administration, 6601 Ritchie Highway N.E., Room 200, Glen Burnie, MD 21062, or call 410-768-7545, or email to [tsheffield@mdot.state.md.us](mailto:tsheffield@mdot.state.md.us), or fax to 410-768-7506.

Comments will be accepted through August 7, 2016. A public hearing has not been scheduled.

### **Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 2017

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:  
Transportation Trust Fund

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

Potential. Certified ignition interlock service providers in the State are likely to sell more devices and related services.

G. Small Business Worksheet:

- a. Intended Beneficiaries: N/A
- b. Intended Beneficiaries: Households: N/A
- c. Intended Beneficiaries: Businesses: N/A
- d. Other Direct or Indirect Impacts: Adverse: N/A
- e. Other Direct or Indirect Impacts: Positive: N/A

Attached Document:

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11.11.03 (June 2, 2016)

## Title 11 DEPARTMENT OF TRANSPORTATION

### Subtitle 11 MOTOR VEHICLE ADMINISTRATION — ADMINISTRATIVE PROCEDURES

#### Chapter 03 Summary Suspensions for Alcohol and Drug-Related Offenses

Authority: State Government Article, §§9-1604(b), 10-201—10-222; Transportation Article, §§12-104(b), 12-108, 12-201—12-209, 16-117, and 16-205.1; Annotated Code of Maryland

##### **.03 Request for Hearing.**

A. — C. (text unchanged)

*D. A written request for a hearing which is mailed shall be addressed to the Office of Administrative Hearings, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301 and shall be considered to have been made on the date of the United States Postal Service postmark.*

**[D.] E.** A written hearing request may be personally delivered to:

(1) (text unchanged)

(2) The Administrative Adjudication Division, Motor Vehicle Administration, 6601 Ritchie Highway, N.E., Glen Burnie, Maryland 21062, during regular office hours; *or*

(3) **[A** branch manager or the branch manager's designee at any MVA branch office during regular office hours;

*or*

**(4)]** The chief clerk or deputy clerks of the Office of Administrative Hearings during regular business hours.

**[E.** A written request for a hearing which is mailed shall be addressed to the Office of Administrative Hearings, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301 and shall be considered to have been made on the date of the United States Postal Service postmark.]

F. — H. (text unchanged)

##### **.09 Hearing Dispositions.**

A. — B. (text unchanged)

C. The administrative law judge may modify a suspension or issue a **[restrictive] restricted** license under Transportation Article, **[§16-205.1(n)(1)] §16-205.1(o)**, Annotated Code of Maryland, if:

(1) The licensee did not refuse to take a test or did not have a test result indicating an alcohol concentration of 0.15 or more *and did not elect to participate in the Ignition Interlock System Program; and*

**[(2)** The licensee has not had a license suspended or been issued a restrictive license under Transportation Article, §16-205.1, Annotated Code of Maryland, during the past 5 years;

(3) The licensee has not been convicted under Transportation Article, §21-902(a), (b), (c), or (d), Annotated Code of Maryland, during the past 5 years; and]

**[(4)] (2)** (text unchanged)

D. The administrative law judge may modify a suspension or issue a **[restrictive] restricted** license under Transportation Article, **[§16-205.1(n)(4)] §16-205.1(p)**, Annotated Code of Maryland, if the licensee refused to take a test or took a test that indicated an alcohol concentration of 0.15 or more only if the licensee agrees to participate in the **[program] Program** for 1 year.

E. — F. (text unchanged)

##### **.11 Term of Suspension.**

A. Test Refusals.

(1) In the case of a test refusal, the Administration shall suspend the license:

- (a) [120] 270 days from a person's first offense; and
- (b) [1 year] 2 years for a person's second or subsequent offense.

(2) (text unchanged)

B. Test Results.

(1) In the case of a test result indicating an alcohol concentration of 0.08 or more, but less than 0.15 at the time of testing, the Administration shall suspend the license[:

- (a) 45]for 180 days for a person's first or subsequent offense[; and
- (b) 90 days for a person's second or subsequent offense].

(2) (text unchanged)

C. Test Results Indicating an Alcohol Concentration of 0.15 or More.

(1) In the case of a test result indicating an alcohol concentration of 0.15 or more, the Administration shall suspend the license:

- (a) [90] 180 days for a person's first offense; and
- (b) [180] 270 days for a person's second or subsequent offense.

(2) (text unchanged)

**.12 Stay of Enforcement.**

A. A licensee may request a stay of enforcement of the administrative law judge's decision pending judicial review under Transportation Article, [§16-205.1 (m)] §16-205.1(n), Annotated Code of Maryland. A request for a stay does not extend the time for filing an appeal.

B. — D. (text unchanged)

## Chapter 13 Ignition Interlock Program

Authority: Transportation Article, §§12-104(b), 16-205.1, 16-404.1, and 27-107, Annotated Code of Maryland

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) — (8) (text unchanged)

(9) *“Service Provider Certification” means an electronic verification that the data recorded by the device, and certified as accurate by the participant's approved service provider, transmitted to the Administration in the 3 consecutive months prior to the participant's completion date did not contain any of the violations specified in Transportation Article, §16-404.1(n).*

[ (9) ] (10) *“Successful completion” means satisfactorily fulfilling all the conditions for participation in the Program and the Administration is in receipt of the Service Provider Certification.*

**.03 Requirements for Enrollment in the Program.**

A. — C. (text unchanged)

[D. An individual who elects to participate in the Program under Transportation Article, §16-205.1(b)(3)(vii), Annotated Code of Maryland or an individual who is issued an order of suspension pursuant to Transportation Article, §16-205.1(b)(1)(i)(1)(A) or (B), Annotated Code of Maryland, and elects to participate in the Program:

(1) May not have been charged with a moving violation arising out of the same circumstances as an administrative offense under that section that involved a death of or serious physical injury to another individual; and

(2) Shall meet the enrollment requirements set forth in §A of this regulation.]

[E.—I.] D. — H. (text unchanged)

[J. An individual whose license or privilege to drive is suspended or revoked as a result of a final decision of the Office of Administrative Hearings is not eligible to participate in the Program under Transportation Article, §16-404.1(e), Annotated Code of Maryland, if the application of the individual to participate in the Program is based, all or in part, on a request to reconsider the suspension or revocation imposed as a result of the final decision of the Office of Administrative Hearings.

K. The Administration may modify a license suspension of an individual, who is issued an order of suspension pursuant to Transportation Article, §16-205.1(b)(1)(i)(1)(A) or (B), Annotated Code of Maryland, and elects to participate in the Program for 1 year instead of requesting a hearing to show cause why the individual's license should not be suspended.]

**.04 Violations of the Program.**

A. A participant is in violation of the Program requirements if the individual:

(1) — (5) (text unchanged)

(6) Attempts to start or operate a vehicle with a breath alcohol concentration greater than 0.025 percent, unless there is a subsequent test reading within [5] 10 minutes that indicates a breath alcohol concentration below 0.026 percent;

(7) — (8) (text unchanged)

(9) Fails to take the interlock-equipped vehicle to a scheduled monthly monitoring appointment with the service provider as set forth in [Regulation .03G] *Regulation .03F* of this chapter;

(10) (text unchanged)

(11) Allows another individual to blow into the interlock device while the participant is operating the vehicle;

[or]

(12) Participates in any other act or use of the interlock device that poses a threat to highway safety[.]; or

(13) *Receives an Order of Suspension under Transportation Article, §16-205.1, Annotated Code of Maryland.*

B. (text unchanged)

**.05 Removal from the Program.**

A. —G. (text unchanged)

*H. A person who fails to successfully complete the Program will not receive credit towards future participation in the program arising from the same incident.*

**.09 Successful Completion.**

A. *An individual has successfully completed the Program when:*

(1) *The participant satisfactorily fulfilled all the conditions for participation in the Program; and*

(2) *The Administration is in receipt of the Service Provider Certification as required in Transportation Article, §16-404.1(n).*

B. *A person who successfully completes the Program will receive credit towards future participation in the Program arising from the same incident.*

**CHRISTINE NIZER**

**Administrator**

**Motor Vehicle Administration**