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CF HB 916

By: Senator Forehand

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Assigned to: Rules

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 1997

CHAPTER ____

1 AN ACT concerning

2 **Motor Vehicles - Ignition Interlock System**

3 FOR the purpose of ~~prohibiting the Motor Vehicle Administration from reinstating a~~
 4 ~~person's privilege to drive under certain circumstances unless the person complies~~
 5 ~~with certain requirements relating to the use of an ignition interlock system;~~
 6 ~~requiring~~ authorizing a court to prohibit a person from operating a motor vehicle
 7 without an ignition interlock system under certain circumstances; ~~prohibiting a~~
 8 ~~person from attempting to start or starting a motor vehicle equipped with an~~
 9 ~~ignition interlock system under certain circumstances; altering certain definitions;~~
 10 requiring a person prohibited from operating a motor vehicle without an ignition
 11 interlock system under this Act to maintain the ignition interlock system for a
 12 certain period and subject to certain conditions; and generally relating to motor
 13 vehicles and ignition interlock systems.

14 ~~BY repealing and reenacting, with amendments,~~
 15 ~~Article —Transportation~~
 16 ~~Section 16-404 and 16-404.1~~
 17 ~~Annotated Code of Maryland~~
 18 ~~(1992 Replacement Volume and 1996 Supplement)~~

19 ~~BY repealing and reenacting, without amendments,~~
 20 ~~Article —Transportation~~
 21 ~~Section 27-101(a) and (b) and 27-107~~
 22 ~~Annotated Code of Maryland~~
 23 ~~(1992 Replacement Volume and 1996 Supplement)~~

24 BY adding to

2

1 Article - Transportation
2 Section 27-107.1
3 Annotated Code of Maryland
4 (1992 Replacement Volume and 1996 Supplement)

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

7 **Article - Transportation**

8 ~~16-404.~~

9 (a) ~~The Administration shall take the following actions for points accumulated~~
10 ~~within any 2-year period:~~

11 (1) ~~Send a warning letter to each individual who accumulates 3 points;~~

12 (2) ~~Require attendance at a conference by each individual who accumulates~~
13 ~~5 points, except that a Class A, B, or C licensee who submits evidence acceptable to the~~
14 ~~Administration that he is a professional driver may not be called in until he accumulates~~
15 ~~8 points; and~~

16 (3) ~~Except as provided in § 16-405 of this subtitle:~~

17 (i) ~~Suspend the license of each individual who accumulates 8 points;~~
18 ~~and~~

19 (ii) ~~Revoke the license of each individual who accumulates 12 points.~~

20 (b) (1) ~~Except as provided in § 16-405 of this subtitle:~~

21 (i) ~~If an individual accumulates 8 points, the Administration shall~~
22 ~~issue a notice of suspension; and~~

23 (ii) ~~If an individual accumulates 12 points, the Administration shall~~
24 ~~issue a notice of revocation.~~

25 (2) ~~Each notice shall:~~

26 (i) ~~Be personally served or sent by certified mail, return receipt~~
27 ~~requested, bearing a postmark from the United States Postal Service;~~

28 (ii) ~~State the duration of the suspension or revocation; and~~

29 (iii) ~~Advise the individual of his right, within 10 days after the notice is~~
30 ~~sent (Saturdays, Sundays, and legal holidays excepted), to file a written request for a~~
31 ~~hearing before the Administrator.~~

32 (3) ~~Unless a hearing is requested, each notice of suspension or revocation is~~
33 ~~effective at the end of the 10-day period after the notice is sent.~~

34 (c) (1) ~~Except as provided in paragraphs (2) and (3) of this subsection:~~

35 (i) ~~An initial suspension may not be for less than 2 days nor more than~~
36 ~~30 days; and~~

1 (ii) Any subsequent suspension may not be for less than 15 days nor
2 more than 90 days.

3 (2) Subject to the provisions of paragraph (3) of this subsection AND
4 SUBSECTION (D) OF THIS SECTION, the following suspension periods may apply to a
5 suspension for an accumulation of points under § 16-402(a)(21) of this subtitle for a
6 violation of § 21-902 (b) or (c) of this article or a suspension imposed under §
7 16-404.1(b)(4)(iii) of this subtitle:

8 (i) For a first conviction, not more than 6 months;

9 (ii) For a second conviction at least 5 years after the date of the first
10 conviction, not more than 9 months;

11 (iii) For a second conviction less than 5 years after the date of the first
12 conviction or for a third conviction, not more than 12 months; and

13 (iv) For a fourth or subsequent conviction, not more than 24 months.

14 (3) An individual who participates in the Administration's Ignition Interlock
15 System Program under § 16-404.1 of this subtitle may have a suspension under paragraph
16 (2) of this subsection reduced to:

17 (i) For a first conviction, up to 15 days, provided the individual
18 maintains the ignition interlock system for not more than 5 months;

19 (ii) For a second conviction at least 5 years after the date of the first
20 conviction, up to 30 days, provided the individual maintains the ignition interlock system
21 for not more than 9 months;

22 (iii) For a second conviction less than 5 years after the date of the first
23 conviction or for a third conviction, up to 45 days, provided the individual maintains the
24 ignition interlock system for not more than 12 months; and

25 (iv) For a fourth or subsequent conviction, 6 months, provided the
26 individual maintains the ignition interlock system for not more than 24 months.

27 (4) This subsection does not limit the authority of the Administration to
28 issue a restrictive license or modify a suspension imposed under this subsection.

29 (D) (1) IF A PERSON'S DRIVER'S LICENSE HAS BEEN SUSPENDED OR
30 REVOKED UNDER THIS SUBTITLE AS A RESULT OF BEING CONVICTED OF VIOLATING
31 § 21-902(A), (B), OR (C) OF THIS ARTICLE, THE ADMINISTRATION MAY NOT RESTORE
32 THE PERSON'S PRIVILEGE TO DRIVE UNLESS THE PERSON FURNISHES PROOF THAT:

33 (I) A CERTIFIED IGNITION INTERLOCK SYSTEM HAS BEEN
34 INSTALLED ON ANY MOTOR VEHICLE THAT THE PERSON INTENDS TO OPERATE;
35 AND

36 (II) THE PERSON HAS SUCCESSFULLY COMPLETED AN ALCOHOL
37 COUNSELING AND TREATMENT PROGRAM AS A RESULT OF THE CONVICTION.

38 (2) THE ADMINISTRATION SHALL REQUIRE THAT THE PERSON
39 MAINTAIN THE IGNITION INTERLOCK SYSTEM REQUIRED UNDER PARAGRAPH (1)(I)

~~1 OF THIS SUBSECTION FOR THE PERIOD ESTABLISHED BY THE IGNITION INTERLOCK
2 SYSTEM PROGRAM PROTOCOL UNDER § 16-404.1 OF THIS SUBTITLE.~~

~~3 (3) A PERSON MAY OPERATE A MOTOR VEHICLE IN THE COURSE OF
4 THE PERSON'S EMPLOYMENT WITHOUT THE INSTALLATION OF AN IGNITION
5 INTERLOCK SYSTEM UNDER THIS SECTION IF:~~

~~6 (i) THE ADMINISTRATION HAS EXPRESSLY PERMITTED THE
7 PERSON TO OPERATE A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION
8 INTERLOCK SYSTEM IN THE COURSE OF THE PERSON'S EMPLOYMENT; AND~~

~~9 (ii) THE PERSON IS REQUIRED, IN THE COURSE OF THE PERSON'S
10 EMPLOYMENT, TO OPERATE A MOTOR VEHICLE OWNED OR PROVIDED BY THE
11 PERSON'S EMPLOYER.~~

~~12 16-404.1.~~

~~13 (a) In this section the following words have the meanings indicated.~~

~~14 (1) "Participant" means a [participant in the Ignition Interlock System
15 Program] PERSON WHO MEETS THE ELIGIBILITY REQUIREMENTS ESTABLISHED BY
16 REGULATION FOR THE IGNITION INTERLOCK SYSTEM PROGRAM.~~

~~17 (2) "Program" means the Ignition Interlock System Program.~~

~~18 (b) (1) The Administration may establish an Ignition Interlock System Program.~~

~~19 (2) The Administration may [establish a protocol for the Program by
20 regulations] ADOPT REGULATIONS TO ESTABLISH ELIGIBILITY REQUIREMENTS FOR
21 THE PROGRAM.~~

~~22 (3) An individual whose license is suspended or revoked for a violation of §
23 21-902(a), (b), or (c) of this article or an accumulation of points under § 16-402(a)(21) or
24 (30) of this subtitle may be a participant.~~

~~25 (4) The Administration may:~~

~~26 (i) Reduce a participant's driver's license suspension period as
27 provided under § 16-404(e)(3) of this subtitle;~~

~~28 (ii) Reinstate the driver's license of a participant whose license has
29 been revoked for a violation of § 21-902(a), (b), or (c) of this article or revoked for an
30 accumulation of points under § 16-402(a)(30) of this subtitle for a violation of §
31 21-902(a) of this article; and~~

~~32 (iii) Notwithstanding any other provision of law, impose on a
33 participant a period of suspension in accordance with § 16-404(e)(2) and (3) of this
34 subtitle in lieu of a license revocation for:~~

~~35 1. A violation of § 21-902(a), (b), or (c) of this article; or~~

~~36 2. An accumulation of points under § 16-402(a)(30) of this
37 subtitle for a violation of § 21-902(a) of this article.~~

1 ~~(5) A notice of suspension or revocation sent to an individual under this title~~
 2 ~~{shall} MAY include information about the Program and how the individual can qualify~~
 3 ~~for admission to the Program.~~

4 ~~(6) The Administration may establish a fee for the Program.~~

5 ~~(e) For purposes of § 16-404(e)(3) of this subtitle and subsection (d) of this~~
 6 ~~section, a participant is considered to begin participation in the Program when the~~
 7 ~~participant provides evidence of the installation of an ignition interlock system in a~~
 8 ~~manner required by the Administration.~~

9 ~~(d) An individual whose license is suspended under § 16-404(e)(2)(iv) or (3)(iv)~~
 10 ~~of this subtitle is a habitual offender whose license may not be reinstated unless the~~
 11 ~~individual participates in the Program for at least 24 months.~~

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

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

19 ~~(f)(1) An individual required to use an ignition interlock system under a court~~
 20 ~~order:~~

21 ~~(i) Shall be monitored by the Administration; and~~

22 ~~(ii) Shall pay the fee required by the Administration under subsection~~
 23 ~~(b)(6) of this section.~~

24 ~~(2) A court order that requires the use of an ignition interlock system is not~~
 25 ~~affected by § 16-404(e)(3) of this subtitle.~~

26 ~~(G)(1) A PERSON WHO PARTICIPATES IN THE PROGRAM MAY NOT VIOLATE~~
 27 ~~ANY RESTRICTION IMPOSED BY THE ADMINISTRATION UNDER THIS SECTION.~~

28 ~~(2) A PERSON MAY NOT ATTEMPT TO START OR START A MOTOR~~
 29 ~~VEHICLE EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM FOR THE PURPOSE OF~~
 30 ~~PROVIDING AN OPERABLE MOTOR VEHICLE TO A PARTICIPANT IN THE PROGRAM.~~

31 ~~27-101.~~

32 ~~(a) It is a misdemeanor for any person to violate any of the provisions of the~~
 33 ~~Maryland Vehicle Law unless the violation is declared to be a felony by the Maryland~~
 34 ~~Vehicle Law or by any other law of this State.~~

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

1 ~~27-107.~~

2 (a) ~~In this section "ignition interlock system" means a device that:~~

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

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

7 (b) ~~In addition to any other penalties provided in this title for a violation of any of~~
8 ~~the provisions of § 21-902(a) of this article ("driving while intoxicated"), or § 21-902(b)~~
9 ~~of this article ("driving while under the influence of alcohol"), or in addition to any other~~
10 ~~condition of probation, a court may prohibit a person who is convicted of, or granted~~
11 ~~probation under Article 27, § 641 of the Code for, a violation of § 21-902(a) or §~~
12 ~~21-902(b) of this article from operating for not more than 3 years a motor vehicle that is~~
13 ~~not equipped with an ignition interlock system.~~

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

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

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

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

21 (ii) ~~Whether the court has expressly permitted the person to operate a~~
22 ~~motor vehicle without an ignition interlock system under subsection (g)(2) of this section;~~

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

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

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

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

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

34 (d) ~~A person prohibited under this section from operating a motor vehicle that is~~
35 ~~not equipped with an ignition interlock system may not solicit or have another person~~
36 ~~attempt to start or start a motor vehicle equipped with an ignition interlock system.~~

37 (e) ~~A person may not attempt to start or start a motor vehicle equipped with an~~
38 ~~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 from operating a motor vehicle that is not
2 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.

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 from operating a motor vehicle not equipped with an ignition interlock
10 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 has expressly permitted the person to operate
15 in the course of the person's employment a motor vehicle that is not equipped with an
16 ignition interlock system.

17 27-107.1.

18 (A) IN ADDITION TO ANY OTHER PENALTIES ESTABLISHED IN THIS ARTICLE
19 OR ANY OTHER CONDITION OF PROBATION IMPOSED BY A COURT, IF A PERSON IS
20 CONVICTED OF VIOLATING § 16-303 OF THIS ARTICLE FOR DRIVING A MOTOR
21 VEHICLE WHILE THE PERSON'S LICENSE IS SUSPENDED OR REVOKED AS A RESULT
22 OF A CONVICTION UNDER § 21-902(A), (B), OR (C) OF THIS ARTICLE, THE COURT
23 ~~SHALL~~ MAY PROHIBIT THE PERSON FROM OPERATING A MOTOR VEHICLE UNLESS A
24 CERTIFIED IGNITION INTERLOCK SYSTEM HAS BEEN INSTALLED ON THE MOTOR
25 VEHICLE IN ACCORDANCE WITH THE REQUIREMENTS OF THE IGNITION INTERLOCK
26 SYSTEM PROGRAM ESTABLISHED UNDER § 16-404.1 OF THIS ARTICLE.

27 (B) IF THE COURT PROHIBITS A PERSON FROM OPERATING A MOTOR
28 VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM UNDER
29 SUBSECTION (A) OF THIS SECTION, THE COURT SHALL REQUIRE THAT THE PERSON
30 MAINTAIN THE IGNITION INTERLOCK SYSTEM ~~UNDER SUBSECTION (A) OF THIS~~
31 ~~SECTION~~ FOR THE PERIOD AND UNDER THE CONDITIONS ESTABLISHED BY THE
32 IGNITION INTERLOCK SYSTEM PROGRAM PROTOCOL UNDER § 16-404.1 OF THIS
33 SUBTITLE.

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

