

HOUSE BILL 1048

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By: **Delegates Grosfeld, W. Baker, Barkley, Bobo, Bronrott, Clagett, Conway,  
Cryor, D. Davis, Mandel, Petzold, Rudolph, and Snodgrass**

Introduced and read first time: February 9, 2001

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Drunk Driving - Repeat Offenders**

3 FOR the purpose of requiring the Motor Vehicle Administration to suspend for a  
4 certain period of the license of a person convicted of certain repeat alcohol-or  
5 drug-related driving offenses within a certain period; altering the penalties for  
6 a person convicted of repeated offenses of driving while intoxicated and driving  
7 under the influence of alcohol, drugs, or a combination of alcohol and drugs  
8 under certain circumstances; requiring the use of an ignition interlock system  
9 under certain circumstances; altering the period of certain license suspensions  
10 imposed under certain circumstances; altering the time period for filing a  
11 reinstatement application for a driver's license or privilege to drive under  
12 certain circumstances; making conforming changes; and generally relating to  
13 penalties for drunk driving repeat offenders.

14 BY repealing and reenacting, with amendments,  
15 Article - Transportation  
16 Section 16-205(d) and (e), 16-208(b), 16-404 , 16-405 , and 27-101(j)  
17 Annotated Code of Maryland  
18 (1999 Replacement Volume and 2000 Supplement)

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

21 **Article - Transportation**

22 16-205.

23 (d) The Administration [may] SHALL suspend for [not more than 120 days]  
24 ONE YEAR the license of any person who, within a [3-year] 5-YEAR period, is  
25 convicted under § 21-902(b) or (c) of this article of driving or attempting to drive a  
26 motor vehicle while under the influence of alcohol or while so far under the influence  
27 of any drug, any combination of drugs, or a combination of one or more drugs and  
28 alcohol that the person cannot drive a motor vehicle safely and who was previously  
29 convicted of a violation under:

1 (1) § 21-902(a) of this article of driving or attempting to drive a motor  
2 vehicle while intoxicated or while intoxicated per se;

3 (2) § 21-902(b) of this article of driving or attempting to drive a motor  
4 vehicle while under the influence of alcohol;

5 (3) § 21-902(c) of this article of driving or attempting to drive a motor  
6 vehicle while so far under the influence of any drug, any combination of drugs, or a  
7 combination of one or more drugs and alcohol that the person cannot drive a motor  
8 vehicle safely; or

9 (4) § 21-902(d) of this article of driving or attempting to drive a motor  
10 vehicle while under the influence of a controlled dangerous substance.

11 (e) [When] SUBJECT TO § 16-404 (C)(5) OF THIS TITLE, WHEN a suspension  
12 imposed under subsections (c) and (d) of this section expires, the Administration  
13 immediately shall return the license or reinstate the privilege of the driver, unless the  
14 license or privilege has been refused, revoked, suspended, or canceled under any other  
15 provisions of the Maryland Vehicle Law.

16 16-208.

17 (b) (1) Any individual whose license or privilege to drive has been revoked  
18 may apply for reinstatement of the individual's license or privilege as provided in this  
19 subsection.

20 (2) (i) If it is the individual's first revocation, the individual may file a  
21 reinstatement application at any time after the day the revoked license is  
22 surrendered to and received by the Administration or, in the case of an individual who  
23 does not have a license issued under this title, after the effective date of the  
24 revocation.

25 (ii) Except as provided in paragraph (6) of this subsection, on  
26 receipt of the application, the Administration may reinstate the license or privilege 6  
27 months after the revoked license is received by the Administration or, in the case of  
28 an individual who does not have a license issued under this title, 6 months after the  
29 effective date of revocation.

30 (3) (i) [If] NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION,  
31 IF it is the individual's second revocation, OR, IF THE REVOCATION IS DUE TO AN  
32 ACCUMULATION OF POINTS RESULTING FROM A SECOND OR SUBSEQUENT  
33 CONVICTION UNDER § 21-902 OF THIS ARTICLE WITHIN A 5-YEAR PERIOD, the  
34 individual may file a reinstatement application at any time after 1 year from the day  
35 the revoked license is surrendered to and received by the Administration or, in the  
36 case of an individual who does not have a license issued under this title, after 1 year  
37 from the effective date of revocation.

38 (ii) Except as provided in paragraph (6) of this subsection, on  
39 receipt of the application, the Administration may reinstate the license or privilege.

1                   (4)     (i)     If it is the individual's third revocation, the individual may file  
2 a reinstatement application at any time after 18 months from the day the revoked  
3 license is surrendered to and received by the Administration or, in the case of an  
4 individual who does not have a license issued under this title, after 18 months from  
5 the effective date of revocation.

6                                 (ii)     Except as provided in paragraph (6) of this subsection, on  
7 receipt of the application, the Administration may reinstate the license or privilege.

8                   (5)     (i)     If it is the individual's fourth or subsequent revocation, the  
9 individual may file a reinstatement application at any time after 2 years from the day  
10 the revoked license is surrendered to and received by the Administration or, in the  
11 case of an individual who does not have a license issued under this title, after 2 years  
12 from the effective date of revocation.

13                                 (ii)     Except as provided in paragraph (6) of this subsection, on  
14 receipt of the application, the Administration may reinstate the license or privilege.

15                   (6)     (i)     The Administration may not reinstate a license or privilege to  
16 drive under this subsection if the license or privilege has been refused, revoked,  
17 suspended, or canceled under any other provision of the Maryland Vehicle Law.

18                                 (ii)     1.     In this subparagraph, "alcohol-related or drug-related  
19 driving incident" means a:

20   A.     Conviction or probation before judgment for a violation of  
21 § 21-902(a), (b), (c), or (d) of this article or a substantially similar law of another  
22 jurisdiction;

23   B.     Refusal to submit to a test under § 16-205.1 of this title or  
24 a substantially similar law of another jurisdiction; or

25   C.     Test result that indicates an alcohol concentration of 0.10  
26 or more at the time of testing under § 16-205.1 of this title or a substantially similar  
27 law of another jurisdiction.

28   2.     Alcohol-related or drug-related driving incidents  
29 committed at the same time or arising out of the same circumstances may not be  
30 considered separate alcohol-related or drug-related driving incidents for the purpose  
31 of this subparagraph.

32   3.     Notwithstanding paragraphs (1) through (5) of this  
33 subsection, the Administration may reinstate a license or privilege to drive only if,  
34 after an investigation of an individual's habits and driving ability, the Administration  
35 is satisfied it will be safe to reinstate the license or privilege of an individual who has  
36 been:

37   A.     Involved in any combination of three or more separate  
38 alcohol-related or drug-related driving incidents;

1 B. Involved in a vehicular accident resulting in the death of  
2 another person; or

3 C. Convicted of a violation for failing to stop after a vehicular  
4 accident resulting in bodily injury or death.

5 (7) IF THE REVOCATION IS DUE TO A SECOND OR SUBSEQUENT  
6 CONVICTION UNDER § 21-902 OF THIS ARTICLE WITHIN A 5-YEAR PERIOD,  
7 REINSTATEMENT SHALL BE CONDITIONED ON THE INDIVIDUAL'S MAINTENANCE OF  
8 AN IGNITION INTERLOCK SYSTEM FOR NOT LESS THAN 12 MONTHS ON ALL VEHICLES  
9 OWNED OR OPERATED BY THE INDIVIDUAL.

10 (8) Except as otherwise provided in this title, before issuing a new  
11 license, the Administration shall require the applicant to submit to the examinations  
12 that it considers appropriate.

13 16-404.

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

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

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

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

22 (i) Suspend the license of each individual who accumulates 8  
23 points; and

24 (ii) Revoke the license of each individual who accumulates 12  
25 points.

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

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

29 (ii) If an individual accumulates 12 points, the Administration shall  
30 issue a notice of revocation.

31 (2) Each notice shall:

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

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

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

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

6 (c) (1) Except as provided in paragraphs (2) [and], (3), AND (4) of this  
7 subsection:

8 (i) An initial suspension may not be for less than 2 days nor more  
9 than 30 days; and

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

12 (2) Subject to the provisions of paragraph [(3)] (4) of this subsection, the  
13 following suspension periods may apply to a suspension for an accumulation of points  
14 under § 16-402(a)(23) of this subtitle for a violation of § 21-902(b) or (c) of this article  
15 or a suspension imposed under § 16-404.1(b)(4)(iii) of this subtitle:

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

17 (ii) For a second conviction at least 5 years after the date of the  
18 first conviction, not more than 9 months[;].

19 (3) THE FOLLOWING SUSPENSION PERIODS SHALL APPLY TO A  
20 SUSPENSION FOR AN ACCUMULATION OF POINTS UNDER § 16-402(A)(23) OF THIS  
21 SUBTITLE FOR A CONVICTION UNDER § 21-902(B) OR (C) OF THIS ARTICLE OR A  
22 SUSPENSION IMPOSED UNDER § 16-404.1(B)(4)(III) OF THIS SUBTITLE:

23 [(iii)] (I) For a second conviction less than 5 years after the date of  
24 the first conviction UNDER § 21-902 OF THIS ARTICLE or for a third conviction UNDER  
25 § 21-902 OF THIS ARTICLE, [not more than] 12 months; and

26 [(iv)] (II) For a fourth or subsequent conviction UNDER § 21-902 OF  
27 THIS ARTICLE, not LESS THAN 12 MONTHS NOR more than 24 months.

28 [(3)] (4) An individual who participates in the Administration's Ignition  
29 Interlock System Program under § 16-404.1 of this subtitle may have a suspension  
30 under paragraph (2) of this subsection reduced to:

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

33 (ii) For a second conviction at least 5 years after the date of the  
34 first conviction, up to 30 days, provided the individual maintains the ignition  
35 interlock system for not more than 9 months[;].

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

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

6 (4) This subsection does not limit the authority of the Administration to  
7 issue a restrictive license or modify a suspension imposed under this subsection[;].

8 (5) IF THE SUSPENSION OR REVOCATION IS DUE TO A SECOND OR  
9 SUBSEQUENT CONVICTION LESS THAN 5 YEARS FROM THE DATE OF THE FIRST  
10 CONVICTION UNDER § 21-902 OF THIS ARTICLE, RESTORATION OF THE INDIVIDUAL'S  
11 DRIVING PRIVILEGE SHALL BE CONDITIONED ON THE INDIVIDUAL'S MAINTENANCE  
12 OF AN IGNITION INTERLOCK SYSTEM FOR NOT LESS THAN 12 MONTHS ON ALL  
13 VEHICLES OWNED OR OPERATED BY THE INDIVIDUAL.

14 16-405.

15 (a) Except as provided in § 16-205.1 of this title AND SUBSECTION (B) OF THIS  
16 SECTION, if the suspension or revocation of a license would affect adversely the  
17 employment or opportunity for employment of a licensee, the hearing officer may:

18 (1) Decline to order the suspension or revocation; or

19 (2) Cancel or modify the suspension or revocation.

20 (b) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO A SUSPENSION OR  
21 REVOCATION UNDER § 16-404 OF THIS SUBTITLE FOR A SECOND OR SUBSEQUENT  
22 CONVICTION UNDER § 21-902 OF THIS ARTICLE WITHIN A 5-YEAR PERIOD.

23 (C) For purposes of § 16-404 of this subtitle, if a licensee is required to drive a  
24 motor vehicle in the course of his regular employment:

25 (1) Suspension requires 16 points; and

26 (2) Revocation requires 19 points.

27 [(c)] (D) The provisions of subsection [(b)] (C) of this section do not apply to an  
28 individual whose current accumulation of points includes points resulting from a  
29 conviction for a violation of § 21-902 of this article.

30 27-101.

31 (j) (1) In this subsection, "imprisonment" includes confinement in an  
32 inpatient rehabilitation or treatment center.

33 (2) A person who is convicted of a SECOND violation of § 21-902[(a)] of  
34 this article within [3] 5 years after a prior conviction under that [subsection]  
35 SECTION is subject to a mandatory minimum penalty of:

1 (i) Imprisonment for not less than [48] 120 [consecutive] hours; or

2 (ii) Community service for not less than [80 hours] 30 DAYS AS A  
3 MANDATORY CONDITION OF PROBATION OR A SUSPENDED SENTENCE OF NOT LESS  
4 THAN 5 DAYS.

5 (3) A PERSON WHO IS CONVICTED OF A THIRD OR SUBSEQUENT  
6 OFFENSE UNDER § 21-902 OF THIS ARTICLE WITHIN 5 YEARS AFTER A PRIOR  
7 CONVICTION OF ANY OFFENSE UNDER THAT SECTION IS SUBJECT TO A MANDATORY  
8 MINIMUM PENALTY OF:

9 (I) IMPRISONMENT FOR NOT LESS THAN 10 DAYS; OR

10 (II) COMMUNITY SERVICE FOR NOT LESS THAN 60 DAYS AS A  
11 MANDATORY CONDITION OF PROBATION OR A SUSPENDED SENTENCE OF NOT LESS  
12 THAN 10 DAYS.

13 (4) A PERSON WHO IS CONVICTED OF A SECOND OR SUBSEQUENT  
14 OFFENSE UNDER § 21-902 OF THIS ARTICLE WITHIN 5 YEARS OF A PRIOR CONVICTION  
15 OF ANY OFFENSE UNDER THAT SECTION SHALL BE REQUIRED BY THE COURT TO:

16 (I) UNDERGO A COMPREHENSIVE DRUG AND ALCOHOL  
17 ASSESSMENT; AND

18 (II) IF RECOMMENDED AT THE CONCLUSION OF THE ASSESSMENT,  
19 PARTICIPATE IN A DRUG OR ALCOHOL PROGRAM CERTIFIED BY THE DEPARTMENT  
20 OF HEALTH AND MENTAL HYGIENE.

21 (5) The penalties provided by this subsection are mandatory and are not  
22 subject to suspension or probation BEFORE JUDGEMENT UNDER ARTICLE 27, § 641.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2001.