
By: **Senators Jimeno and DeGrange**
Introduced and read first time: February 1, 2002
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Drunk and Drugged Driving Offenses - Criminal Penalties, Testing,**
3 **Evidence, and Driving Restrictions**

4 FOR the purpose of establishing various penalties and driving restrictions for certain
5 alcohol-related driving offenses; authorizing a court to order a person who
6 causes the death of, or life threatening injury to, another as a result of negligent
7 driving while under the influence of alcohol, under the influence of alcohol per
8 se, or while impaired by alcohol not to drive or attempt to drive a motor vehicle
9 with alcohol in the person's blood; requiring a court to order a person who causes
10 the death of, or life threatening injury to, another as a result of negligent driving
11 while under the influence of alcohol or under the influence of alcohol per se with
12 a certain minimum alcohol concentration not to drive or attempt to drive a
13 motor vehicle with alcohol in the person's blood; requiring the Motor Vehicle
14 Administration to impose a certain alcohol restriction on a person's driver's
15 license under certain circumstances; authorizing the Administration to impose a
16 certain alcohol restriction for good cause on certain driving privileges of certain
17 unlicensed or nonresident individuals; requiring the Administration to impose a
18 certain alcohol restriction on certain driving privileges of certain unlicensed or
19 nonresident individuals under certain circumstances; authorizing a court to
20 order an individual not to drive or attempt to drive a motor vehicle with alcohol
21 in the individual's blood; repealing the right of a person under certain
22 circumstances to not be compelled to submit to a certain test for alcohol, drugs,
23 or controlled dangerous substances under certain circumstances; repealing a
24 prohibition against an inference or presumption concerning guilt or innocence
25 arising because of a person's refusal to submit to a certain test for alcohol, drugs,
26 or controlled dangerous substances; making a refusal of a person to submit to a
27 certain test for alcohol, drugs, or controlled dangerous substances under certain
28 circumstances a misdemeanor; requiring the Motor Vehicle Administration to
29 assess a certain number of points against the driver's license of a person who is
30 convicted of refusing to submit to a certain test for alcohol, drugs, or controlled
31 dangerous substances; prohibiting a court from staying the entry of judgment
32 and placing a defendant on probation if the defendant has been convicted of or
33 placed on probation for certain offenses within a certain number of years;
34 requiring the Administration to suspend a person's driver's license or driving
35 privilege for a certain period of time and impose a certain alcohol restriction for

1 a certain period of time based on a certain amount of tested alcohol
2 concentration under certain circumstances; increasing the period of suspension
3 for a driver's license or driving privilege for a certain alcohol concentration test
4 refusal under certain circumstances; making effective certain suspension orders
5 and certain alcohol restrictions on certain driver's licenses under certain
6 circumstances; requiring the suspension of, and alcohol restriction on, a driver's
7 license or driving privilege based on certain alcohol concentrations and the
8 number of offenses committed; prohibiting the Administration from modifying
9 certain suspensions or issuing restrictive licenses for certain persons who are
10 convicted, enter a plea of nolo contendere, or receive probation before judgment
11 for certain offenses; authorizing a court to order a person who drives a motor
12 vehicle while under the influence of alcohol, while under the influence of alcohol
13 per se, or while impaired by alcohol not to drive or attempt to drive a motor
14 vehicle with alcohol in the person's blood; requiring a court to order a person
15 who drives while under the influence of alcohol or under the influence of alcohol
16 per se with a certain minimum alcohol concentration not to drive or attempt to
17 drive a motor vehicle with alcohol in the person's blood; requiring the prior entry
18 of a certain plea for certain offenses to be considered a conviction of certain
19 offenses under certain circumstances; requiring that a person who enters a
20 certain plea for a certain violation within a certain time period after a prior
21 conviction or plea for a certain prior offense is subject to certain mandatory
22 minimum criminal penalties; requiring the prior entry of a certain plea for
23 certain offenses within a certain time period after a conviction or entry of a
24 certain plea to be considered a conviction of a certain offense under certain
25 circumstances; establishing certain penalties for a conviction or entry of a
26 certain plea for driving while under the influence of alcohol or under the
27 influence of alcohol per se based on a certain alcohol concentration; establishing
28 certain penalties for certain persons who enter certain pleas for certain
29 alcohol-related offenses while transporting a minor; defining certain terms;
30 establishing certain penalties; and generally relating to a person's refusal to
31 submit to a certain test for alcohol, drugs, or controlled dangerous substances
32 for certain alcohol- or drug-related driving offenses and to penalties and alcohol
33 restrictions for various alcohol-related driving offenses under certain
34 circumstances.

35 BY repealing and reenacting, without amendments,
36 Article - Criminal Law
37 Section 2-503 and 2-504
38 Annotated Code of Maryland
39 (As enacted by Chapter _____(H.B. 11) of the Acts of the General Assembly of
40 2002)

41 BY adding to
42 Article - Criminal Law
43 Section 2-504.1
44 Annotated Code of Maryland
45 (As enacted by Chapter _____(H.B. 11) of the Acts of the General Assembly of

1 (2) under the influence of alcohol per se.

2 (b) A violation of this section is:

3 (1) homicide by motor vehicle or vessel while under the influence of
4 alcohol; or

5 (2) homicide by motor vehicle or vessel while under the influence of
6 alcohol per se.

7 (c) A person who violates this section is guilty of a felony and on conviction is
8 subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.

9 2-504.

10 (a) A person may not cause the death of another as a result of the person's
11 negligently driving, operating, or controlling a motor vehicle or vessel while impaired
12 by alcohol.

13 (b) A violation of this section is homicide by motor vehicle or vessel while
14 impaired by alcohol.

15 (c) A person who violates this section is guilty of a felony and on conviction is
16 subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.
17 2-504.1.

18 (A) IN THIS SECTION, "PERSON" MEANS AN INDIVIDUAL WHO:

19 (1) IS CONVICTED OF A VIOLATION OF § 2-503 OR § 2-504 OF THIS
20 SUBTITLE;

21 (2) ENTERS A PLEA OF NOLO CONTENDERE FOR A VIOLATION OF § 2-503
22 OR § 2-504 OF THIS SUBTITLE;

23 (3) RECEIVES PROBATION BEFORE JUDGMENT FOR A VIOLATION OF §
24 2-503 OR § 2-504 OF THIS SUBTITLE; OR

25 (4) IS UNDER THE AGE OF 18 YEARS AND IS FOUND TO HAVE
26 COMMITTED A DELINQUENT ACT IN VIOLATION OF § 2-503 OR § 2-504 OF THIS
27 SUBTITLE.

28 (B) IN ADDITION TO ANY OTHER PENALTY OR SANCTION AUTHORIZED BY LAW
29 FOR A VIOLATION OF § 2-503 OR § 2-504 OF THIS SUBTITLE, A COURT:

30 (1) EXCEPT AS PROVIDED IN ITEM (2) OF THIS SUBSECTION, MAY ORDER
31 A PERSON WHO VIOLATES § 2-503 OR § 2-504 OF THIS SUBTITLE NOT TO DRIVE OR
32 ATTEMPT TO DRIVE A MOTOR VEHICLE WITH ALCOHOL IN THE PERSON'S BLOOD; OR

33 (2) IF A PERSON VIOLATES § 2-503 OF THIS SUBTITLE BY DRIVING OR
34 ATTEMPTING TO DRIVE A MOTOR VEHICLE WITH AN ALCOHOL CONCENTRATION OF

1 MORE THAN 0.16 AS DETERMINED BY AN ANALYSIS OF THE PERSON'S BLOOD OR
2 BREATH AT THE TIME OF TESTING UNDER §§ 10-302 THROUGH 10-309, INCLUSIVE, OF
3 THE COURTS ARTICLE, SHALL ORDER THE PERSON NOT TO DRIVE OR ATTEMPT TO
4 DRIVE A MOTOR VEHICLE WITH ALCOHOL IN THE PERSON'S BLOOD.

5 3-211.

6 (a) (1) In this section the following words have the meanings indicated.

7 (2) "Under the influence of alcohol per se" means having an alcohol
8 concentration at the time of testing of at least 0.08 as measured by grams of alcohol
9 per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

10 (3) (i) "Vessel" means any watercraft that is used or is capable of being
11 used as a means of transportation on water or ice.

12 (ii) "Vessel" does not include a seaplane.

13 (b) (1) For purposes of determining alcohol concentration under this section,
14 if the alcohol concentration is measured by milligrams of alcohol per deciliter of blood
15 or milligrams of alcohol per 100 milliliters of blood, a court shall convert the
16 measurement into grams of alcohol per 100 milliliters of blood by dividing the
17 measurement by 1000.

18 (2) The presumptions and evidentiary rules of §§ 10-302, 10-306,
19 10-307, and 10-308 of the Courts Article apply to a person charged under this section.

20 (c) (1) A person may not cause a life-threatening injury to another as a
21 result of the person's negligently driving, operating, or controlling of a motor vehicle
22 or vessel while the person is:

23 (i) under the influence of alcohol; or

24 (ii) under the influence of alcohol per se.

25 (2) A violation of this subsection is life-threatening injury by motor
26 vehicle or vessel while:

27 (i) under the influence of alcohol; or

28 (ii) under the influence of alcohol per se.

29 (3) A person who violates this subsection is guilty of a misdemeanor and
30 on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
31 \$5,000 or both.

32 (d) (1) A person may not cause a life-threatening injury to another as a
33 result of the person's negligently driving, operating, or controlling a motor vehicle or
34 vessel while the person is impaired by alcohol.

1 (2) A violation of this subsection is life-threatening injury by motor
2 vehicle or vessel while impaired by alcohol.

3 (3) A person who violates this subsection is guilty of a misdemeanor and
4 on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding
5 \$3,000 or both.

6 (e) (1) A person may not cause a life-threatening injury to another as a
7 result of the person's negligently driving, operating, or controlling a motor vehicle or
8 vessel while the person is so far impaired by a drug, a combination of drugs, or a
9 combination of one or more drugs and alcohol that the person cannot drive, operate, or
10 control a motor vehicle or vessel safely.

11 (2) A violation of this subsection is life-threatening injury by motor
12 vehicle or vessel while impaired by drugs.

13 (3) A person who violates this subsection is guilty of a misdemeanor and
14 on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding
15 \$3,000 or both.

16 (f) (1) This subsection does not apply to a person who is entitled to use the
17 controlled dangerous substance under the laws of the State.

18 (2) A person may not cause a life-threatening injury to another as a
19 result of the person's negligently driving, operating, or controlling a motor vehicle or
20 vessel while the person is impaired by a controlled dangerous substance as defined in
21 § 5-101 of this article.

22 (3) A violation of this subsection is life-threatening injury by motor
23 vehicle or vessel while impaired by a controlled dangerous substance.

24 (4) A person who violates this subsection is guilty of a misdemeanor and
25 on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding
26 \$3,000 or both.

27 (G) (1) IN THIS SUBSECTION, "PERSON" MEANS AN INDIVIDUAL WHO:

28 (I) IS CONVICTED OF A VIOLATION OF SUBSECTION (C) OR (D) OF
29 THIS SECTION;

30 (II) ENTERS A PLEA OF NOLO CONTENDERE FOR A VIOLATION OF
31 SUBSECTION (C) OR (D) OF THIS SECTION;

32 (III) RECEIVES PROBATION BEFORE JUDGMENT FOR A VIOLATION
33 OF SUBSECTION (C) OR (D) OF THIS SECTION; OR

34 (IV) IS UNDER THE AGE OF 18 YEARS AND IS FOUND TO HAVE
35 COMMITTED A DELINQUENT ACT IN VIOLATION OF SUBSECTION (C) OR (D) OF THIS
36 SECTION.

1 (2) IN ADDITION TO ANY OTHER PENALTY OR SANCTION AUTHORIZED
2 BY LAW FOR A VIOLATION OF SUBSECTION (C) OR (D) OF THIS SECTION, A COURT:

3 (I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS PARAGRAPH, MAY
4 ORDER A PERSON WHO VIOLATES SUBSECTION (C) OR (D) OF THIS SECTION NOT TO
5 DRIVE OR ATTEMPT TO DRIVE A MOTOR VEHICLE WITH ALCOHOL IN THE PERSON'S
6 BLOOD; OR

7 (II) IF A PERSON VIOLATES SUBSECTION (C) OF THIS SECTION BY
8 DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WITH AN ALCOHOL
9 CONCENTRATION OF MORE THAN 0.16 AS DETERMINED BY AN ANALYSIS OF THE
10 PERSON'S BLOOD OR BREATH AT THE TIME OF TESTING UNDER §§ 10-302 THROUGH
11 10-309, INCLUSIVE, OF THE COURTS ARTICLE, SHALL ORDER THE PERSON NOT TO
12 DRIVE OR ATTEMPT TO DRIVE A MOTOR VEHICLE WITH ALCOHOL IN THE PERSON'S
13 BLOOD.

14 **Article - Criminal Procedure**

15 6-220.

16 (d) Notwithstanding subsections (b) and (c) of this section, a court may not
17 stay the entering of judgment and place a defendant on probation for:

18 (1) a violation of § 16-205.1(O) OR § 21-902 of the Transportation Article,
19 if within the preceding 5 years the defendant has been convicted under or has been
20 placed on probation under [that section] EITHER OF THOSE SECTIONS after being
21 charged with a violation of § 16-205.1(O) OR § 21-902 of the Transportation Article;

22 (2) a second or subsequent controlled dangerous substance crime under
23 Article 27, §§ 276 through 303 of the Code; or

24 (3) a violation of any of the provisions of Article 27, §§ 462 through 464B
25 of the Code for a crime involving a person under the age of 16 years.

26 **Article - Courts and Judicial Proceedings**

27 10-309.

28 (a) (1) (i) [Except as provided in § 16-205.1(c) of the Transportation
29 Article, a] A person may [not] be compelled to submit to a test or tests provided for
30 in this subtitle.

31 (ii) Evidence of a test or analysis provided for in this subtitle is not
32 admissible in a prosecution for a violation of § 16-113 or § 21-902 of the
33 Transportation Article, § 8-738 of the Natural Resources Article, or Article 27, § 388,
34 § 388A, or § 388B of the Code if obtained contrary to the provisions of this subtitle.

35 (2) The fact of refusal to submit is admissible in evidence at the trial.

Article - Transportation

16-113.

(a) (1) In addition to the vision and other restrictions provided for in this subtitle, when it issues a driver's license, the Administration for good cause may impose on the licensee:

(i) Any restrictions suitable to the licensee's driving ability with respect to the type of special mechanical control devices required on motor vehicles that the licensee may drive;

(ii) An alcohol restriction which prohibits the licensee from driving or attempting to drive a motor vehicle while having alcohol in the licensee's blood; and

(iii) Any other restrictions applicable to the licensee that the Administration determines appropriate to assure the safe driving of a motor vehicle by the licensee.

(2) An alcohol restriction that prohibits the licensee from driving or attempting to drive a motor vehicle while having alcohol in the licensee's blood may, as described in subsections (b) and (g) of this section, include a restriction that prohibits the licensee from driving or attempting to drive a motor vehicle unless the licensee is a participant in the Ignition Interlock System Program established under § 16-404.1 of this title.

(3) (I) IF THE ADMINISTRATION IS REQUIRED TO IMPOSE AN ALCOHOL RESTRICTION UNDER § 16-205.1 OF THIS TITLE, THE ADMINISTRATION SHALL IMPOSE ON THE LICENSEE AN ALCOHOL RESTRICTION THAT PROHIBITS THE LICENSEE FROM DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WHILE HAVING ALCOHOL IN THE LICENSEE'S BLOOD.

(II) IF THE ADMINISTRATION ISSUES ANY DRIVING PRIVILEGE OTHER THAN A DRIVER'S LICENSE TO AN UNLICENSED OR NONRESIDENT INDIVIDUAL IN THE STATE, THE ADMINISTRATION:

1. MAY FOR GOOD CAUSE IMPOSE ON THE DRIVING PRIVILEGE AN ALCOHOL RESTRICTION THAT PROHIBITS THE INDIVIDUAL FROM DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WHILE HAVING ALCOHOL IN THE INDIVIDUAL'S BLOOD; OR

2. IF REQUIRED UNDER § 16-205.1 OF THIS TITLE, SHALL IMPOSE ON THE DRIVING PRIVILEGE AN ALCOHOL RESTRICTION THAT PROHIBITS THE INDIVIDUAL FROM DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WHILE HAVING ALCOHOL IN THE INDIVIDUAL'S BLOOD.

(b) (1) Notwithstanding the licensee's driving record, the Administration shall impose on each licensee under the age of 21 years an alcohol restriction that prohibits the licensee from driving or attempting to drive a motor vehicle while having alcohol in the licensee's blood.

1 (2) An alcohol restriction imposed under this subsection expires when
2 the licensee reaches the age of 21 years.

3 (3) This subsection may not be construed or applied to limit:

4 (i) The authority of the Administration to impose on a licensee an
5 alcohol restriction described in subsection (a)(2) of this section; or

6 (ii) The application of any other provision of law that prohibits
7 consumption of an alcoholic beverage by an individual under the age of 21 years.

8 (4) An individual under the age of 21 years who is convicted of a violation
9 of § 21-902(a), (b), or (c) of this article may be required, for a period of not more than
10 3 years, to participate in the Ignition Interlock System Program in order to retain the
11 individual's driver's license.

12 (c) (1) Subject to the provisions of paragraph (2) of this subsection, the
13 Administration may:

14 (i) Issue a special restricted license; or

15 (ii) Set forth the restrictions on the usual license form.

16 (2) The Administration shall indicate on the license of a licensee under
17 the age of 21 years that an alcohol restriction has been imposed on the licensee under
18 subsection (b) of this section.

19 (d) (1) Notwithstanding the licensee's driving record, the Administration
20 shall impose an hour restriction on a provisional driver's license issued to an
21 applicant under the age of 18.

22 (2) The restriction under this subsection shall limit the holder of a
23 provisional license to driving unsupervised only between the hours of 5 a.m. and 12
24 midnight.

25 (3) This subsection does not preclude the holder of a provisional license
26 from driving between the hours of 12 midnight and 5 a.m. the following day if the
27 licensee is:

28 (i) Accompanied and supervised by a licensed driver who is at least
29 21 years old;

30 (ii) Driving to or from or in the course of the licensee's employment;

31 (iii) Driving to or from a school class or official school activity;

32 (iv) Driving to or from an organized volunteer program; or

33 (v) Driving to or from an opportunity to participate in an athletic
34 event or related training session.

1 (4) The hour restriction and the supervision requirement under this
2 subsection expire on the date the holder of the provisional license turns 18 years of
3 age.

4 (d-1) (1) Notwithstanding the licensee's driving record, and subject to
5 paragraph (2) of this subsection, the Administration shall impose a restriction on each
6 provisional driver's license prohibiting the licensee from operating a motor vehicle if
7 the driver and each passenger in the motor vehicle are not restrained by a seat belt or,
8 in accordance with § 22-412.2 of this article, by a child safety seat.

9 (2) It is not a violation of the restriction under paragraph (1) of this
10 subsection if an individual covered by a medical exception under § 22-412.2(f) or §
11 22-412.3(d) and (e) of this article is not restrained.

12 (3) The restrictions under paragraph (1) of this subsection expire on the
13 date that the holder of a provisional license turns 18 years of age.

14 (e) (1) In addition to the other restrictions provided under this subtitle, the
15 Administration may issue:

16 (i) A driver's license that is valid only in the State of Maryland to
17 an applicant who has been suspended in another jurisdiction as a result of failing to
18 comply with the financial responsibility requirements of that jurisdiction; or

19 (ii) A temporary driver's license that is valid only in the State of
20 Maryland to an applicant for reinstatement of a suspended or revoked driver's
21 license, renewal of a driver's license, or a duplicate or corrected driver's license if, at
22 the time of application:

23 1. The applicant's privilege to drive in another jurisdiction is
24 revoked or suspended as a result of failing to comply with the licensing requirements
25 of that jurisdiction for which a comparable violation in this State would not have
26 resulted in revocation or suspension;

27 2. The initial violation that led to the revocation or
28 suspension did not occur within the preceding 5 years;

29 3. The applicant is otherwise qualified to be licensed in this
30 State; and

31 4. The Administration determines that the applicant will be
32 able to take any actions required by the other jurisdiction for reinstatement of the
33 privilege to drive in that jurisdiction.

34 (2) A temporary license issued under paragraph (1) of this subsection
35 shall be valid for 90 days.

36 (3) The Administration shall adopt regulations for the issuance of
37 temporary licenses under paragraph (1) of this subsection.

1 (f) After receiving satisfactory evidence of any violation of a restricted or
2 provisional driver's license, the Administration may suspend or revoke the license.
3 However, the licensee may request a hearing as provided for a suspension or
4 revocation under Subtitle 2 of this title.

5 (g) [(1)] The Administration shall impose an alcohol restriction under
6 subsection (a)(1)(ii) of this section that prohibits an individual for a period of 3 years
7 from driving or attempting to drive with alcohol in the individual's blood on any
8 licensee who is convicted within 5 years of any combination of two or more violations
9 under § 21-902(a), (b), or (c) of this article.

10 (H) (1) A COURT MAY ORDER AN INDIVIDUAL NOT TO DRIVE OR ATTEMPT TO
11 DRIVE A MOTOR VEHICLE WITH ALCOHOL IN THE INDIVIDUAL'S BLOOD.

12 (2) If a circuit court or the District Court orders a licensee not to drive or
13 attempt to drive a motor vehicle with alcohol in the licensee's blood or orders, under §
14 27-107 of this article, the licensee to participate in the Ignition Interlock System
15 Program established under § 16-404.1 of this title, the Administration shall have the
16 licensee's driving record and driver's license reflect that the court ordered restriction
17 was imposed, and shall keep records of the order.

18 [(h)] (I) An individual may not drive a vehicle in any manner that violates
19 any restriction imposed by the Administration in a restricted license issued to the
20 individual.

21 [(i)] (J) An individual may not drive a vehicle in any manner that violates
22 any restriction imposed in a provisional license issued to the individual.

23 [(j)] (K) An individual may not drive or attempt to drive a motor vehicle with
24 alcohol in the individual's blood in violation of a restriction imposed by a court.

25 16-205.1.

26 (a) (1) (i) In this section, the following words have the meanings
27 indicated.

28 (ii) "Under the influence of alcohol" includes under the influence of
29 alcohol per se as defined by § 11-127.1 of this article.

30 (iii) "Specimen of blood" and "1 specimen of blood" means 1 sample
31 of blood that is taken, in a single procedure, in 2 or more portions in 2 or more
32 separate vials.

33 (iv) "Test" means:

34 1. A test of a person's breath or of 1 specimen of a person's
35 blood to determine alcohol concentration;

36 2. A test or tests of 1 specimen of a person's blood to
37 determine the drug or controlled dangerous substance content of the person's blood; or

1 3. Both:

2 A. A test of a person's breath or a test of 1 specimen of a
3 person's blood, to determine alcohol concentration; and

4 B. A test or tests of 1 specimen of a person's blood to
5 determine the drug or controlled dangerous substance content of the person's blood.

6 (2) Any person who drives or attempts to drive a motor vehicle on a
7 highway or on any private property that is used by the public in general in this State
8 is deemed to have consented, subject to the provisions of §§ 10-302 through 10-309,
9 inclusive, of the Courts and Judicial Proceedings Article, to take a test if the person
10 should be detained on [suspicion] REASONABLE GROUNDS of driving or attempting to
11 drive while under the influence of alcohol, while impaired by alcohol, while so far
12 impaired by any drug, any combination of drugs, or a combination of one or more
13 drugs and alcohol that the person could not drive a vehicle safely, while impaired by
14 a controlled dangerous substance, in violation of an alcohol restriction, or in violation
15 of § 16-813 of this title.

16 (b) (1) [Except as provided in subsection (c) of this section, a person may not
17 be compelled to take a test. However, the] THE detaining officer shall advise the
18 person that, on receipt of a sworn statement from the officer that the person was so
19 charged and refused to take a test, or was tested and the result indicated an alcohol
20 concentration of 0.08 or more, the Administration shall:

21 (i) In the case of a person licensed under this title:

22 1. For a test result indicating an alcohol concentration of AT
23 LEAST 0.08 [or more] BUT NOT MORE THAN 0.16 at the time of testing:

24 A. For a first offense, suspend the driver's license for 45 days;
25 or

26 B. For a second or subsequent offense, suspend the driver's
27 license for 90 days; [or]

28 2. FOR A TEST RESULT INDICATING AN ALCOHOL
29 CONCENTRATION OF MORE THAN 0.16 AT THE TIME OF TESTING:

30 A. FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S LICENSE
31 FOR AT LEAST 45 DAYS BUT NOT MORE THAN 60 DAYS AND IMPOSE AN ALCOHOL
32 RESTRICTION ON THE DRIVER'S LICENSE AS PROVIDED IN § 16-113 OF THIS TITLE; OR

33 B. FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND THE
34 DRIVER'S LICENSE FOR AT LEAST 90 DAYS BUT NOT MORE THAN 120 DAYS AND
35 IMPOSE AN ALCOHOL RESTRICTION ON THE DRIVER'S LICENSE AS PROVIDED IN §
36 16-113 OF THIS TITLE; OR

37 3. For a test refusal:

1 A. For a first offense, suspend the driver's license for AT
2 LEAST 120 days BUT NOT MORE THAN 180 DAYS; or

3 B. For a second or subsequent offense, suspend the driver's
4 license for 1 year;

5 (ii) In the case of a nonresident or unlicensed person:

6 1. For a test result indicating an alcohol concentration of AT
7 LEAST 0.08 [or more] BUT NOT MORE THAN 0.16 at the time of testing:

8 A. For a first offense, suspend the person's driving privilege
9 for 45 days; or

10 B. For a second or subsequent offense, suspend the person's
11 driving privilege for 90 days; [or]

12 2. FOR A TEST RESULT INDICATING AN ALCOHOL
13 CONCENTRATION OF MORE THAN 0.16 AT THE TIME OF TESTING:

14 A. FOR A FIRST OFFENSE, SUSPEND THE PERSON'S DRIVING
15 PRIVILEGE FOR AT LEAST 45 DAYS BUT NOT MORE THAN 60 DAYS AND IMPOSE AN
16 ALCOHOL RESTRICTION ON THE PERSON'S DRIVING PRIVILEGE AS PROVIDED IN §
17 16-113 OF THIS TITLE; OR

18 B. FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND THE
19 PERSON'S DRIVING PRIVILEGE FOR AT LEAST 90 DAYS BUT NOT MORE THAN 120 DAYS
20 AND IMPOSE AN ALCOHOL RESTRICTION ON THE PERSON'S DRIVING PRIVILEGE AS
21 PROVIDED IN § 16-113 OF THIS TITLE; OR

22 3. For a test refusal:

23 A. For a first offense, suspend the person's driving privilege
24 for AT LEAST 120 days BUT NOT MORE THAN 180 DAYS; or

25 B. For a second or subsequent offense, suspend the person's
26 driving privilege for 1 year; and

27 (iii) In addition to any applicable driver's license suspensions
28 authorized under this section, in the case of a person operating a commercial motor
29 vehicle who refuses to take a test:

30 1. Disqualify the person's commercial driver's license for a
31 period of 1 year for a first offense, 3 years for a first offense which occurs while
32 transporting hazardous materials required to be placarded, and disqualify for life for
33 a second or subsequent offense which occurs while operating any commercial motor
34 vehicle; or

35 2. If the person is licensed as a commercial driver by another
36 state, disqualify the person's privilege to operate a commercial motor vehicle and

1 report the refusal and disqualification to the person's resident state which may result
2 in further penalties imposed by the person's resident state.

3 (2) Except as provided in subsection [(c)] (D) of this section, if a police
4 officer stops or detains any person who the police officer has reasonable grounds to
5 believe is or has been driving or attempting to drive a motor vehicle while under the
6 influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any
7 combination of drugs, or a combination of one or more drugs and alcohol that the
8 person could not drive a vehicle safely, while impaired by a controlled dangerous
9 substance, in violation of an alcohol restriction, or in violation of § 16-813 of this title,
10 and who is not unconscious or otherwise incapable of refusing to take a test, the police
11 officer shall:

12 (i) Detain the person;

13 (ii) [Request that] DIRECT the person [permit a test to be taken]
14 TO TAKE A TEST; and

15 (iii) Advise the person of the administrative sanctions that shall be
16 imposed for refusal to take the test, including ineligibility for modification of a
17 suspension or issuance of a restrictive license under subsection (n)(1) or (2) of this
18 section, and for test results indicating an alcohol concentration of 0.08 or more at the
19 time of testing.

20 (3) If the person refuses to take the test or takes a test which results in
21 an alcohol concentration of 0.08 or more at the time of testing, the police officer shall:

22 (i) Confiscate the person's driver's license issued by this State;

23 (ii) Acting on behalf of the Administration, personally serve an
24 order of suspension on the person;

25 (iii) Issue a temporary license to drive;

26 (iv) Inform the person that the temporary license allows the person
27 to continue driving for 45 days if the person is licensed under this title;

28 (v) Inform the person that:

29 1. The person has a right to request, at that time or within
30 10 days, a hearing to show cause why the driver's license should not be suspended
31 concerning the refusal to take the test or for test results indicating an alcohol
32 concentration of 0.08 or more at the time of testing, and the hearing will be scheduled
33 within 45 days; and

34 2. If a hearing request is not made at that time or within 10
35 days, but within 30 days the person requests a hearing, a hearing to show cause why
36 the driver's license should not be suspended concerning the refusal to take the test or
37 for test results indicating an alcohol concentration of 0.08 or more at the time of
38 testing will be scheduled, but a request made after 10 days does not extend a

1 temporary license issued by the police officer that allows the person to continue
2 driving for 45 days;

3 (vi) Advise the person of the administrative sanctions that shall be
4 imposed in the event of failure to request a hearing, failure to attend a requested
5 hearing, or upon an adverse finding by the hearing officer; and

6 (vii) Within 72 hours after the issuance of the order of suspension,
7 send any confiscated driver's license, copy of the suspension order, and a sworn
8 statement to the Administration, that states:

9 1. The officer had reasonable grounds to believe that the
10 person had been driving or attempting to drive a motor vehicle on a highway or on
11 any private property that is used by the public in general in this State while under
12 the influence of alcohol, while impaired by alcohol, while so far impaired by any drug,
13 any combination of drugs, or a combination of one or more drugs and alcohol that the
14 person could not drive a vehicle safely, while impaired by a controlled dangerous
15 substance, in violation of an alcohol restriction, or in violation of § 16-813 of this title;

16 2. The person refused to take a test when [requested]
17 DIRECTED TO TAKE A TEST by the police officer or the person submitted to the test
18 which indicated an alcohol concentration of 0.08 or more at the time of testing; and

19 3. The person was fully advised of the administrative
20 sanctions that shall be imposed, including the fact that a person who refuses to take
21 the test is ineligible for modification of a suspension or issuance of a restrictive
22 license under subsection (n)(1) or (2) of this section.

23 (c) (1) If a person is [involved in a motor vehicle accident that results in the
24 death of, or a life threatening injury to, another person and the person is] detained by
25 a police officer who has reasonable grounds to believe that the person has been
26 driving or attempting to drive while under the influence of alcohol, while impaired by
27 alcohol, while so far impaired by any drug, any combination of drugs, or a
28 combination of one or more drugs and alcohol that the person could not drive a vehicle
29 safely, while impaired by a controlled dangerous substance, or in violation of § 16-813
30 of this title, the person shall be required to submit to a test, as directed by the officer.

31 (2) If a police officer directs that a person be tested, then the provisions
32 of § 10-304 of the Courts and Judicial Proceedings Article shall apply.

33 (3) Any medical personnel who perform any test required by this section
34 are not liable for any civil damages as the result of any act or omission related to such
35 test, not amounting to gross negligence.

36 (f) (1) Subject to the provisions of this subsection, at the time of, or within
37 30 days from the date of, the issuance of an order of suspension, a person may submit
38 a written request for a hearing before an officer of the Administration if:

39 (i) The person is arrested for driving or attempting to drive a motor
40 vehicle while under the influence of alcohol, while impaired by alcohol, while so far

1 impaired by any drug, any combination of drugs, or a combination of one or more
 2 drugs and alcohol that the person could not drive a vehicle safely, while impaired by
 3 a controlled dangerous substance, in violation of an alcohol restriction, or in violation
 4 of § 16-813 of this title; and

5 (ii) 1. There is an alcohol concentration of 0.08 or more at the
 6 time of testing; or

7 2. The person refused to take a test.

8 (2) A request for a hearing made by mail shall be deemed to have been
 9 made on the date of the United States Postal Service postmark on the mail.

10 (3) If the driver's license has not been previously surrendered, the
 11 license must be surrendered at the time the request for a hearing is made.

12 (4) If a hearing request is not made at the time of or within 10 days after
 13 the issuance of the order of suspension, the Administration shall:

14 (i) Make the suspension order effective suspending the license:

15 1. For a test result indicating an alcohol concentration of AT
 16 LEAST 0.08 [or more] BUT NOT MORE THAN 0.16 at the time of testing:

17 A. For a first offense, for 45 days; or

18 B. For a second or subsequent offense, for 90 days; [or]

19 2. FOR A TEST RESULT INDICATING AN ALCOHOL
 20 CONCENTRATION OF MORE THAN 0.16 AT THE TIME OF TESTING:

21 A. FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S LICENSE
 22 FOR 60 DAYS AND IMPOSE AN ALCOHOL RESTRICTION ON THE DRIVER'S LICENSE AS
 23 PROVIDED IN § 16-113 OF THIS TITLE; OR

24 B. FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND THE
 25 DRIVER'S LICENSE FOR 120 DAYS AND IMPOSE AN ALCOHOL RESTRICTION ON THE
 26 DRIVER'S LICENSE AS PROVIDED IN § 16-113 OF THIS TITLE; OR

27 3. For a test refusal:

28 A. For a first offense, for [120] 180 days; or

29 B. For a second offense or subsequent offense, for 1 year; and

30 (ii) 1. In the case of a person operating a commercial motor
 31 vehicle who refuses to take a test, disqualify the person's commercial driver's license
 32 for a period of 1 year for a first offense, 3 years for a first offense which occurs while
 33 transporting hazardous materials required to be placarded, and for life for a second or
 34 subsequent offense which occurs while operating any commercial vehicle; or

1 and issue a temporary license that authorizes the person to drive only until the date
2 of the rescheduled hearing described under this paragraph.

3 (vi) To the extent possible, the Administration shall expeditiously
4 reschedule a hearing that is postponed under this paragraph.

5 (6) (i) If a hearing request is not made at the time of, or within 10 days
6 from the date of the issuance of an order of suspension, but within 30 days of the date
7 of the issuance of an order of suspension, the person requests a hearing and
8 surrenders the driver's license or, if applicable, the person's commercial driver's
9 license, the Administration shall:

10 1. A. Make a suspension order effective suspending the
11 license for the applicable period of time described under paragraph (4)(i) of this
12 subsection; and

13 B. In the case of a person operating a commercial motor
14 vehicle who refuses to take a test, disqualify the person's commercial driver's license,
15 or privilege to operate a commercial motor vehicle in this State, for the applicable
16 period of time described under paragraph (4)(ii) of this subsection; and

17 2. Set a hearing for a date within 45 days of the receipt of a
18 request for a hearing under this paragraph.

19 (ii) A request for hearing scheduled under this paragraph does not
20 extend the period for which the person is authorized to drive, and the suspension and,
21 if applicable, the disqualification shall become effective on the expiration of the
22 45-day period that begins on the date of the issuance of the order of suspension.

23 (iii) A postponement of a hearing described under this paragraph
24 shall stay the suspension only if:

25 1. Both the person and the Administration agree to the
26 postponement;

27 2. The Administration cannot provide a hearing under this
28 paragraph within the period required under this paragraph; or

29 3. Under circumstances in which the person made a request,
30 within 10 days of the date that the person requested a hearing under this paragraph,
31 for the issuance of a subpoena under § 12-108 of this article except as time limits are
32 changed by this paragraph:

33 A. The subpoena was not issued by the Administration;

34 B. An adverse witness for whom the subpoena was requested,
35 and on whom the subpoena was served not less than 5 days before the hearing, fails
36 to comply with the subpoena at an initial or subsequent hearing under this paragraph
37 held within the 45-day period that begins on the date of the request for a hearing
38 under this paragraph; or

1 C. A witness for whom the subpoena was requested fails to
2 comply with the subpoena, for good cause shown, at an initial or subsequent hearing
3 under this paragraph held within the 45-day period that begins on the date of the
4 request for a hearing under this paragraph.

5 (iv) If a witness is served with a subpoena for a hearing under this
6 paragraph, the witness shall comply with the subpoena within 20 days from the date
7 that the subpoena is served.

8 (v) If a hearing is postponed beyond the 45-day period that begins
9 on the date of the request for a hearing under this paragraph under circumstances
10 described in subparagraph (iii) of this paragraph, the Administration shall stay the
11 suspension and issue a temporary license that authorizes the person to drive only
12 until the date of the rescheduled hearing.

13 (vi) To the extent possible, the Administration shall expeditiously
14 reschedule a hearing that is postponed under this paragraph.

15 (7) (i) At a hearing under this section, the person has the rights
16 described in § 12-206 of this article, but at the hearing the only issues shall be:

17 1. Whether the police officer who stops or detains a person
18 had reasonable grounds to believe the person was driving or attempting to drive while
19 under the influence of alcohol, while impaired by alcohol, while so far impaired by any
20 drug, any combination of drugs, or a combination of one or more drugs and alcohol
21 that the person could not drive a vehicle safely, while impaired by a controlled
22 dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813
23 of this title;

24 2. Whether there was evidence of the use by the person of
25 alcohol, any drug, any combination of drugs, a combination of one or more drugs and
26 alcohol, or a controlled dangerous substance;

27 3. Whether the police officer requested a test after the
28 person was fully advised of the administrative sanctions that shall be imposed,
29 including the fact that a person who refuses to take the test is ineligible for
30 modification of a suspension or issuance of a restrictive license under subsection
31 (n)(1) and (2) of this section;

32 4. Whether the person refused to take the test;

33 5. Whether the person drove or attempted to drive a motor
34 vehicle while having an alcohol concentration of 0.08 or more at the time of testing; or

35 6. If the hearing involves disqualification of a commercial
36 driver's license, whether the person was operating a commercial motor vehicle.

37 (ii) The sworn statement of the police officer and of the test
38 technician or analyst shall be prima facie evidence of a test refusal or a test resulting
39 in an alcohol concentration of 0.08 or more at the time of testing.

1 (8) (i) After a hearing, the Administration shall suspend the driver's
2 license or privilege to drive of the person charged under subsection (b) or (c) of this
3 section if:

4 1. The police officer who stopped or detained the person had
5 reasonable grounds to believe the person was driving or attempting to drive while
6 under the influence of alcohol, while impaired by alcohol, while so far impaired by any
7 drug, any combination of drugs, or a combination of one or more drugs and alcohol
8 that the person could not drive a vehicle safely, while impaired by a controlled
9 dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813
10 of this title;

11 2. There was evidence of the use by the person of alcohol, any
12 drug, any combination of drugs, a combination of one or more drugs and alcohol, or a
13 controlled dangerous substance;

14 3. The police officer requested a test after the person was
15 fully advised of the administrative sanctions that shall be imposed, including the fact
16 that a person who refuses to take the test is ineligible for modification of a suspension
17 or issuance of a restrictive license under subsection (n)(1) and (2) of this section; and

18 4. A. The person refused to take the test; or

19 B. A test to determine alcohol concentration was taken and
20 the test result indicated an alcohol concentration of 0.08 or more at the time of
21 testing.

22 (ii) After a hearing, the Administration shall disqualify the person
23 from driving a commercial motor vehicle if:

24 1. The person was detained while operating a commercial
25 motor vehicle;

26 2. The police officer who stopped or detained the person had
27 reasonable grounds to believe that the person was driving or attempting to drive
28 while under the influence of alcohol, while impaired by alcohol, while so far impaired
29 by any drug, any combination of drugs, or a combination of one or more drugs and
30 alcohol that the person could not drive a vehicle safely, while impaired by a controlled
31 dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813
32 of this title;

33 3. There was evidence of the use by the person of alcohol, any
34 drug, any combination of drugs, a combination of one or more drugs and alcohol, or a
35 controlled dangerous substance;

36 4. The police officer requested a test after the person was
37 fully advised of the administrative sanctions that shall be imposed; and

38 5. The person refused to take the test.

1 (iii) If the person is licensed to drive a commercial motor vehicle, the
2 Administration shall disqualify the person in accordance with subparagraph (ii) of
3 this paragraph, but may not impose a suspension under subparagraph (i) of this
4 paragraph, if:

5 1. The person was detained while operating a commercial
6 motor vehicle;

7 2. The police officer had reasonable grounds to believe the
8 person was in violation of an alcohol restriction or in violation of § 16-813 of this title;

9 3. The police officer did not have reasonable grounds to
10 believe the driver was driving while under the influence of alcohol, driving while
11 impaired by alcohol, while so far impaired by any drug, any combination of drugs, or
12 a combination of one or more drugs and alcohol that the person could not drive a
13 vehicle safely, or while impaired by a controlled dangerous substance; and

14 4. The driver refused to take a test.

15 (iv) In the absence of a compelling reason for failure to attend a
16 hearing, failure of a person to attend a hearing is prima facie evidence of the person's
17 inability to answer the sworn statement of the police officer or the test technician or
18 analyst, and the Administration summarily shall:

19 1. Suspend the driver's license or privilege to drive; and

20 2. If the driver is detained in a commercial motor vehicle,
21 disqualify the person from operating a commercial motor vehicle.

22 (v) [The suspension imposed shall be] FOR THE PURPOSES OF THIS
23 PARAGRAPH, THE ADMINISTRATION SHALL:

24 1. For a test result indicating an alcohol concentration of AT
25 LEAST 0.08 [or more] BUT NOT MORE THAN 0.16 at the time of testing:

26 A. For a first offense, [a suspension] SUSPEND THE
27 DRIVER'S LICENSE OR DRIVING PRIVILEGE for 45 days; or

28 B. For a second or subsequent offense, [a suspension]
29 SUSPEND THE DRIVER'S LICENSE OR DRIVING PRIVILEGE for 90 days; [or]

30 2. FOR A TEST RESULT INDICATING AN ALCOHOL
31 CONCENTRATION OF MORE THAN 0.16 AT THE TIME OF TESTING:

32 A. FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S LICENSE
33 OR DRIVING PRIVILEGE FOR 60 DAYS AND IMPOSE AN ALCOHOL RESTRICTION ON
34 THE DRIVER'S LICENSE OR DRIVING PRIVILEGE AS PROVIDED IN § 16-113 OF THIS
35 TITLE; OR

1 B. FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND THE
 2 DRIVER'S LICENSE OR DRIVING PRIVILEGE FOR 120 DAYS AND IMPOSE AN ALCOHOL
 3 RESTRICTION ON THE DRIVER'S LICENSE OR DRIVING PRIVILEGE AS PROVIDED IN §
 4 16-113 OF THIS TITLE; OR

5 3. For a test refusal:

6 A. For a first offense, [a suspension] SUSPEND THE
 7 DRIVER'S LICENSE OR DRIVING PRIVILEGE for AT LEAST 120 days BUT NOT MORE
 8 THAN 180 DAYS; or

9 B. For a second or subsequent offense, [a suspension]
 10 SUSPEND THE DRIVER'S LICENSE OR DRIVING PRIVILEGE for 1 year.

11 (vi) A disqualification imposed under subparagraph (ii) or (iii) of
 12 this paragraph shall be for a period of 1 year for a first offense, 3 years for a first
 13 offense which occurs while transporting hazardous material required to be placarded,
 14 and life for a second or subsequent offense which occurs while operating or
 15 attempting to operate any commercial motor vehicle.

16 (vii) A disqualification of a commercial driver's license is not subject
 17 to any modifications, nor may a restricted commercial driver's license be issued in
 18 lieu of a disqualification.

19 (viii) A disqualification for life may be reduced if permitted by §
 20 16-812(d) of this title.

21 (n) (1) [The] EXCEPT AS OTHERWISE REQUIRED UNDER A COURT ORDER,
 22 THE Administration may modify a suspension under this section or issue a restrictive
 23 license if:

24 (i) The licensee did not refuse to take a test;

25 (ii) The licensee has not had a license suspended under this section
 26 during the past 5 years;

27 (iii) The licensee has not DURING THE PAST 5 YEARS:

28 1. [been] BEEN convicted under § 2-503, § 2-504, OR § 3-211
 29 OF THE CRIMINAL LAW ARTICLE, § 21-902 of this article [during the past 5 years;
 30 and], OR A FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS COMPARABLE TO
 31 AN OFFENSE DESCRIBED IN THIS ITEM;

32 2. ENTERED A PLEA OF NOLO CONTENDERE FOR A
 33 VIOLATION OF § 2-503, § 2-504, OR § 3-211 OF THE CRIMINAL LAW ARTICLE, § 21-902 OF
 34 THIS ARTICLE, OR A FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS
 35 COMPARABLE TO AN OFFENSE DESCRIBED IN THIS ITEM; OR

36 3. RECEIVED PROBATION BEFORE JUDGMENT FOR A
 37 VIOLATION OF § 2-503, § 2-504, OR § 3-211 OF THE CRIMINAL LAW ARTICLE, § 21-902 OF

1 THIS ARTICLE, OR A FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS
2 COMPARABLE TO AN OFFENSE DESCRIBED IN THIS ITEM; AND

3 (iv) 1. The licensee is required to drive a motor vehicle in the
4 course of employment;

5 2. The license is required for the purpose of attending an
6 alcoholic prevention or treatment program; or

7 3. It finds that the licensee has no alternative means of
8 transportation available to or from the licensee's place of employment and, without
9 the license, the licensee's ability to earn a living would be severely impaired.

10 (2) [In] EXCEPT AS OTHERWISE REQUIRED UNDER A COURT ORDER,
11 AND IN addition to the authority to modify a suspension or issue a restrictive license
12 under paragraph (1) or (4) of this subsection, the Administration may modify a
13 suspension under this section or issue a restrictive license, including a restriction
14 that prohibits the licensee from driving or attempting to drive a motor vehicle unless
15 the licensee is a participant in the Ignition Interlock System Program established
16 under § 16-404.1 of this title, if:

17 (i) The licensee did not refuse to take a test;

18 (ii) The licensee has not:

19 1. [been] BEEN PREVIOUSLY convicted under § 2-503, § 2-504,
20 OR § 3-211 OF THE CRIMINAL LAW ARTICLE, § 21-902 of this article; and], OR A
21 FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS COMPARABLE TO AN
22 OFFENSE DESCRIBED IN THIS ITEM;

23 2. ENTERED A PLEA OF NOLO CONTENDERE FOR A PRIOR
24 VIOLATION OF § 2-503, § 2-504, OR § 3-211 OF THE CRIMINAL LAW ARTICLE, § 21-902 OF
25 THIS ARTICLE, OR A FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS
26 COMPARABLE TO AN OFFENSE DESCRIBED IN THIS ITEM; OR

27 3. RECEIVED PROBATION BEFORE JUDGMENT FOR A PRIOR
28 VIOLATION OF § 2-503, § 2-504, OR § 3-211 OF THE CRIMINAL LAW ARTICLE, § 21-902 OF
29 THIS ARTICLE, OR A FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS
30 COMPARABLE TO AN OFFENSE DESCRIBED IN THIS ITEM; AND

31 (iii) The license is required for the purpose of attending:

32 1. A noncollegiate educational institution as defined in §
33 2-206(a) of the Education Article; or

34 2. A regular program at an institution of postsecondary
35 education.

1 (3) If the licensee refused to take a test, the Administration may not
2 modify a suspension under this section or issue a restrictive license except as
3 provided under paragraph (4) of this subsection.

4 (4) In addition to the authority to modify a suspension or issue a
5 restrictive license under paragraph (1) or (2) of this subsection, the Administration
6 may modify a suspension under this section or issue a restrictive license to a licensee
7 who participates in the Ignition Interlock System Program established under §
8 16-404.1 of this title for at least 1 year.

9 (O) IF A POLICE OFFICER DIRECTS A TEST OF A PERSON TO BE TAKEN UNDER
10 SUBSECTION (B) OR SUBSECTION (C) OF THIS SECTION, THE PERSON MAY NOT
11 REFUSE TO TAKE A TEST.

12 16-402.

13 (a) After the conviction of an individual for a violation of Article 27, § 388, §
14 388A, or § 388B of the Code, or of the vehicle laws or regulations of this State or of any
15 local authority, points shall be assessed against the individual as of the date of
16 violation and as follows:

17 (38) REFUSAL TO TAKE A TEST UNDER § 16-205.1(O) OF THIS
18 ARTICLE 12 POINTS.

19 21-902.

20 (a) (1) A person may not drive or attempt to drive any vehicle while under
21 the influence of alcohol.

22 (2) A person may not drive or attempt to drive any vehicle while the
23 person is under the influence of alcohol per se.

24 (b) A person may not drive or attempt to drive any vehicle while impaired by
25 alcohol.

26 (c) (1) A person may not drive or attempt to drive any vehicle while he is so
27 far impaired by any drug, any combination of drugs, or a combination of one or more
28 drugs and alcohol that he cannot drive a vehicle safely.

29 (2) It is not a defense to any charge of violating this subsection that the
30 person charged is or was entitled under the laws of this State to use the drug,
31 combination of drugs, or combination of one or more drugs and alcohol, unless the
32 person was unaware that the drug or combination would make the person incapable
33 of safely driving a vehicle.

34 (d) A person may not drive or attempt to drive any vehicle while the person is
35 impaired by any controlled dangerous substance, as that term is defined in Article 27,
36 § 279 of the Code, if the person is not entitled to use the controlled dangerous
37 substance under the laws of this State.

1 (E) (1) IN THIS SUBSECTION, "PERSON" MEANS AN INDIVIDUAL WHO:
2 (I) IS CONVICTED OF A VIOLATION OF SUBSECTION (A) OR (B) OF
3 THIS SECTION;
4 (II) ENTERS A PLEA OF NOLO CONTENDERE FOR A VIOLATION OF
5 SUBSECTION (A) OR (B) OF THIS SECTION;
6 (III) RECEIVES PROBATION BEFORE JUDGMENT FOR A VIOLATION
7 OF SUBSECTION (A) OR (B) OF THIS SECTION; OR
8 (IV) IS UNDER THE AGE OF 18 YEARS AND IS FOUND TO HAVE
9 COMMITTED A DELINQUENT ACT IN VIOLATION OF SUBSECTION (A) OR (B) OF THIS
10 SECTION.

11 (2) IN ADDITION TO ANY OTHER PENALTY OR SANCTION AUTHORIZED
12 BY LAW FOR A VIOLATION OF SUBSECTION (A) OR (B) OF THIS SECTION, A COURT:

13 (I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS PARAGRAPH, MAY
14 ORDER A PERSON WHO VIOLATES SUBSECTION (A) OR (B) OF THIS SECTION NOT TO
15 DRIVE OR ATTEMPT TO DRIVE A MOTOR VEHICLE WITH ALCOHOL IN THE PERSON'S
16 BLOOD; OR

17 (II) IF A PERSON VIOLATES SUBSECTION (A) OF THIS SECTION BY
18 DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WITH AN ALCOHOL
19 CONCENTRATION OF MORE THAN 0.16 AS DETERMINED BY AN ANALYSIS OF THE
20 PERSON'S BLOOD OR BREATH AT THE TIME OF TESTING UNDER §§ 10-302 THROUGH
21 10-309, INCLUSIVE, OF THE COURTS ARTICLE, SHALL ORDER THE PERSON NOT TO
22 DRIVE OR ATTEMPT TO DRIVE A MOTOR VEHICLE WITH ALCOHOL IN THE PERSON'S
23 BLOOD.

24 27-101.

25 (f) (1) A person is subject to a fine not exceeding \$500 or imprisonment not
26 exceeding 1 year or both, if the person is convicted of:

27 (i) A violation of § 14-103 of this article ("Possession of motor
28 vehicle master key"); or

29 (ii) A second or subsequent violation of:

30 1. § 16-101 of this article ("Drivers must be licensed"); or

31 2. Except as provided in subsection (q) of this section:

32 A. § 21-902(b) of this article ("Driving while impaired by
33 alcohol");

34 B. § 21-902(c) of this article ("Driving while impaired by
35 drugs or drugs and alcohol"); or

1 C. § 21-902(d) of this article ("Driving while impaired by a
2 controlled dangerous substance").

3 (2) Except as provided in subsection (q) of this section, for the purpose of
4 second or subsequent offender penalties for a violation of § 21-902(b) of this article
5 provided under paragraph (1) of this subsection, a prior conviction OR PRIOR ENTRY
6 OF A PLEA OF NOLO CONTENDERE FOR A VIOLATION of § 21-902(a), § 21-902(c), or §
7 21-902(d) of this article, § 2-503, § 2-504, OR § 3-211 OF THE CRIMINAL LAW ARTICLE,
8 OR A FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS COMPARABLE TO AN
9 OFFENSE DESCRIBED IN THIS PARAGRAPH, shall be considered a conviction of §
10 21-902(b) of this article.

11 (3) Except as provided in subsection (q) of this section, for the purpose of
12 second or subsequent offender penalties for a violation of § 21-902(c) of this article
13 provided under paragraph (1) of this subsection, a prior conviction OR PRIOR ENTRY
14 OF A PLEA OF NOLO CONTENDERE FOR A VIOLATION of § 21-902(a), § 21-902(b), or §
15 21-902(d) of this article, § 2-503, § 2-504, OR § 3-211 OF THE CRIMINAL LAW ARTICLE,
16 OR A FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS COMPARABLE TO AN
17 OFFENSE DESCRIBED IN THIS PARAGRAPH, shall be considered a conviction of §
18 21-902(c) of this article.

19 (4) Except as provided in subsection (q) of this section, for the purpose of
20 second or subsequent offender penalties for a violation of § 21-902(d) of this article
21 provided under paragraph (1) of this subsection, a prior conviction OR PRIOR ENTRY
22 OF A PLEA OF NOLO CONTENDERE FOR A VIOLATION of § 21-902(a), § 21-902(b), or §
23 21-902(c) of this article, § 2-503, § 2-504, OR § 3-211 OF THE CRIMINAL LAW ARTICLE,
24 OR A FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS COMPARABLE TO AN
25 OFFENSE DESCRIBED IN THIS PARAGRAPH, shall be considered a conviction of §
26 21-902(d) of this article.

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

29 (2) A person who is convicted of OR WHO ENTERS A PLEA OF NOLO
30 CONTENDERE FOR a violation of § 21-902(a) of this article within 3 years after a prior
31 conviction [under that subsection] OR PRIOR ENTRY OF A PLEA OF NOLO
32 CONTENDERE FOR A VIOLATION OF § 21-902(A) OF THIS ARTICLE, § 2-503, § 2-504, OR §
33 3-211 OF THE CRIMINAL LAW ARTICLE, OR A FEDERAL LAW OR THE LAW OF ANOTHER
34 STATE THAT IS COMPARABLE TO AN OFFENSE DESCRIBED IN THIS PARAGRAPH, is
35 subject to a mandatory minimum penalty of:

36 (i) Imprisonment for not less than 48 consecutive hours; or

37 (ii) Community service for not less than 80 hours.

38 (3) The penalties provided by this subsection are mandatory and are not
39 subject to suspension or probation.

40 (k) (1) (I) Except as provided in PARAGRAPH (2) OF THIS SUBSECTION
41 AND EXCEPT AS PROVIDED IN subsection (q) of this section, any person who is

1 convicted of OR WHO ENTERS A PLEA OF NOLO CONTENDERE FOR a violation of any of
2 the provisions of § 21-902(a) of this article ("Driving while under the influence of
3 alcohol or under the influence of alcohol per se"):

4 [(i)] 1. For a first offense, shall be subject to a fine of not more
5 than \$1,000, or imprisonment for not more than 1 year, or both;

6 [(ii)] 2. For a second offense, shall be subject to a fine of not more
7 than \$2,000, or imprisonment for not more than 2 years, or both; and

8 [(iii)] 3. For a third or subsequent offense, shall be subject to a fine
9 of not more than \$3,000, or imprisonment for not more than 3 years, or both.

10 [(2)] (II) For the purpose of second or subsequent offender penalties for A
11 violation of § 21-902(a) of this article provided under SUBPARAGRAPH (I) OF this
12 [subsection] PARAGRAPH, a prior conviction OR PRIOR ENTRY OF A PLEA OF NOLO
13 CONTENDERE FOR A VIOLATION of § 21-902(b), (c), or (d) of this article, § 2-503, §
14 2-504, OR § 3-211 OF THE CRIMINAL LAW ARTICLE, OR A FEDERAL LAW OR THE LAW
15 OF ANOTHER STATE THAT IS COMPARABLE TO AN OFFENSE DESCRIBED IN THIS
16 PARAGRAPH, within 5 years of the conviction OR ENTRY OF A PLEA OF NOLO
17 CONTENDERE for a violation of § 21-902(a) of this article, shall be considered a
18 conviction of § 21-902(a) of this article.

19 (2) (I) EXCEPT AS PROVIDED IN SUBSECTION (Q) OF THIS SECTION,
20 ANY PERSON WHO IS CONVICTED OF OR ENTERS A PLEA OF NOLO CONTENDERE FOR
21 A VIOLATION OF § 21-902(A) OF THIS ARTICLE, UPON A DETERMINATION THAT THE
22 PERSON WAS DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WITH AN
23 ALCOHOL CONCENTRATION OF MORE THAN 0.16 AS DETERMINED BY AN ANALYSIS
24 OF THE PERSON'S BLOOD OR BREATH AT THE TIME OF TESTING UNDER §§ 10-302
25 THROUGH 10-309, INCLUSIVE, OF THE COURTS ARTICLE:

26 1. FOR A FIRST OFFENSE, SHALL BE SUBJECT TO A FINE OF
27 NOT MORE THAN \$1,500 OR IMPRISONMENT FOR NOT MORE THAN 18 MONTHS OR
28 BOTH;

29 2. FOR A SECOND OFFENSE, SHALL BE SUBJECT TO A FINE
30 OF NOT MORE THAN \$3,000 OR IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR
31 BOTH; AND

32 3. FOR A THIRD OR SUBSEQUENT OFFENSE, SHALL BE
33 SUBJECT TO A FINE OF NOT MORE THAN \$4,000 OR IMPRISONMENT FOR NOT MORE
34 THAN 4 YEARS OR BOTH.

35 (II) FOR THE PURPOSE OF SECOND OR SUBSEQUENT OFFENDER
36 PENALTIES FOR A VIOLATION OF § 21-902(A) OF THIS ARTICLE PROVIDED UNDER
37 PARAGRAPH (2) OF THIS SUBSECTION, A PRIOR CONVICTION OR PRIOR ENTRY OF A
38 PLEA OF NOLO CONTENDERE FOR A VIOLATION OF § 21-902(B), (C), OR (D) OF THIS
39 ARTICLE, § 2-503, § 2-504, OR § 3-211 OF THE CRIMINAL LAW ARTICLE, OR A FEDERAL
40 LAW OR THE LAW OF ANOTHER STATE THAT IS COMPARABLE TO AN OFFENSE
41 DESCRIBED IN THIS SUBPARAGRAPH, WITHIN 5 YEARS OF THE CONVICTION OR

1 ENTRY OF A PLEA OF NOLO CONTENDERE FOR A VIOLATION OF § 21-902(A) OF THIS
2 ARTICLE, SHALL BE CONSIDERED A CONVICTION OF § 21-902(A) OF THIS ARTICLE.

3 (q) (1) Any person who is convicted of OR WHO ENTERS A PLEA OF NOLO
4 CONTENDERE FOR a violation of § 21-902(a) of this article and who, at the time of the
5 offense, was transporting a minor is subject to:

6 (i) For a first offense, a fine of not more than \$2,000 or
7 imprisonment for not more than 2 years or both;

8 (ii) For a second offense, a fine of not more than \$3,000 or
9 imprisonment for not more than 3 years or both; and

10 (iii) For a third or subsequent offense, a fine of not more than \$4,000
11 or imprisonment for not more than 4 years or both.

12 (2) Any person who is convicted of OR WHO ENTERS A PLEA OF NOLO
13 CONTENDERE FOR a violation of § 21-902(b), § 21-902(c), or § 21-902(d) of this article
14 and who, at the time of the offense, was transporting a minor is subject to:

15 (i) For a first offense, a fine of not more than \$1,000 or
16 imprisonment for not more than 6 months or both; and

17 (ii) For a second or subsequent offense, a fine of not more than
18 \$2,000 or imprisonment for not more than 1 year or both.

19 (3) For the purpose of determining second or subsequent offender
20 penalties provided under this subsection, a prior conviction OR PRIOR ENTRY OF A
21 PLEA OF NOLO CONTENDERE FOR A VIOLATION of any provision of § 21-902 of this
22 article, § 2-503, § 2-504, OR § 3-211 OF THE CRIMINAL LAW ARTICLE, OR A FEDERAL
23 LAW OR THE LAW OF ANOTHER STATE THAT IS COMPARABLE TO AN OFFENSE
24 DESCRIBED IN THIS PARAGRAPH, that subjected a person to the penalties under this
25 subsection shall be considered a prior conviction.

26 (V) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF § 16-205.1(O) OF THIS
27 ARTICLE IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT FOR
28 NOT MORE THAN 1 YEAR OR BOTH.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2002.