

SENATE BILL 6

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SB 7/97 - JPR

1998 Regular Session
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(PRE-FILED)

By: **Senator Boozer**
Requested: August 25, 1997
Introduced and read first time: January 14, 1998
Assigned to: Judicial Proceedings

A BILL ENTITLED

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
5 prohibits the licensee from driving or attempting to drive a motor vehicle while
6 having a 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
8 that 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
10 restriction; establishing that any person who drives or attempts to drive a motor
11 vehicle on a highway or certain private property in the State is deemed to have
12 consented to take a certain test if the person is detained on suspicion of driving
13 or attempting to drive in violation of a controlled dangerous substance
14 restriction; requiring a police officer to administer a certain test to a certain
15 person if the officer has reasonable grounds to believe that the person has been
16 driving or attempting to drive a motor vehicle in violation of a controlled
17 dangerous substance restriction; requiring certain administrative sanctions if a
18 person refuses to take a certain test; authorizing certain hearings; providing for
19 certain procedures; and generally relating to driving and controlled dangerous
20 substances.

21 BY repealing and reenacting, with amendments,
22 Article - Transportation
23 Section 16-113 and 16-205.1(a), (b), and (f)(1), (7), and (8)
24 Annotated Code of Maryland
25 (1992 Replacement Volume and 1997 Supplement)

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

1

Article - Transportation

2 16-113.

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

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

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

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

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

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

23 (2) An alcohol restriction imposed under this subsection expires when
24 the 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
35 the age of 21 years that an alcohol restriction has been imposed on the licensee under
36 subsection (b) of this section.

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
3 the 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
6 years old.

7 (3) The Administrator may modify or waive the restriction if the
8 restriction 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
17 to an applicant who has been suspended in another jurisdiction as a result of failing
18 to 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
22 revocation under Subtitle 2 of this title.

23 (g) (1) The Administration shall impose an alcohol restriction under
24 subsection (a)(2) of this section that prohibits an individual for a period of 3 years
25 from driving or attempting to drive with alcohol in the individual's blood on any
26 licensee who is convicted of any combination of two or more violations under §
27 21-902(a) or (b) of this article.

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

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

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

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

4 16-205.1.

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

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

10 (iii) "Test" means:

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 (2) Any person who drives or attempts to drive a motor vehicle on a
21 highway or on any private property that is used by the public in general in this State
22 is deemed to have consented, subject to the provisions of §§ 10-302 through 10-309,
23 inclusive, of the Courts and Judicial Proceedings Article, to take a test if the person
24 should be detained on suspicion of driving or attempting to drive while intoxicated,
25 while under the influence of alcohol, while so far under the influence of any drug, any
26 combination of drugs, or a combination of one or more drugs and alcohol that the
27 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 (b) (1) Except as provided in subsection (c) of this section, a person may not
32 be compelled to take a test. However, the detaining officer shall advise the person
33 that, on receipt of a sworn statement from the officer that the person was so charged
34 and refused to take a test, or was tested and the result indicated an alcohol
35 concentration of 0.10 or more, the Administration shall:

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

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

11 (i) Detain the person;

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

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

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

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

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

22 (iii) Issue a temporary license to drive;

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

25 (v) Inform the person that:

26 1. The person has a right to request, at that time or within
27 10 days, a hearing to show cause why the driver's license should not be suspended
28 concerning the refusal to take the test or for test results indicating an alcohol
29 concentration of 0.10 or more at the time of testing, and the hearing will be scheduled
30 within 45 days; and

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

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

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

7 1. The officer had reasonable grounds to believe that the
8 person had been driving or attempting to drive a motor vehicle on a highway or on
9 any private property that is used by the public in general in this State while
10 intoxicated, while under the influence of alcohol, while so far under the influence of
11 any drug, any combination of drugs, or a combination of one or more drugs and
12 alcohol that the person could not drive a vehicle safely, while under the influence of a
13 controlled dangerous substance, in violation of an alcohol restriction, IN VIOLATION
14 OF A CONTROLLED DANGEROUS SUBSTANCE RESTRICTION, or in violation of §
15 16-813 of this title;

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

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

23 (f) (1) Subject to the provisions of this subsection, at the time of, or within
24 30 days from the date of, the issuance of an order of suspension, a person may submit
25 a written request for a hearing before an officer of the Administration if:

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

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

35 2. The person refused to take a test.

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

38 1. Whether the police officer who stops or detains a person
39 had reasonable grounds to believe the person was driving or attempting to drive while
40 intoxicated, while under the influence of alcohol, while so far under the influence of

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

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

6 1. The person was detained while operating a commercial
7 motor vehicle;

8 2. The police officer who stopped or detained the person had
9 reasonable grounds to believe that the person was driving or attempting to drive
10 while intoxicated, while under the influence of alcohol, while so far under the
11 influence of 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 under the
13 influence of a controlled dangerous substance, in violation of an alcohol restriction, IN
14 VIOLATION OF A CONTROLLED DANGEROUS SUBSTANCE RESTRICTION, or in
15 violation of § 16-813 of this title;

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

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

21 5. The person refused to take the test.

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

26 1. The person was detained while operating a commercial
27 motor vehicle;

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

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

36 4. The driver refused to take a test.

37 (iv) In the absence of a compelling reason for failure to attend a
38 hearing, failure of a person to attend a hearing is prima facie evidence of the person's

1 inability to answer the sworn statement of the police officer or the test technician or
2 analyst, and the Administration summarily shall:

- 3 1. Suspend the driver's license or privilege to drive; and
4 2. If the driver is detained in a commercial motor vehicle,
5 disqualify the person from operating a commercial motor vehicle.

6 (v) The suspension imposed shall be:

7 1. For a test result indicating an alcohol concentration of
8 0.10 or more at the time of testing:

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

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

12 2. For a test refusal:

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

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

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

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

24 (viii) A disqualification for life may be reduced if permitted by §
25 16-812 (d) of this title.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 1998.