

(PRE-FILED)

By: Senator Boozer

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Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

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CHAPTER _____

1 AN ACT concerning

2 **Driver's License - Controlled Dangerous Substance Restriction**

3 FOR the purpose of authorizing the Motor Vehicle Administration, for good cause, to
 4 impose a controlled dangerous substance restriction on a licensee which prohibits
 5 the licensee from driving or attempting to drive a motor vehicle while having a
 6 controlled dangerous substance in the licensee's blood; requiring the
 7 Administration to alter a person's driving record and driver's license to reflect that
 8 a controlled dangerous substance restriction has been imposed by a court;
 9 prohibiting a person from driving a motor vehicle in violation of such a restriction;
 10 establishing that any person who drives or attempts to drive a motor vehicle on a
 11 highway or certain private property in the State is deemed to have consented to take
 12 a certain test if the person is detained on suspicion of driving or attempting to drive
 13 in violation of a controlled dangerous substance restriction; requiring a police
 14 officer to administer a certain test to a certain person if the officer has reasonable
 15 grounds to believe that the person has been driving or attempting to drive a motor
 16 vehicle in violation of a controlled dangerous substance restriction; requiring
 17 certain administrative sanctions if a person refuses to take a certain test;
 18 authorizing certain hearings; providing for certain procedures; and generally
 19 relating to driving and controlled dangerous substances.

20 BY repealing and reenacting, with amendments,

21 Article - Transportation

22 Section 16-113 and 16-205.1(a), (b), and (f)(1), (7), and (8)

23 Annotated Code of Maryland

24 (1992 Replacement Volume and 1996 Supplement)

2

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

3 **Article - Transportation**

4 16-113.

5 (a) In addition to the vision and other restrictions provided for in this subtitle,
6 when it issues a driver's license, the Administration for good cause may impose on the
7 licensee:

8 (1) Any restrictions suitable to the licensee's driving ability with respect to
9 the type of special mechanical control devices required on motor vehicles that the
10 licensee may drive;

11 (2) An alcohol restriction which prohibits the licensee from driving or
12 attempting to drive a motor vehicle while having alcohol in the licensee's blood; [and]

13 (3) A CONTROLLED DANGEROUS SUBSTANCE RESTRICTION THAT
14 PROHIBITS THE LICENSEE FROM DRIVING OR ATTEMPTING TO DRIVE A MOTOR
15 VEHICLE WHILE HAVING A CONTROLLED DANGEROUS SUBSTANCE IN THE
16 LICENSEE'S BLOOD; AND

17 (4) Any other restrictions applicable to the licensee that the Administration
18 determines appropriate to assure the safe driving of a motor vehicle by the licensee.

19 (b) (1) Notwithstanding the licensee's driving record, the Administration shall
20 impose on each licensee under the age of 21 years an alcohol restriction that prohibits the
21 licensee from driving or attempting to drive a motor vehicle with an alcohol concentration
22 of 0.02 or more as determined by an analysis of the person's blood or breath.

23 (2) An alcohol restriction imposed under this subsection expires when the
24 licensee reaches the age of 21 years.

25 (3) This subsection may not be construed or applied to limit:

26 (i) The authority of the Administration to impose on a licensee an
27 alcohol restriction described in subsection (a)(2) of this section; or

28 (ii) The application of any other provision of law that prohibits
29 consumption of an alcoholic beverage by an individual under the age of 21 years.

30 (c) (1) Subject to the provisions of paragraph (2) of this subsection, the
31 Administration may:

32 (i) Issue a special restricted license; or

33 (ii) Set forth the restrictions on the usual license form.

34 (2) The Administration shall indicate on the license of a licensee under the
35 age of 21 years that an alcohol restriction has been imposed on the licensee under
36 subsection (b) of this section.

3

1 (d) (1) In addition to the other restrictions provided in this subtitle, the
 2 Administration may issue a provisional driver's license to applicants who are under the
 3 age of 18.

4 (2) The license may be restricted by requiring that the licensee be
 5 accompanied and supervised at certain times by a licensed driver who is at least 21 years
 6 old.

7 (3) The Administrator may modify or waive the restriction if the restriction
 8 would affect adversely:

9 (i) The employment or opportunity for employment of the licensee;

10 (ii) The participation of the licensee in an organized volunteer
 11 program approved by the Administration and designed to provide transportation to
 12 prevent alcohol- or drug-related driving offenses and promote highway safety; or

13 (iii) The opportunity of the licensee to participate in athletic events
 14 and related training sessions.

15 (e) In addition to the other restrictions provided under this subtitle, the
 16 Administration may issue a driver's license that is valid only in the State of Maryland to
 17 an applicant who has been suspended in another jurisdiction as a result of failing to
 18 comply with the financial responsibility requirements of that jurisdiction.

19 (f) After receiving satisfactory evidence of any violation of a restricted or
 20 provisional driver's license, the Administration may suspend or revoke the license.
 21 However, the licensee may request a hearing as provided for a suspension or revocation
 22 under Subtitle 2 of this title.

23 (g) (1) The Administration shall impose an alcohol restriction under subsection
 24 (a)(2) of this section that prohibits an individual for a period of 3 years from driving or
 25 attempting to drive with alcohol in the individual's blood on any licensee who is convicted
 26 of any combination of two or more violations under § 21-902(a) or (b) of this article.

27 (2) If a circuit court or a District Court orders a licensee not to drive or
 28 attempt to drive a motor vehicle with alcohol OR A CONTROLLED DANGEROUS
 29 SUBSTANCE in the licensee's blood, the Administration shall have the licensee's driving
 30 record and driver's license reflect that the court ordered restriction was imposed, and
 31 shall keep records of the order.

32 (h) An individual may not drive a vehicle in any manner that violates any
 33 restriction imposed by the Administration in a restricted license issued to the individual.

34 (i) An individual may not drive a vehicle in any manner that violates any
 35 restriction imposed in a provisional license issued to the individual.

36 (j) An individual may not drive or attempt to drive a motor vehicle with alcohol
 37 OR A CONTROLLED DANGEROUS SUBSTANCE in the individual's blood in violation of a
 38 restriction imposed by a court.

39 16-205.1.

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

4

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

4 (iii) "Test" means:

5 1. A test of a person's breath or of 1 specimen of a person's
6 blood to determine alcohol concentration;

7 2. A test or tests of 1 specimen of a person's blood to determine
8 the drug or controlled dangerous substance content of the person's blood; or

9 3. Both:

10 A. A test of a person's breath or a test of 1 specimen of a
11 person's blood, to determine alcohol concentration; and

12 B. A test or tests of 1 specimen of a person's blood to determine
13 the drug or controlled dangerous substance content of the person's blood.

14 (2) Any person who drives or attempts to drive a motor vehicle on a highway
15 or on any private property that is used by the public in general in this State is deemed to
16 have consented, subject to the provisions of §§ 10-302 through 10-309, inclusive, of the
17 Courts and Judicial Proceedings Article, to take a test if the person should be detained on
18 suspicion of driving or attempting to drive while intoxicated, while under the influence of
19 alcohol, while so far under the influence of any drug, any combination of drugs, or a
20 combination of one or more drugs and alcohol that the person could not drive a vehicle
21 safely, while under the influence of a controlled dangerous substance, in violation of an
22 alcohol restriction, IN VIOLATION OF A CONTROLLED DANGEROUS SUBSTANCE
23 RESTRICTION, or in violation of § 16-813 of this title.

24 (b) (1) Except as provided in subsection (c) of this section, a person may not be
25 compelled to take a test. However, the detaining officer shall advise the person that, on
26 receipt of a sworn statement from the officer that the person was so charged and refused
27 to take a test, or was tested and the result indicated an alcohol concentration of 0.10 or
28 more, the Administration shall:

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

30 1. For a test result indicating an alcohol concentration of 0.10
31 or more at the time of testing;

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

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

35 2. For a test refusal:

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

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

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

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

4 A. For a first offense, suspend the person's driving privilege for
5 45 days; or

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

8 2. For a test refusal:

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

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

13 (iii) In addition to any applicable driver's license suspensions
14 authorized under this section, in the case of a person operating a commercial motor
15 vehicle who refuses to take a test:

16 1. Disqualify the person's commercial driver's license for a
17 period of 1 year for a first offense, 3 years for a first offense which occurs while
18 transporting hazardous materials required to be placarded, and disqualify for life for a
19 second or subsequent offense which occurs while operating any commercial motor
20 vehicle; or

21 2. If the person is licensed as a commercial driver by another
22 state, disqualify the person's privilege to operate a commercial motor vehicle and report
23 the refusal and disqualification to the person's resident state which may result in further
24 penalties imposed by the person's resident state.

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

34 (i) Detain the person;

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

36 (iii) Advise the person of the administrative sanctions that shall be
37 imposed for refusal to take the test, including ineligibility for modification of a suspension
38 or issuance of a restrictive license, and for test results indicating an alcohol concentration
39 of 0.10 or more at the time of testing.

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

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

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

6 (iii) Issue a temporary license to drive;

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

9 (v) Inform the person that:

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

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

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

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

27 1. The officer had reasonable grounds to believe that the
 28 person had been driving or attempting to drive a motor vehicle on a highway or on any
 29 private property that is used by the public in general in this State while intoxicated, while
 30 under the influence of alcohol, while so far under the influence of any drug, any
 31 combination of drugs, or a combination of one or more drugs and alcohol that the person
 32 could not drive a vehicle safely, while under the influence of a controlled dangerous
 33 substance, in violation of an alcohol restriction, IN VIOLATION OF A CONTROLLED
 34 DANGEROUS SUBSTANCE RESTRICTION, or in violation of § 16-813 of this title;

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

38 3. The person was fully advised of the administrative sanctions
 39 that shall be imposed, including the fact that a person who refuses to take the test is
 40 ineligible for modification of a suspension or issuance of a restrictive license.

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

4 (i) The person is arrested for driving or attempting to drive a motor
5 vehicle while intoxicated, while under the influence of alcohol, while so far under the
6 influence of any drug, any combination of drugs, or a combination of one or more drugs
7 and alcohol that the person could not drive a vehicle safely, while under the influence of
8 a controlled dangerous substance, in violation of an alcohol restriction, IN VIOLATION OF
9 A CONTROLLED DANGEROUS SUBSTANCE RESTRICTION, or in violation of § 16-813 of
10 this title; and

11 (ii) 1. There is an alcohol concentration of 0.10 or more at the time
12 of testing; or

13 2. The person refused to take a test.

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

16 1. Whether the police officer who stops or detains a person had
17 reasonable grounds to believe the person was driving or attempting to drive while
18 intoxicated, while under the influence of alcohol, while so far under the influence of any
19 drug, any combination of drugs, or a combination of one or more drugs and alcohol that
20 the person could not drive a vehicle safely, while under the influence of a controlled
21 dangerous substance, in violation of an alcohol restriction, IN VIOLATION OF A
22 CONTROLLED DANGEROUS SUBSTANCE RESTRICTION, or in violation of § 16-813 of
23 this title;

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

27 3. Whether the police officer requested a test after the person
28 was fully advised of the administrative sanctions that shall be imposed, including the fact
29 that a person who refuses to take the test is ineligible for modification of a suspension or
30 issuance of a restrictive license;

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

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

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

36 (ii) The sworn statement of the police officer and of the test technician
37 or analyst shall be prima facie evidence of a test refusal or a test resulting in an alcohol
38 concentration of 0.10 or more at the time of testing.

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

1 1. The police officer who stopped or detained the person had
2 reasonable grounds to believe the person was driving or attempting to drive while
3 intoxicated, while under the influence of alcohol, while so far under the influence of any
4 drug, any combination of drugs, or a combination of one or more drugs and alcohol that
5 the person could not drive a vehicle safely, while under the influence of a controlled
6 dangerous substance, in violation of an alcohol restriction, IN VIOLATION OF A
7 CONTROLLED DANGEROUS SUBSTANCE RESTRICTION, or in violation of § 16-813 of
8 this title;

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

12 3. The police officer requested a test after the person was fully
13 advised of the administrative sanctions that shall be imposed, including the fact that a
14 person who refuses to take the test is ineligible for modification of a suspension or
15 issuance of a restrictive license; and

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

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

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

21 1. The person was detained while operating a commercial
22 motor vehicle;

23 2. The police officer who stopped or detained the person had
24 reasonable grounds to believe that the person was driving or attempting to drive while
25 intoxicated, while under the influence of alcohol, while so far under the influence of any
26 drug, any combination of drugs, or a combination of one or more drugs and alcohol that
27 the person could not drive a vehicle safely, while under the influence of a controlled
28 dangerous substance, in violation of an alcohol restriction, IN VIOLATION OF A
29 CONTROLLED DANGEROUS SUBSTANCE RESTRICTION, or in violation of § 16-813 of
30 this title;

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

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

36 5. The person refused to take the test.

37 (iii) If the person is licensed to drive a commercial motor vehicle, the
38 Administration shall disqualify the person in accordance with subparagraph (ii) of this
39 paragraph, but may not impose a suspension under subparagraph (i) of this paragraph, if:

40 1. The person was detained while operating a commercial
41 motor vehicle;

1 2. The police officer had reasonable grounds to believe the
2 person was in violation of an alcohol restriction, IN VIOLATION OF A CONTROLLED
3 DANGEROUS SUBSTANCE RESTRICTION, or in violation of § 16-813 of this title;

4 3. The police officer did not have reasonable grounds to believe
5 the driver was driving while intoxicated, driving while under the influence of alcohol,
6 while so far under the influence of any drug, any combination of drugs, or a combination
7 of one or more drugs and alcohol that the person could not drive a vehicle safely, or while
8 under the influence of a controlled dangerous substance; and

9 4. The driver refused to take a test.

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

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

15 2. If the driver is detained in a commercial motor vehicle,
16 disqualify the person from operating a commercial motor vehicle.

17 (v) The suspension imposed shall be:

18 1. For a test result indicating an alcohol concentration of 0.10
19 or more at the time of testing;

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

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

23 2. For a test refusal:

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

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

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

31 (vii) A disqualification of a commercial driver's license is not subject to
32 any modifications, nor may a restricted commercial driver's license be issued in lieu of a
33 disqualification.

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

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

