

SENATE BILL 352

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R3

2002 Regular Session
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CF HB 4

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

Introduced and read first time: January 28, 2002
Assigned to: Judicial Proceedings

A BILL ENTITLED

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
14 privilege to drive under certain circumstances; making conforming changes;
15 providing for the effective date of this Act; making a stylistic change; and
16 generally relating to penalties for drunk and drugged driving repeat offenders.

17 BY repealing and reenacting, with amendments,
18 Article - Transportation
19 Section 16-205(d), (e), and (f), 16-208(b), 16-404, 16-405, and 27-101(j)
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 2001 Supplement)

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

1

Article - Transportation

2 16-205.

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

9 (1) § 21-902(a) of this article of driving or attempting to drive a motor
10 vehicle while under the influence of alcohol or while under the influence of alcohol per
11 se;

12 (2) § 21-902(b) of this article of driving or attempting to drive a motor
13 vehicle while impaired by alcohol;

14 (3) § 21-902(c) of this article of driving or attempting to drive a motor
15 vehicle while so far impaired by any drug, any combination of drugs, or a combination
16 of one or more drugs and alcohol that the person cannot drive a motor vehicle safely;
17 or

18 (4) § 21-902(d) of this article of driving or attempting to drive a motor
19 vehicle while impaired by a controlled dangerous substance.

20 (e) (1) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
21 Administration may modify any suspension under this section or any suspension
22 under § 16-205.1 of this [article] SUBTITLE and issue a restrictive license to a
23 licensee who participates in the Ignition Interlock System Program established under
24 § 16-404.1 of this title.

25 (2) THE ADMINISTRATION MAY NOT MODIFY A SUSPENSION AND ISSUE
26 A RESTRICTIVE LICENSE DURING A MANDATORY PERIOD OF SUSPENSION
27 DESCRIBED IN SUBSECTION (D) OF THIS SECTION.

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

33 16-208.

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

37 (2) (i) If it is the individual's first revocation, the individual may file a
38 reinstatement application at any time after the day the revoked license is

1 surrendered to and received by the Administration or, in the case of an individual who
2 does not have a license issued under this title, after the effective date of the
3 revocation.

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

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

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

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

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

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

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

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

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

38 A. Conviction or probation before judgment for a violation of
39 § 21-902(a), (b), (c), or (d) of this article or a substantially similar law of another
40 jurisdiction;

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

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

6 2. Alcohol-related or drug-related driving incidents
7 committed at the same time or arising out of the same circumstances may not be
8 considered separate alcohol-related or drug-related driving incidents for the purpose
9 of this subparagraph.

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

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

17 B. Involved in a vehicular accident resulting in the death of
18 another person; or

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

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

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

29 16-404.

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

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

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

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

1 (i) Suspend the license of each individual who accumulates 8
2 points; and

3 (ii) Revoke the license of each individual who accumulates 12
4 points.

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

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

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

10 (2) Each notice shall:

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

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

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

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

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

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

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

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

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

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

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

1 [(iii)] (I) For a second conviction less than 5 years after the date of
2 the first conviction UNDER § 21-902 OF THIS ARTICLE or for a third conviction UNDER
3 § 21-902 OF THIS ARTICLE, [not more than] 12 months; and

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

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

10 [(4)] (5) [This] SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION, THIS
11 subsection does not limit the authority of the Administration to issue a restrictive
12 license or modify a suspension imposed under this subsection.

13 (6) THE ADMINISTRATION MAY NOT ISSUE A RESTRICTIVE LICENSE OR
14 MODIFY A SUSPENSION DURING A MANDATORY PERIOD OF SUSPENSION DESCRIBED
15 UNDER PARAGRAPH (3) OF THIS SUBSECTION.

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

22 16-405.

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

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

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

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

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

34 (1) Suspension requires 16 points; and

35 (2) Revocation requires 19 points.

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

4 27-101.

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

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

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

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

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

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

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

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

25 (I) UNDERGO A COMPREHENSIVE DRUG AND ALCOHOL
26 ASSESSMENT; AND

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

30 [(3)] (5) The penalties provided by this subsection are mandatory and
31 are not subject to suspension or probation BEFORE JUDGMENT UNDER § 6-220 OF THE
32 CRIMINAL PROCEDURE ARTICLE.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 September 30, 2002.