

SENATE BILL 6

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(PRE-FILED)

By: **Senator Boozer**
Requested: August 25, 1997
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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
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)

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
9 to 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
18 Administration determines appropriate to assure the safe driving of a motor vehicle
19 by the licensee.

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

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

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

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

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

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

34 (i) Issue a special restricted license; or

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

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

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

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

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

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

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

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

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

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

26 (g) (1) The Administration shall impose an alcohol restriction under
27 subsection (a)(2) of this section that prohibits an individual for a period of 3 years
28 from driving or attempting to drive with alcohol in the individual's blood on any
29 licensee who is convicted of any combination of two or more violations under §
30 21-902(a) or (b) of this article.

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

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

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

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

6 16-205.1.

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

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

12 (iii) "Test" means:

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

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

17 3. Both:

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

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

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

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

- 1 (i) In the case of a person licensed under this title:
- 2 1. For a test result indicating an alcohol concentration of
3 0.10 or more at the time of testing:
- 4 A. For a first offense, suspend the driver's license for 45 days;
5 or
- 6 B. For a second or subsequent offense, suspend the driver's
7 license for 90 days; or
- 8 2. For a test refusal:
- 9 A. For a first offense, suspend the driver's license for 120
10 days; or
- 11 B. For a second or subsequent offense, suspend the driver's
12 license for 1 year;
- 13 (ii) In the case of a nonresident or unlicensed person:
- 14 1. For a test result indicating an alcohol concentration of
15 0.10 or more at the time of testing:
- 16 A. For a first offense, suspend the person's driving privilege
17 for 45 days; or
- 18 B. For a second or subsequent offense, suspend the person's
19 driving privilege for 90 days; or
- 20 2. For a test refusal:
- 21 A. For a first offense, suspend the person's driving privilege
22 for 120 days; or
- 23 B. For a second or subsequent offense, suspend the person's
24 driving privilege for 1 year; and
- 25 (iii) In addition to any applicable driver's license suspensions
26 authorized under this section, in the case of a person operating a commercial motor
27 vehicle who refuses to take a test:
- 28 1. Disqualify the person's commercial driver's license for a
29 period of 1 year for a first offense, 3 years for a first offense which occurs while
30 transporting hazardous materials required to be placarded, and disqualify for life for
31 a second or subsequent offense which occurs while operating any commercial motor
32 vehicle; or
- 33 2. If the person is licensed as a commercial driver by another
34 state, disqualify the person's privilege to operate a commercial motor vehicle and

1 report the refusal and disqualification to the person's resident state which may result
2 in further penalties imposed by the person's resident state.

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

13 (i) Detain the person;

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

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

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

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

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

24 (iii) Issue a temporary license to drive;

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

27 (v) Inform the person that:

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

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

1 temporary license issued by the police officer that allows the person to continue
2 driving for 45 days;

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

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

9 1. The officer had reasonable grounds to believe that the
10 person had been driving or attempting to drive a motor vehicle on a highway or on
11 any private property that is used by the public in general in this State while
12 intoxicated, while under the influence of alcohol, while so far under the influence of
13 any drug, any combination of drugs, or a combination of one or more drugs and
14 alcohol that the person could not drive a vehicle safely, while under the influence of a
15 controlled dangerous substance, in violation of an alcohol restriction, IN VIOLATION
16 OF A CONTROLLED DANGEROUS SUBSTANCE RESTRICTION, or in violation of §
17 16-813 of this title;

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

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

25 (f) (1) Subject to the provisions of this subsection, at the time of, or within
26 30 days from the date of, the issuance of an order of suspension, a person may submit
27 a written request for a hearing before an officer of the Administration if:

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

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

37 2. The person refused to take a test.

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

1 1. Whether the police officer who stops or detains a person
2 had 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
4 any drug, any combination of drugs, or a combination of one or more drugs and
5 alcohol that the person could not drive a vehicle safely, while under the influence of a
6 controlled dangerous substance, in violation of an alcohol restriction, IN VIOLATION
7 OF A CONTROLLED DANGEROUS SUBSTANCE RESTRICTION, or in violation of §
8 16-813 of this title;

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

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

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

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

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

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

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

27 1. The police officer who stopped or detained the person had
28 reasonable grounds to believe the person was driving or attempting to drive while
29 intoxicated, while under the influence of alcohol, while so far under the influence of
30 any drug, any combination of drugs, or a combination of one or more drugs and
31 alcohol that the person could not drive a vehicle safely, while under the influence of a
32 controlled dangerous substance, in violation of an alcohol restriction, IN VIOLATION
33 OF A CONTROLLED DANGEROUS SUBSTANCE RESTRICTION, or in violation of §
34 16-813 of this title;

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

38 3. The police officer requested a test after the person was
39 fully advised of the administrative sanctions that shall be imposed, including the fact

1 4. The driver refused to take a test.

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

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

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

9 (v) The suspension imposed shall be:

10 1. For a test result indicating an alcohol concentration of
11 0.10 or more at the time of testing:

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

13 B. For a second or subsequent offense, a suspension for 90
14 days; or

15 2. For a test refusal:

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

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

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

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

27 (viii) A disqualification for life may be reduced if permitted by §
28 16-812 (d) of this title.

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

