

SENATE BILL 352

Unofficial Copy
R3

2002 Regular Session
(2r1616)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senator Jimeno and Chairman, Judicial Proceedings Committee (Departmental - Transportation) and Senators Astle, Collins, DeGrange, Dorman, Forehand, Haines, Harris, Hollinger, Hooper, Jacobs, Kasemeyer, Lawlah, Munson, Roesser, Ruben, Teitelbaum, and ~~Van Hollen~~ Van Hollen, Colburn, Hogan, and Kelley**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

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

3 ~~FOR the purpose of requiring the Motor Vehicle Administration to suspend for a~~
4 ~~certain period the license of a person convicted of certain repeat alcohol or~~
5 ~~drug related driving offenses within a certain period; prohibiting the~~
6 ~~Administration from issuing a restrictive license or modifying a suspension~~
7 ~~during certain mandatory periods of suspension; altering the penalties for a~~
8 ~~person convicted of repeated offenses of driving while under the influence or~~
9 ~~under the influence per se and driving while impaired by alcohol, drugs, or a~~
10 ~~combination of alcohol and drugs under certain circumstances; requiring the use~~
11 ~~of an ignition interlock system under certain circumstances; altering the period~~
12 ~~of certain license suspensions imposed under certain circumstances; altering the~~
13 ~~time period for filing a reinstatement application for a driver's license or~~

1 privilege to drive under certain circumstances; making conforming changes;
2 making a technical correction of an obsolete reference; providing for the effective
3 date of this Act; making a stylistic change; and generally relating to penalties for
4 drunk and drugged driving repeat offenders.

5 FOR the purpose of requiring the Motor Vehicle Administration to suspend for a
6 certain period the license to drive of a person who is convicted within a certain
7 period of a second or subsequent offense of driving while under the influence of
8 alcohol or under the influence of alcohol per se; requiring a person whose license
9 is suspended under this Act to maintain for a certain period a certain ignition
10 interlock system on each motor vehicle owned ~~and operated~~ by the person;
11 providing for a certain financial hardship exception; requiring the
12 Administration to adopt certain regulations; requiring the Administration to
13 impose an ignition interlock system restriction on a license under certain
14 circumstances; defining a certain term; providing that a license suspension
15 imposed under this Act shall be concurrent with another suspension or revocation
16 under certain circumstances; requiring certain procedures; prohibiting the
17 Administration from declining to order, or canceling or modifying a license
18 suspension under this Act; requiring the Administration to return a license
19 suspended under this Act under certain circumstances; providing for certain
20 mandatory minimum criminal penalties for subsequent convictions of driving
21 under the influence of alcohol or under the influence of alcohol per se within a
22 certain period; altering a certain definition of "imprisonment" for purposes of
23 certain mandatory minimum criminal penalties for subsequent offenses of
24 driving under the influence of alcohol or under the influence of alcohol per se;
25 requiring a court to order a certain alcohol abuse assessment for a person who is
26 convicted of a second or subsequent offense of driving while under the influence of
27 alcohol or under the influence of alcohol per se within a certain period and to
28 order the person to receive alcohol abuse treatment under certain circumstances;
29 providing for a certain modification of a suspension and the issuance of a
30 restrictive license or modification of an ignition interlock system maintenance
31 requirement by the Administration contingent on certain changes to federal law;
32 providing for a certain certification by the Motor Vehicle Administration;
33 providing for the effective date of this Act; and generally relating to
34 administrative and criminal penalties for subsequent offenses of driving while
35 under the influence of alcohol or under the influence of alcohol per se under
36 certain circumstances.

37 BY adding to
38 Article - Transportation
39 Section 16-205(e)
40 Annotated Code of Maryland
41 (1999 Replacement Volume and 2001 Supplement)

42 BY repealing and reenacting, with amendments,
43 Article - Transportation
44 Section 16-205(d), (e), and (f), 16-208(b), 16-404, 16-405, and 27-101(j)

1 Section 16-205(e) and (f), 16-404.1(e)(1), 16-405(a), and 27-101(j)
 2 Annotated Code of Maryland
 3 (1999 Replacement Volume and 2001 Supplement)

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

6 **Article - Transportation**

7 16-205.

8 (d) The Administration [may] SHALL suspend for [not more than 120 days] 1
 9 YEAR the license of any person who, within a [3-year] 5 YEAR period, is convicted
 10 under § 21-902(b) or (c) of this article of driving or attempting to drive a motor vehicle
 11 while impaired by alcohol or while so far impaired by any drug, any combination of
 12 drugs, or a combination of one or more drugs and alcohol that the person cannot drive
 13 a motor vehicle safely and who was previously convicted of a violation under:

14 (1) § 21-902(a) of this article of driving or attempting to drive a motor
 15 vehicle while under the influence of alcohol or while under the influence of alcohol per
 16 se;

17 (2) § 21-902(b) of this article of driving or attempting to drive a motor
 18 vehicle while impaired by alcohol;

19 (3) § 21-902(c) of this article of driving or attempting to drive a motor
 20 vehicle while so far impaired by any drug, any combination of drugs, or a combination
 21 of one or more drugs and alcohol that the person cannot drive a motor vehicle safely;
 22 or

23 (4) § 21-902(d) of this article of driving or attempting to drive a motor
 24 vehicle while impaired by a controlled dangerous substance.

25 (E) (1) IN THIS SUBSECTION, "MOTOR VEHICLE" DOES NOT INCLUDE A
 26 COMMERCIAL MOTOR VEHICLE.

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

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

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

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

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

6 (I) THE PERSON DOES NOT REQUEST A HEARING;

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

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

12 (5) THE ADMINISTRATION SHALL, WITHIN ~~60~~ 90 DAYS OF THE
13 EXPIRATION OF THE 1-YEAR PERIOD OF SUSPENSION, ISSUE TO THE PERSON A
14 NOTICE, UNLESS THIS NOTICE REQUIREMENT WAS WAIVED AT A HEARING
15 DESCRIBED IN PARAGRAPH (4) OF THIS SUBSECTION, THAT:

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

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

25 (III) ADVISES THE PERSON OF THE RIGHT TO REQUEST A HEARING
26 UNDER THIS PARAGRAPH.

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

34 (I) THE PERSON DOES NOT REQUEST A HEARING;

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (12) A SUSPENSION IMPOSED UNDER THIS SUBSECTION SHALL BE
35 CONCURRENT WITH ANY OTHER SUSPENSION OR REVOCATION IMPOSED BY THE
36 ADMINISTRATION THAT ARISES OUT OF THE CIRCUMSTANCES OF THE CONVICTION
37 FOR A VIOLATION OF § 21-902(A) OF THIS ARTICLE DESCRIBED IN THIS SUBSECTION.

1 ~~(e)~~ (F) (1) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
 2 Administration may modify any suspension under this section or any suspension
 3 under § 16-205.1 of this [article] SUBTITLE and issue a restrictive license to a
 4 licensee who participates in the Ignition Interlock System Program established under
 5 § 16-404.1 of this title.

6 (2) THE ADMINISTRATION MAY NOT MODIFY A SUSPENSION AND ISSUE
 7 A RESTRICTIVE LICENSE DURING A MANDATORY PERIOD OF SUSPENSION
 8 DESCRIBED IN SUBSECTION ~~(D)~~ (E) OF THIS SECTION.

9 ~~(f)~~ (G) {When} ~~SUBJECT TO § 16-404(C)(5) OF THIS TITLE, WHEN~~ a
 10 suspension imposed under subsections (c) ~~and (d), (D), OR (E)~~ of this section expires,
 11 the Administration immediately shall return the license or reinstate the privilege of
 12 the driver, unless the license or privilege has been refused, revoked, suspended, or
 13 canceled under any other provisions of the Maryland Vehicle Law.

14 ~~16-208.~~

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

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

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

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

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

38 (4) ~~(i)~~ If it is the individual's third revocation, the individual may file
 39 a reinstatement application at any time after 18 months from the day the revoked
 40 license is surrendered to and received by the Administration or, in the case of an

1 individual who does not have a license issued under this title, after 18 months from
2 the effective date of revocation.

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

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

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

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

15 (ii) 1. In this subparagraph, "alcohol related or drug related
16 driving incident" means a:

17 A. Conviction or probation before judgment for a violation of
18 § 21-902(a), (b), (c), or (d) of this article or a substantially similar law of another
19 jurisdiction;

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

22 C. Test result that indicates an alcohol concentration of 0.10
23 0.08 or more at the time of testing under § 16-205.1 of this title or a substantially
24 similar law of another jurisdiction.

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

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

34 A. Involved in any combination of three or more separate
35 alcohol related or drug related driving incidents;

36 B. Involved in a vehicular accident resulting in the death of
37 another person; or

1 ~~C. Convicted of a violation for failing to stop after a vehicular~~
 2 ~~accident resulting in bodily injury or death.~~

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

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

11 ~~16-404.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (2) Subject to the provisions of paragraph [(3)] (4) of this subsection, the
10 following suspension periods may apply to a suspension for an accumulation of points
11 under § 16-402(a)(24) of this subtitle for a violation of § 21-902(b) or (c) of this article
12 or a suspension imposed under § 16-404.1(b)(4)(iii) of this subtitle:

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

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

16 (3) ~~THE FOLLOWING SUSPENSION PERIODS SHALL APPLY TO A~~
17 ~~SUSPENSION FOR AN ACCUMULATION OF POINTS UNDER § 16-402(A)(24) OF THIS~~
18 ~~SUBTITLE FOR A CONVICTION UNDER § 21-902(B) OR (C) OF THIS ARTICLE OR A~~
19 ~~SUSPENSION IMPOSED UNDER § 16-404.1(B)(4)(III) OF THIS SUBTITLE:~~

20 [(iii)] (I) For a second conviction less than 5 years after the date of
21 the first conviction UNDER § 21-902 OF THIS ARTICLE or for a third conviction UNDER
22 § 21-902 OF THIS ARTICLE, [not more than] 12 months; and

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

25 [(3)] (4) [The] SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION, THE
26 Administration may issue a restrictive license for the period of the suspension to an
27 individual who participates in the Administration's Ignition Interlock System
28 Program under § 16-404.1 of this subtitle.

29 [(4)] (5) [This] SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION, THIS
30 subsection does not limit the authority of the Administration to issue a restrictive
31 license or modify a suspension imposed under this subsection.

32 (6) ~~THE ADMINISTRATION MAY NOT ISSUE A RESTRICTIVE LICENSE OR~~
33 ~~MODIFY A SUSPENSION DURING A MANDATORY PERIOD OF SUSPENSION DESCRIBED~~
34 ~~UNDER PARAGRAPH (3) OF THIS SUBSECTION.~~

35 (7) ~~IF THE SUSPENSION OR REVOCATION IS DUE TO A SECOND OR~~
36 ~~SUBSEQUENT CONVICTION LESS THAN 5 YEARS FROM THE DATE OF THE FIRST~~
37 ~~CONVICTION UNDER § 21-902 OF THIS ARTICLE, RESTORATION OF THE INDIVIDUAL'S~~

1 ~~DRIVING PRIVILEGE SHALL BE CONDITIONED ON THE INDIVIDUAL'S MAINTENANCE~~
 2 ~~OF AN IGNITION INTERLOCK SYSTEM FOR NOT LESS THAN 12 MONTHS ON ALL~~
 3 ~~VEHICLES OWNED OR OPERATED BY THE INDIVIDUAL.~~

4 16-404.1.

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

10 16-405.

11 (a) Except as provided in ~~§ 16-205.1~~ §§ 16-205(E) AND 16-205.1 of this title ~~AND~~
 12 ~~SUBSECTION (B) OF THIS SECTION~~, if the suspension or revocation of a license would
 13 affect adversely the employment or opportunity for employment of a licensee, the
 14 hearing officer may:

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

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

17 (b) ~~SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO A MANDATORY~~
 18 ~~PERIOD OF SUSPENSION UNDER § 16-404(C)(3) OF THIS SUBTITLE OR A REVOCATION~~
 19 ~~FOR A SECOND OR SUBSEQUENT CONVICTION UNDER § 21-902 OF THIS ARTICLE~~
 20 ~~WITHIN A 5-YEAR PERIOD.~~

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

23 (1) ~~Suspension requires 16 points; and~~

24 (2) ~~Revocation requires 19 points.~~

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

28 27-101.

29 (j) (1) In this subsection, "imprisonment" ~~includes confinement~~ MEANS
 30 INCLUDES CONFINEMENT IN:

31 (I) CONFINEMENT in an AN inpatient rehabilitation or treatment
 32 center; OR

33 (II) HOME DETENTION ON THE TERMS AND CONDITIONS THAT
 34 CONSTITUTE RESIDENTIAL CONFINEMENT FOR THE PURPOSE OF PARTICIPATING IN
 35 A DRUG AND ALCOHOL TREATMENT PROGRAM CERTIFIED BY THE DEPARTMENT OF
 36 HEALTH AND MENTAL HYGIENE THAT INCLUDES ELECTRONIC MONITORING.

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

4 (i) Imprisonment for not less than [48 consecutive] ~~120 hours~~ 5
 5 ~~DAYS; or AND OR~~

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

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

13 (I) IMPRISONMENT FOR NOT LESS THAN 10 DAYS; ~~OR AND OR~~

14 (II) COMMUNITY SERVICE FOR NOT LESS THAN 60 DAYS ~~AS A~~
 15 ~~MANDATORY CONDITION OF PROBATION OR A SUSPENDED SENTENCE OF NOT LESS~~
 16 ~~THAN 10 DAYS.~~

17 (4) A PERSON WHO IS CONVICTED OF ~~A SECOND OR SUBSEQUENT AN~~
 18 OFFENSE UNDER ~~§ 21-902~~ § 21-902(A) OF THIS ARTICLE WITHIN 5 YEARS OF A PRIOR
 19 CONVICTION OF ANY OFFENSE UNDER THAT ~~SECTION~~ SUBSECTION SHALL BE
 20 REQUIRED BY THE COURT TO:

21 (I) UNDERGO A COMPREHENSIVE ~~DRUG AND~~ ALCOHOL ABUSE
 22 ASSESSMENT; AND

23 (II) IF RECOMMENDED AT THE CONCLUSION OF THE ASSESSMENT,
 24 PARTICIPATE IN ~~A DRUG OR AN~~ ALCOHOL PROGRAM CERTIFIED BY THE
 25 DEPARTMENT OF HEALTH AND MENTAL HYGIENE AS ORDERED BY THE COURT.

26 [(3)] (5) The penalties provided by this subsection are mandatory and
 27 are not subject to suspension or probation ~~BEFORE JUDGMENT UNDER § 6-220 OF THE~~
 28 ~~CRIMINAL PROCEDURE ARTICLE.~~

29 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the
 30 provisions of § 16-205(e) of the Transportation Article, the Motor Vehicle
 31 Administration may modify a suspension imposed under that subsection and issue a
 32 restrictive license or modify any ignition interlock system maintenance requirement or
 33 both to the extent that enactment of any amendments to 23 U.S.C. ~~§ 154~~ § 164, or
 34 enactment of any other federal statute or adoption of any federal regulation, allows a
 35 state statute to include that authority to modify a suspension and issue a restrictive
 36 license or modify any ignition interlock maintenance requirement or both.

37 SECTION 3. AND BE IT FURTHER ENACTED, That the Motor Vehicle
 38 Administration shall certify to the General Assembly and the Office of Administrative

1 Hearings whether any federal statute enacted or regulation adopted on or after April 1,
2 2002, satisfies the contingency described in Section 2 of this Act.

3 SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect September 30, 2002.