
By: Delegates Bissett, Genn, and Vallario

Introduced and read first time: January 27, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Ignition Interlock System Programs**

3 FOR the purpose of requiring the Motor Vehicle Administration to establish an
4 Administrative Per Se Ignition Interlock System Program for certain administrative
5 per se offenses; providing that a person whose license to drive is suspended for
6 certain administrative offenses may be a participant in the Program; authorizing the
7 Administration to modify a suspension or issue a restrictive license to a participant
8 in the Program; authorizing the Administration to establish a fee for Program
9 participants; establishing the time at which a participant is considered to begin
10 participation in the Program; requiring the Administration to provide a certain
11 notice to potential participants; requiring the Administration to approve certain
12 types of ignition interlock systems for the Program; prohibiting a participant in any
13 ignition interlock system program established by the Administration from soliciting
14 or having another person attempt to start or start a motor vehicle equipped with an
15 ignition interlock system; prohibiting a person from attempting to start or starting a
16 motor vehicle equipped with an ignition interlock system for a participant in any
17 ignition interlock system program established by the Administration; prohibiting a
18 person from tampering with or attempting to circumvent an ignition interlock
19 system installed under any ignition interlock system program established by the
20 Administration; prohibiting a person from furnishing, under certain circumstances,
21 a motor vehicle not equipped with an ignition interlock system to a participant in
22 any ignition interlock system program established by the Administration; providing
23 that the Administration may permit a participant in any ignition interlock system
24 program established by the Administration to operate a motor vehicle without an
25 ignition interlock system in the course of the individual's employment under certain
26 circumstances; providing for certain penalties; defining certain terms; and generally
27 relating to certain ignition interlock programs established by the Administration.

28 BY repealing and reenacting, with amendments,
29 Article - Transportation
30 Section 16-205.1(b)(2) and (3), (f)(7)(i) and (8)(i), and (n), and 27-107(d), (e), (f),
31 and (g)
32 Annotated Code of Maryland
33 (1992 Replacement Volume and 1996 Supplement)

34 BY adding to

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1 Article - Transportation
2 Section 16-205.1(o)
3 Annotated Code of Maryland
4 (1992 Replacement Volume and 1996 Supplement)

5 BY repealing and reenacting, without amendments,
6 Article - Transportation
7 Section 16-205.1(f)(8)(v) and 27-101(c)(26)
8 Annotated Code of Maryland
9 (1992 Replacement Volume and 1996 Supplement)

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

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13 **Article - Transportation**

14 16-205.1.

15 (b) (2) Except as provided in subsection (c) of this section, if a police officer
16 stops or detains any person who the police officer has reasonable grounds to believe is or
17 has been driving or attempting to drive a motor vehicle while intoxicated, while under the
18 influence of alcohol, while so far under the influence of any drug, any combination of
19 drugs, or a combination of one or more drugs and alcohol that the person could not drive
20 a vehicle safely, while under the influence of a controlled dangerous substance, in
21 violation of an alcohol restriction, or in violation of § 16-813 of this title, and who is not
22 unconscious or otherwise incapable of refusing to take a test, the police officer shall:

23 (i) Detain the person;

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

25 (iii) Advise the person of the administrative sanctions that shall be
26 imposed for refusal to take the test, including ineligibility for modification of a suspension
27 or issuance of a restrictive license UNDER SUBSECTION (N)(1) AND (2) OF THIS SECTION,
28 and for test results indicating an alcohol concentration of 0.10 or more at the time of
29 testing.

30 (3) If the person refuses to take the test or takes a test which results in an
31 alcohol concentration of 0.10 or more at the time of testing, the police officer shall:

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

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

35 (iii) Issue a temporary license to drive;

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

38 (v) Inform the person that:

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1 1. The person has a right to request, at that time or within 10
2 days, a hearing to show cause why the driver's license should not be suspended
3 concerning the refusal to take the test or for test results indicating an alcohol
4 concentration of 0.10 or more at the time of testing, and the hearing will be scheduled
5 within 45 days; and

6 2. If a hearing request is not made at that time or within 10
7 days, but within 30 days the person requests a hearing, a hearing to show cause why the
8 driver's license should not be suspended concerning the refusal to take the test or for test
9 results indicating an alcohol concentration of 0.10 or more at the time of testing will be
10 scheduled, but a request made after 10 days does not extend a temporary license issued by
11 the police officer that allows the person to continue driving for 45 days;

12 (vi) Advise the person of the administrative sanctions that shall be
13 imposed in the event of failure to request a hearing, failure to attend a requested hearing,
14 or upon an adverse finding by the hearing officer; and

15 (vii) Within 72 hours after the issuance of the order of suspension, send
16 any confiscated driver's license, copy of the suspension order, and a sworn statement to
17 the Administration, that states:

18 1. The officer had reasonable grounds to believe that the
19 person had been driving or attempting to drive a motor vehicle on a highway or on any
20 private property that is used by the public in general in this State while intoxicated, while
21 under the influence of alcohol, while so far under the influence of any drug, any
22 combination of drugs, or a combination of one or more drugs and alcohol that the person
23 could not drive a vehicle safely, while under the influence of a controlled dangerous
24 substance, in violation of an alcohol restriction, or in violation of § 16-813 of this title;

25 2. The person refused to take a test when requested by the
26 police officer or the person submitted to the test which indicated an alcohol
27 concentration of 0.10 or more at the time of testing; and

28 3. The person was fully advised of the administrative sanctions
29 that shall be imposed, including the fact that a person who refuses to take the test is
30 ineligible for modification of a suspension or issuance of a restrictive license UNDER
31 SUBSECTION (N)(1) AND (2) OF THIS SECTION.

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

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

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

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1 3. Whether the police officer requested a test after the person
2 was fully advised of the administrative sanctions that shall be imposed, including the fact
3 that a person who refuses to take the test is ineligible for modification of a suspension or
4 issuance of a restrictive license UNDER SUBSECTION (N)(1) AND (2) OF THIS SECTION;

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

6 5. Whether the person drove or attempted to drive a motor
7 vehicle while having an alcohol concentration of 0.10 or more at the time of testing; or

8 6. If the hearing involves disqualification of a commercial
9 driver's license, whether the person was operating a commercial motor vehicle.

10 (8) (i) After a hearing, the Administration shall suspend the driver's
11 license or privilege to drive of the person charged under subsection (b) or (c) of this
12 section if:

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

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

23 3. The police officer requested a test after the person was fully
24 advised of the administrative sanctions that shall be imposed, including the fact that a
25 person who refuses to take the test is ineligible for modification of a suspension or
26 issuance of a restrictive license UNDER SUBSECTION (N)(1) AND (2) OF THIS SECTION;
27 and

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

29 B. A test to determine alcohol concentration was taken and the
30 test result indicated an alcohol concentration of 0.10 or more at the time of testing.

31 (v) The suspension imposed shall be:

32 1. For a test result indicating an alcohol concentration of 0.10
33 or more at the time of testing:

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

35 B. For a second or subsequent offense, a suspension for 90 days;
36 or

37 2. For a test refusal:

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

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

2 (n) (1) The Administration may modify a suspension under this section or issue
3 a restrictive license if:

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

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

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

9 (iv) 1. The licensee is required to drive a motor vehicle in the
10 course of employment;

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

13 3. It finds that the licensee has no alternative means of
14 transportation available to or from the licensee's place of employment and, without the
15 license, the licensee's ability to earn a living would be severely impaired.

16 (2) In addition to the authority to modify a suspension or issue a restrictive
17 license under paragraph (1) of this subsection, the Administration may modify a
18 suspension under this section or issue a restrictive license if:

19 (i) The licensee is under the age of 21 years;

20 (ii) The licensee did not refuse to take a test;

21 (iii) The licensee has not been convicted under § 21-902 of this article;
22 and

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

24 1. A noncollegiate educational institution as defined in §
25 2-206(a) of the Education Article; or

26 2. A regular program at an institution of postsecondary
27 education.

28 (3) If the licensee refused to take a test, the Administration may not modify
29 a suspension under this section or issue a restrictive license EXCEPT AS PROVIDED
30 UNDER SUBSECTION (O) OF THIS SECTION.

31 (O) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
32 MEANINGS INDICATED.

33 (II) "PARTICIPANT" MEANS A PARTICIPANT IN THE IGNITION
34 INTERLOCK SYSTEM PROGRAM.

35 (III) "PROGRAM" MEANS THE ADMINISTRATIVE PER SE IGNITION
36 INTERLOCK SYSTEM PROGRAM.

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1 (2) (I) THE ADMINISTRATION SHALL ESTABLISH THE
2 ADMINISTRATIVE PER SE IGNITION INTERLOCK SYSTEM PROGRAM UNDER THIS
3 SECTION.

4 (II) THE ADMINISTRATION MAY ESTABLISH A PROTOCOL FOR THE
5 PROGRAM BY REGULATION.

6 (III) AN INDIVIDUAL WHOSE LICENSE IS SUSPENDED UNDER THIS
7 SECTION MAY BE A PARTICIPANT.

8 (IV) IN ADDITION TO THE AUTHORITY TO MODIFY A SUSPENSION
9 OR ISSUE A RESTRICTIVE LICENSE UNDER SUBSECTION (N)(1) AND (2) OF THIS
10 SECTION, THE ADMINISTRATION MAY MODIFY A SUSPENSION UNDER THIS SECTION
11 OR ISSUE A RESTRICTIVE LICENSE TO A PARTICIPANT.

12 (V) A NOTICE OF SUSPENSION ISSUED TO AN INDIVIDUAL UNDER
13 THIS SECTION SHALL INCLUDE INFORMATION ABOUT THE PROGRAM AND HOW THE
14 INDIVIDUAL MAY QUALIFY FOR ADMISSION TO THE PROGRAM.

15 (VI) THE ADMINISTRATION MAY ESTABLISH A FEE FOR THE
16 PROGRAM.

17 (3) A PARTICIPANT IS CONSIDERED TO BEGIN PARTICIPATION IN THE
18 PROGRAM WHEN THE PARTICIPANT PROVIDES EVIDENCE OF THE INSTALLATION OF
19 AN IGNITION INTERLOCK SYSTEM IN A MANNER REQUIRED BY THE
20 ADMINISTRATION.

21 (4) (I) THE ADMINISTRATION SHALL PERMIT ONLY THE USE OF AN
22 IGNITION INTERLOCK SYSTEM THAT MEETS OR EXCEEDS THE TECHNICAL
23 STANDARDS FOR BREATH ALCOHOL IGNITION INTERLOCK DEVICES PUBLISHED IN
24 THE FEDERAL REGISTER.

25 (II) FOR PURPOSES OF AN IGNITION INTERLOCK SYSTEM USED
26 UNDER THIS SECTION, THE ADMINISTRATION SHALL REQUIRE THE PROGRAM
27 PROTOCOL ADOPTED BY THE ADMINISTRATION.

28 27-101.

29 (c) Any person who is convicted of a violation of any of the provisions of the
30 following sections of this article is subject to a fine of not more than \$500 or
31 imprisonment for not more than 2 months or both:

32 (26) § 27-107(d), (e), (f), or (g) ("Prohibited acts - Ignition interlock
33 systems").

34 27-107.

35 (d) A person prohibited under this section OR TITLE 16 OF THIS ARTICLE from
36 operating a motor vehicle that is not equipped with an ignition interlock system may not
37 solicit or have another person attempt to start or start a motor vehicle equipped with an
38 ignition interlock system.

39 (e) A person may not attempt to start or start a motor vehicle equipped with an
40 ignition interlock system for the purpose of providing an operable motor vehicle to a

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1 person who is prohibited under this section OR TITLE 16 OF THIS ARTICLE from
2 operating a motor vehicle that is not equipped with an ignition interlock system.

3 (f) A person may not tamper with, or in any way attempt to circumvent, the
4 operation of an ignition interlock system that has been installed in the motor vehicle of a
5 person under this section OR TITLE 16 OF THIS ARTICLE.

6 (g) (1) Subject to the provisions of paragraph (2) of this subsection, a person
7 may not knowingly furnish a motor vehicle not equipped with a functioning ignition
8 interlock system to another person who the person knows is prohibited under subsection
9 (b) of this section OR TITLE 16 OF THIS ARTICLE from operating a motor vehicle not
10 equipped with an ignition interlock system.

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

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 1997.