

BY: House Judiciary Committee

AMENDMENTS TO SENATE BILL NO. 352

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “and Drugged”; and strike in their entirety lines 3 through 17, inclusive, and substitute:

“FOR the purpose of requiring the Motor Vehicle Administration to suspend for a certain period the license to drive of a person who is convicted within a certain period of a second or subsequent offense of driving while under the influence of alcohol or under the influence of alcohol per se; requiring a person whose license is suspended under this Act to maintain for a certain period a certain ignition interlock system on each motor vehicle owned and operated by the person; providing for a certain financial hardship exception; requiring the Administration to adopt certain regulations; requiring the Administration to impose an ignition interlock system restriction on a license under certain circumstances; defining a certain term; providing that a license suspension imposed under this Act shall be concurrent with another suspension or revocation under certain circumstances; requiring certain procedures; prohibiting the Administration from declining to order, or canceling or modifying a license suspension under this Act; requiring the Administration to return a license suspended under this Act under certain circumstances; providing for certain mandatory minimum criminal penalties for subsequent convictions of driving under the influence of alcohol or under the influence of alcohol per se within a certain period; altering a certain definition of “imprisonment” for purposes of certain mandatory minimum criminal penalties for subsequent offenses of driving under the influence of alcohol or under the influence of alcohol per se; requiring a court to order a certain alcohol abuse assessment for a person who is convicted of a second or subsequent offense of driving while under the influence of alcohol or under the influence of alcohol per se within a certain period and to order the person to receive alcohol abuse treatment under certain circumstances; providing for a certain modification of a suspension and the issuance of a restrictive license or modification of an ignition interlock system maintenance requirement by the Administration

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contingent on certain changes to federal law; providing for a certain certification by the Motor Vehicle Administration; providing for the effective date of this Act; and generally relating to administrative and criminal penalties for subsequent offenses of driving while under the influence of alcohol or under the influence of alcohol per se under certain circumstances.”.

AMENDMENT NO. 2

On page 1, after line 17, insert:

“BY adding to

Article - Transportation

Section 16-205(e)

Annotated Code of Maryland

(1999 Replacement Volume and 2001 Supplement)”;

and strike in its entirety line 20 and substitute “Section 16-205(e) and (f), 16-404.1(e)(1), 16-405(a), and 27-101(j)”.

AMENDMENT NO. 3

On page 2, strike in their entirety lines 5 through 21, inclusive; and after line 21, insert:

“(E) (1) IN THIS SUBSECTION, “MOTOR VEHICLE” DOES NOT INCLUDE A COMMERCIAL MOTOR VEHICLE.

(2) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE ADMINISTRATION SHALL SUSPEND FOR 1 YEAR THE LICENSE OF A PERSON WHO IS CONVICTED OF A VIOLATION OF § 21-902(A) OF THIS ARTICLE MORE THAN ONCE WITHIN A 5-YEAR PERIOD.

(3) ON RECEIVING A RECORD OF A CONVICTION OF A PERSON FOR A VIOLATION OF § 21-902(A) OF THIS ARTICLE MORE THAN ONCE WITHIN A 5-YEAR PERIOD, THE ADMINISTRATION SHALL ISSUE TO THE PERSON A NOTICE OF SUSPENSION OF THE PERSON’S LICENSE THAT:

(I) STATES THAT THE PERSON'S LICENSE SHALL BE SUSPENDED FOR 1 YEAR; AND

(II) ADVISES THE PERSON OF THE RIGHT TO REQUEST A HEARING UNDER THIS PARAGRAPH.

(4) AFTER NOTICE UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE ADMINISTRATION SHALL SUSPEND A PERSON'S LICENSE UNDER THIS SUBSECTION IF:

(I) THE PERSON DOES NOT REQUEST A HEARING;

(II) AFTER A HEARING, THE ADMINISTRATION FINDS THAT THE PERSON WAS CONVICTED OF MORE THAN ONE VIOLATION OF § 21-902(A) OF THIS ARTICLE WITHIN A 5-YEAR PERIOD; OR

(III) THE PERSON FAILS TO APPEAR FOR A HEARING REQUESTED BY THE PERSON.

(5) THE ADMINISTRATION SHALL, WITHIN 60 DAYS OF THE EXPIRATION OF THE 1-YEAR PERIOD OF SUSPENSION, ISSUE TO THE PERSON A NOTICE, UNLESS THIS NOTICE REQUIREMENT WAS WAIVED AT A HEARING DESCRIBED IN PARAGRAPH (4) OF THIS SUBSECTION, THAT:

(I) STATES THAT THE PERSON SHALL MAINTAIN FOR NOT LESS THAN 3 MONTHS AND NOT MORE THAN 1 YEAR, DATING FROM THE EXPIRATION OF THE 1-YEAR PERIOD OF SUSPENSION, AN IGNITION INTERLOCK SYSTEM ON EACH MOTOR VEHICLE OWNED AND OPERATED BY THE PERSON;

(II) STATES THAT THE ADMINISTRATION SHALL IMPOSE A RESTRICTION ON THE PERSON'S LICENSE THAT PROHIBITS THE PERSON FROM DRIVING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM FOR A PERIOD OF NOT LESS THAN 3 MONTHS AND NOT MORE THAN 1 YEAR,

DATING FROM THE EXPIRATION OF THE 1-YEAR PERIOD OF SUSPENSION; AND
(III) ADVISES THE PERSON OF THE RIGHT TO REQUEST A
HEARING UNDER THIS PARAGRAPH.

(6) AFTER NOTICE UNDER PARAGRAPH (5) OF THIS SUBSECTION, OR
A WAIVER OF NOTICE, THE ADMINISTRATION SHALL ORDER A PERSON TO
MAINTAIN FOR NOT LESS THAN 3 MONTHS AND NOT MORE THAN 1 YEAR, DATING
FROM THE EXPIRATION OF THE 1-YEAR PERIOD OF SUSPENSION, AN IGNITION
INTERLOCK SYSTEM ON EACH MOTOR VEHICLE OWNED AND OPERATED BY THE
PERSON AND IMPOSE A LICENSE RESTRICTION THAT PROHIBITS THE PERSON FROM
DRIVING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK
SYSTEM IF:

(I) THE PERSON DOES NOT REQUEST A HEARING;

(II) THE ADMINISTRATION FINDS AT A HEARING THAT THE
PERSON OWNS ONE OR MORE MOTOR VEHICLES AND THAT NO FINANCIAL
HARDSHIP, AS DESCRIBED IN PARAGRAPHS (7) AND (8) OF THIS SUBSECTION, WILL
BE CREATED BY REQUIRING THE PERSON TO MAINTAIN AN IGNITION INTERLOCK
SYSTEM ON EACH MOTOR VEHICLE OWNED AND OPERATED BY THE PERSON; OR

(III) THE PERSON FAILS TO APPEAR FOR A HEARING
REQUESTED BY THE PERSON.

(7) IF THE ADMINISTRATION FINDS AT A HEARING THAT
MAINTENANCE OF AN IGNITION INTERLOCK SYSTEM ON A MOTOR VEHICLE OWNED
AND OPERATED BY THE PERSON CREATES A FINANCIAL HARDSHIP ON THE PERSON,
THE FAMILY OF THE PERSON, OR A CO-OWNER OF THE MOTOR VEHICLE, THE
ADMINISTRATION:

(I) SHALL IMPOSE A RESTRICTION ON THE LICENSE OF THE
PERSON FOR NOT LESS THAN 3 MONTHS AND NOT MORE THAN 1 YEAR, DATING
FROM THE EXPIRATION OF THE 1-YEAR PERIOD OF SUSPENSION, THAT PROHIBITS
THE PERSON FROM DRIVING ANY MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN

IGNITION INTERLOCK SYSTEM; AND

(II) MAY NOT REQUIRE THE PERSON TO MAINTAIN AN IGNITION INTERLOCK SYSTEM ON ANY MOTOR VEHICLE TO WHICH THE FINANCIAL HARDSHIP APPLIES.

(8) AN EXEMPTION UNDER PARAGRAPH (7)(II) OF THIS SUBSECTION APPLIES ONLY UNDER CIRCUMSTANCES THAT:

(I) ARE SPECIFIC TO THE PERSON'S MOTOR VEHICLE; AND

(II) MEET CRITERIA CONTAINED IN REGULATIONS THAT SHALL BE ADOPTED BY THE ADMINISTRATION.

(9) IF A PERSON REQUESTS A HEARING AND THE ADMINISTRATION FINDS THAT THE PERSON DOES NOT OWN A MOTOR VEHICLE AT THE EXPIRATION OF THE 1-YEAR PERIOD OF SUSPENSION, THE ADMINISTRATION SHALL IMPOSE A RESTRICTION ON THE LICENSE OF THE PERSON FOR NOT LESS THAN 3 MONTHS AND NOT MORE THAN 1 YEAR, DATING FROM THE EXPIRATION OF THE 1-YEAR PERIOD OF SUSPENSION, THAT PROHIBITS THE PERSON FROM DRIVING ANY MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM.

(10) EACH NOTICE AND HEARING UNDER THIS SUBSECTION SHALL MEET THE REQUIREMENTS OF TITLE 12, SUBTITLE 2 OF THIS ARTICLE.

(11) THIS SUBSECTION DOES NOT LIMIT ANY PROVISION OF THIS ARTICLE THAT ALLOWS OR REQUIRES THE ADMINISTRATION TO:

(I) REVOKE OR SUSPEND A LICENSE OF A PERSON; OR

(II) PROHIBIT A PERSON FROM DRIVING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM.

(12) A SUSPENSION IMPOSED UNDER THIS SUBSECTION SHALL BE

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CONCURRENT WITH ANY OTHER SUSPENSION OR REVOCATION IMPOSED BY THE ADMINISTRATION THAT ARISES OUT OF THE CIRCUMSTANCES OF THE CONVICTION FOR A VIOLATION OF § 21-902(A) OF THIS ARTICLE DESCRIBED IN THIS SUBSECTION.”.

AMENDMENT NO. 4

On page 2, in line 22, strike “(e)” and substitute “(F)”; in line 29, strike “(D)” and substitute “(E)”; in line 30, strike “(f)” and substitute “(G)”; in the same line, in each instance, strike the bracket; in the same line, strike “SUBJECT TO § 16-404(C)(5) OF THIS TITLE, WHEN”; and in line 31, strike “and (d)” and substitute “, (D), OR (E)”.

On pages 2 through 6, strike in their entirety the lines beginning with line 35 on page 2 through line 25 on page 6, inclusive, and substitute:

“16-404.1.

(e) (1) For purposes of an ignition interlock system used under § 16-205(E) OF THIS TITLE, this section [or under], OR a court order under § 27-107 of this article, the Administration shall permit only the use of an ignition interlock system that meets or exceeds the technical standards for breath alcohol ignition interlock devices published in the Federal Register from time to time.”.

AMENDMENT NO. 5

On page 6, in line 27, strike “§ 16-205.1” and substitute “§§ 16-205(E) AND 16-205.1”; and strike beginning with “AND” in line 27 down through “SECTION” in line 28.

On pages 6 and 7, strike beginning with line 32 on page 6 through line 5 on page 7, inclusive.

AMENDMENT NO. 6

On page 7, in line 7, strike “MEANS” and substitute “INCLUDES CONFINEMENT IN”; in line 8, strike “CONFINEMENT in an” and substitute “AN”; and strike beginning with “ON” in line 10 down through “HYGIENE” in line 13 and substitute “THAT INCLUDES ELECTRONIC MONITORING”.

AMENDMENT NO. 7

On page 7, in line 14, strike “SECOND”; in the same line, in each instance, strike the bracket; in line 15, strike the second set of brackets; in line 16, strike “SECTION”; in line 17, strike “120 hours” and substitute “5 DAYS”; in line 18, strike “AND” and substitute “OR”; strike beginning with “AS” in line 19 down through “DAYS” in line 21; in line 23, strike “§ 21-902” and substitute “§ 21-902(A)”; strike beginning with “AFTER” in line 23 down through “SECTION” in line 24; in line 26, strike “AND” and substitute “OR”; strike beginning with “AS” in line 27 down through “DAYS” in line 29; in line 30, strike “A SECOND OR SUBSEQUENT” and substitute “AN”; in line 31, strike “§ 21-902” and substitute “§ 21-902(A)”; in line 32, strike “SECTION” and substitute “SUBSECTION”; in line 33, strike “DRUG AND”; and in the same line, after “ALCOHOL” insert “ABUSE”.

On page 8, in line 2, strike “A DRUG OR” and substitute “AN”; in line 3, after “HYGIENE” insert “AS ORDERED BY THE COURT”; and strike beginning with “BEFORE” in line 5 down through “ARTICLE” in line 6.

AMENDMENT NO. 8

On page 8, after line 6, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of § 16-205(e) of the Transportation Article, the Motor Vehicle Administration may modify a suspension imposed under that subsection and issue a restrictive license or modify any ignition interlock system maintenance requirement or both to the extent that enactment of any amendments to 23 U.S.C. § 154, or enactment of any other federal statute or adoption of any federal regulation, allows a state statute to include that authority to modify a suspension and issue a restrictive license or modify any ignition interlock maintenance requirement or both.

SECTION 3. AND BE IT FURTHER ENACTED, That the Motor Vehicle Administration shall certify to the General Assembly and the Office of Administrative Hearings whether any federal statute enacted or regulation adopted on or after April 1, 2002, satisfies the contingency described in Section 2 of this Act.”;

and in line 7, strike “2.” and substitute “4.”.