

SENATE BILL 352

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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**

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

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 19, 2002

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

18 BY repealing and reenacting, with amendments,  
19 Article - Transportation  
20 Section 16-205(d), (e), and (f), 16-208(b), 16-404, 16-405, and 27-101(j)  
21 Annotated Code of Maryland  
22 (1999 Replacement Volume and 2001 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 16-205.

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

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

14 (2) § 21-902(b) of this article of driving or attempting to drive a motor  
15 vehicle while impaired by alcohol;

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

20 (4) § 21-902(d) of this article of driving or attempting to drive a motor  
21 vehicle while impaired by a controlled dangerous substance.

22 (e) (1) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE  
23 Administration may modify any suspension under this section or any suspension  
24 under § 16-205.1 of this [article] SUBTITLE and issue a restrictive license to a  
25 licensee who participates in the Ignition Interlock System Program established under  
26 § 16-404.1 of this title.

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

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

35 16-208.

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

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

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

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

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

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

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

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

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

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

1                                   A.       Conviction or probation before judgment for a violation of  
2 § 21-902(a), (b), (c), or (d) of this article or a substantially similar law of another  
3 jurisdiction;

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

6                                   C.       Test result that indicates an alcohol concentration of ~~0.10~~  
7 0.08 or more at the time of testing under § 16-205.1 of this title or a substantially  
8 similar law of another jurisdiction.

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

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

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

20                                  B.       Involved in a vehicular accident resulting in the death of  
21 another person; or

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

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

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

32 16-404.

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

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

36                   (2)       Require attendance at a conference by each individual who  
37 accumulates 5 points, except that a Class A, B, or C licensee who submits evidence

1 acceptable to the Administration that he is a professional driver may not be called in  
2 until he accumulates 8 points; and

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

4 (i) Suspend the license of each individual who accumulates 8  
5 points; and

6 (ii) Revoke the license of each individual who accumulates 12  
7 points.

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

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

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

13 (2) Each notice shall:

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

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

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

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

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

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

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

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

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

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

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

5 [(iii)] (I) For a second conviction less than 5 years after the date of  
6 the first conviction UNDER § 21-902 OF THIS ARTICLE or for a third conviction UNDER  
7 § 21-902 OF THIS ARTICLE, [not more than] 12 months; and

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

10 [(3)] (4) [The] SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION, THE  
11 Administration may issue a restrictive license for the period of the suspension to an  
12 individual who participates in the Administration's Ignition Interlock System  
13 Program under § 16-404.1 of this subtitle.

14 [(4)] (5) [This] SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION, THIS  
15 subsection does not limit the authority of the Administration to issue a restrictive  
16 license or modify a suspension imposed under this subsection.

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

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

26 16-405.

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

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

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

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

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

1 (1) Suspension requires 16 points; and

2 (2) Revocation requires 19 points.

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

6 27-101.

7 (j) (1) In this subsection, "imprisonment" ~~includes confinement~~ MEANS:

8 (I) CONFINEMENT in an inpatient rehabilitation or treatment  
9 center; OR

10 (II) HOME DETENTION ON THE TERMS AND CONDITIONS THAT  
11 CONSTITUTE RESIDENTIAL CONFINEMENT FOR THE PURPOSE OF PARTICIPATING IN  
12 A DRUG AND ALCOHOL TREATMENT PROGRAM CERTIFIED BY THE DEPARTMENT OF  
13 HEALTH AND MENTAL HYGIENE.

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

17 (i) Imprisonment for not less than [48 consecutive] 120 hours; ~~or~~  
18 AND

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

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

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

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

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

33 (I) UNDERGO A COMPREHENSIVE DRUG AND ALCOHOL  
34 ASSESSMENT; AND

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

4 [(3)] (5) The penalties provided by this subsection are mandatory and  
5 are not subject to suspension or probation BEFORE JUDGMENT UNDER § 6-220 OF THE  
6 CRIMINAL PROCEDURE ARTICLE.

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