
By: **Senator Baker**

Introduced and read first time: February 1, 2002

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Alcohol-Related Driving Offenses - Test Refusal and Increased Alcohol**
3 **Concentration - Penalties and Restrictions**

4 FOR the purpose of requiring the Motor Vehicle Administration to suspend a person's
5 driver's license or driving privilege for a certain period of time based on a certain
6 amount of tested alcohol concentration under certain circumstances; increasing
7 the period of suspension for a driver's license or driving privilege for a certain
8 alcohol concentration test refusal under certain circumstances; altering the
9 Administration's authority to modify a suspension or to issue a restrictive
10 license under certain circumstances; authorizing the Administration to issue a
11 restrictive license to certain licensees who participate in the Ignition Interlock
12 System Program; altering certain driving license or driving privilege suspension
13 periods that may be imposed by the Administration under certain
14 circumstances; authorizing the Administration to issue a restrictive license and
15 certain period of suspension in lieu of a license revocation for certain violations
16 to an individual who participates in the Program under certain circumstances;
17 authorizing the Administration to issue a restrictive license and certain period
18 of suspension to an individual who refused to take a certain alcohol
19 concentration test if the individual participates in the Program under certain
20 circumstances; establishing certain penalties for a conviction for driving while
21 under the influence of alcohol or under the influence of alcohol per se based on a
22 certain alcohol concentration; establishing certain penalties for certain persons
23 convicted of a certain alcohol-related offense while transporting a minor; and
24 generally relating to criminal penalties and administrative restrictions for
25 certain alcohol-related driving offenses under certain circumstances.

26 BY repealing and reenacting, with amendments,
27 Article - Transportation
28 Section 16-205.1(b)(1), (f)(4) and (8), and (n), 16-208(a)(1), 16-404(c),
29 16-404.1(b)(4), and 27-101(k) and (q)
30 Annotated Code of Maryland
31 (1999 Replacement Volume and 2001 Supplement)

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

1 **Article - Transportation**

2 16-205.1.

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

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

9 1. For a test result indicating an alcohol concentration of AT
10 LEAST 0.08 [or more] BUT NOT MORE THAN 0.15 at the time of testing:

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

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

15 2. FOR A TEST RESULT INDICATING AN ALCOHOL
16 CONCENTRATION OF MORE THAN 0.15 AT THE TIME OF TESTING:

17 A. FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S LICENSE
18 FOR 180 DAYS; OR

19 B. FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND THE
20 DRIVER'S LICENSE FOR 1 YEAR.

21 3. For a test refusal:

22 A. For a first offense, suspend the driver's license for [120
23 days] 1 YEAR; or

24 B. For a second or subsequent offense, suspend the driver's
25 license for [1 year] 2 YEARS;

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

27 1. For a test result indicating an alcohol concentration of AT
28 LEAST 0.08 [or more] BUT NOT MORE THAN 0.15 at the time of testing:

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

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

33 2. FOR A TEST RESULT INDICATING AN ALCOHOL
34 CONCENTRATION OF MORE THAN 0.15 AT THE TIME OF TESTING:

- 1 A. For a first offense, for [120 days] 1 YEAR; or
2 B. For a second offense or subsequent offense, for [1 year] 2
3 YEARS; and

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

9 2. In the case of a person operating a commercial motor
10 vehicle who refuses to take a test, and who is licensed as a commercial driver by
11 another state, disqualify the person's privilege to operate a commercial motor vehicle
12 in this State and report the refusal and disqualification to the person's resident state
13 which may result in further penalties imposed by the person's resident state.

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

17 1. The police officer who stopped or detained the person had
18 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. There was evidence of the use by the person of alcohol, any
25 drug, any combination of drugs, a combination of one or more drugs and alcohol, or a
26 controlled dangerous substance;

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

31 4. A. The person refused to take the test; or
32 B. A test to determine alcohol concentration was taken and
33 the test result indicated an alcohol concentration of 0.08 or more at the time of
34 testing.

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

37 1. The person was detained while operating a commercial
38 motor vehicle;

1 1. For a test result indicating an alcohol concentration of AT
2 LEAST 0.08 [or more] BUT NOT MORE THAN 0.15 at the time of testing:

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

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

7 2. FOR A TEST RESULT INDICATING AN ALCOHOL
8 CONCENTRATION OF MORE THAN 0.15 AT THE TIME OF TESTING:

9 A. FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S LICENSE
10 FOR 180 DAYS; OR

11 B. FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND THE
12 DRIVER'S LICENSE OR DRIVING PRIVILEGE FOR 1 YEAR; OR

13 3. For a test refusal:

14 A. For a first offense, a suspension for [120 days] 1 YEAR; or

15 B. For a second or subsequent offense, a suspension for [1
16 year] 2 YEARS.

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

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

25 (viii) A disqualification for life may be reduced if permitted by §
26 16-812(d) of this title.

27 (n) (1) The Administration may modify a suspension under this section or
28 issue a restrictive license if:

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

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

32 (iii) The licensee has not been convicted under § 21-902 of this
33 article during the past 5 years; and

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

1 Administration may not suspend a license or privilege to drive for a period of more
2 than 1 year.

3 16-404.

4 (c) (1) Except as provided in paragraphs (2) and (3) of this subsection:

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

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

9 (2) Subject to the provisions of paragraph (3) of this subsection, the
10 following suspension periods may apply to a suspension for an accumulation of points
11 under § 16-402(a)(24) of this subtitle for a violation of § 21-902(b) or (c) of this article
12 or a suspension imposed under [§ 16-404.1(b)(4)(iii)] § 16-404.1(B)(4)(III)1 of this
13 subtitle:

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

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

17 (iii) For a second conviction less than 5 years after the date of the
18 first conviction or for a third conviction, not more than 12 months; and

19 (iv) For a fourth or subsequent conviction, not more than 24
20 months.

21 (3) (I) [The] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
22 PARAGRAPH, THE Administration may issue a restrictive license for the period of the
23 suspension to an individual who participates in the Administration's Ignition
24 Interlock System Program under § 16-404.1 of this subtitle.

25 (II) 1. THE ADMINISTRATION MAY ISSUE A RESTRICTIVE
26 LICENSE FOR THE PERIOD OF SUSPENSION PROVIDED IN § 16-205.1 OF THIS TITLE TO
27 AN INDIVIDUAL WHO IS A PARTICIPANT IN THE IGNITION INTERLOCK SYSTEM
28 PROGRAM UNDER § 16-404.1 OF THIS SUBTITLE IN LIEU OF A LICENSE REVOCATION
29 FOR A VIOLATION OF § 21-902(A) OF THIS ARTICLE OR AN ACCUMULATION OF POINTS
30 UNDER § 16-402(A)(33) OF THIS SUBTITLE FOR A VIOLATION OF § 21-902(A) OF THIS
31 ARTICLE.

32 2. THE ADMINISTRATION MAY ISSUE A RESTRICTIVE
33 LICENSE TO AN INDIVIDUAL WHO REFUSED TO TAKE A TEST AS DEFINED IN §
34 16-205.1(A) OF THIS ARTICLE IF THE INDIVIDUAL PARTICIPATES IN THE IGNITION
35 INTERLOCK SYSTEM PROGRAM AS PROVIDED IN § 16-205.1(N)(3) OF THIS ARTICLE AND
36 § 16-404.1 OF THIS SUBTITLE, FOR A PERIOD OF 2 YEARS.

1 (4) This subsection does not limit the authority of the Administration to
2 issue a restrictive license or modify a suspension imposed under this subsection.

3 16-404.1.

4 (b) (4) The Administration may:

5 (i) Issue a restrictive license to an individual who is a participant
6 in the Program during the suspension period as provided under § 16-404(c)(3) of this
7 subtitle;

8 (ii) [Reinstate] SUBJECT TO § 16-404(C)(3) OF THIS SUBTITLE,
9 REINSTATE the driver's license of a participant whose license has been revoked for a
10 violation of § 21-902(a), (b), or (c) of this article or revoked for an accumulation of
11 points under § 16-402(a)(33) of this subtitle for a violation of § 21-902(a) of this
12 article; and

13 (iii) Notwithstanding any other provision of law, impose on a
14 participant a period of suspension in accordance with:

15 1. [§ 16-404(c)(2) and (3)] § 16-404(C)(2) of this subtitle in
16 lieu of a license revocation for[:] A VIOLATION OF § 21-902(B) OR (C) OF THIS ARTICLE;

17 [1. A violation of § 21-902(a), (b), or (c) of this article; or

18 2. An accumulation of points under § 16-402(a)(33) of this
19 subtitle for a violation of § 21-902(a) of this article.]

20 2. § 16-404(C)(3)(II)1 OF THIS SUBTITLE IN LIEU OF A LICENSE
21 REVOCATION FOR A VIOLATION OF § 21-902(A) OF THIS ARTICLE OR AN
22 ACCUMULATION OF POINTS UNDER § 16-402(A)(33) OF THIS SUBTITLE FOR A
23 VIOLATION OF § 21-902(A) OF THIS ARTICLE; OR

24 3. § 16-404(C)(3)(II)2 OF THIS SUBTITLE FOR A LICENSE OR
25 DRIVING PRIVILEGE SUSPENSION UNDER § 16-205.1 OF THIS ARTICLE FOR A REFUSAL
26 TO TAKE A TEST AS DEFINED IN § 16-205.1(A) OF THIS TITLE.

27 27-101.

28 (k) (1) (I) Except as provided in PARAGRAPH (2) OF THIS SUBSECTION
29 AND EXCEPT AS PROVIDED IN subsection (q) of this section, any person who is
30 convicted of a violation of any of the provisions of § 21-902(a) of this article ("Driving
31 while under the influence of alcohol or under the influence of alcohol per se"):

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

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

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

3 [(2)] (II) For the purpose of second or subsequent offender penalties for
4 violation of § 21-902(a) of this article provided under SUBPARAGRAPH (I) OF this
5 [subsection] PARAGRAPH, a prior conviction of § 21-902(b), (c), or (d) of this article,
6 within 5 years of the conviction for a violation of § 21-902(a) of this article, shall be
7 considered a conviction of § 21-902(a) of this article.

8 (2) (I) EXCEPT AS PROVIDED IN SUBSECTION (Q) OF THIS SECTION,
9 ANY PERSON WHO IS CONVICTED OF A VIOLATION OF § 21-902(A) OF THIS ARTICLE,
10 UPON A DETERMINATION THAT THE PERSON WAS DRIVING OR ATTEMPTING TO
11 DRIVE A MOTOR VEHICLE WITH AN ALCOHOL CONCENTRATION OF MORE THAN 0.15
12 AS DETERMINED BY AN ANALYSIS OF THE PERSON'S BLOOD OR BREATH AT THE TIME
13 OF TESTING UNDER §§ 10-302 THROUGH 10-309, INCLUSIVE, OF THE COURTS ARTICLE:

14 1. FOR A FIRST OFFENSE, SHALL BE SUBJECT TO A FINE OF
15 NOT MORE THAN \$2,000, OR IMPRISONMENT FOR NOT MORE THAN 2 YEARS, OR BOTH;

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

19 3. FOR A THIRD OR SUBSEQUENT OFFENSE, SHALL BE
20 SUBJECT TO A FINE OF NOT MORE THAN \$5,000, OR IMPRISONMENT FOR NOT MORE
21 THAN 5 YEARS, OR BOTH.

22 (II) FOR THE PURPOSE OF SECOND OR SUBSEQUENT OFFENDER
23 PENALTIES FOR VIOLATION OF § 21-902(A) OF THIS ARTICLE PROVIDED UNDER
24 SUBPARAGRAPH (I) OF THIS PARAGRAPH, A PRIOR CONVICTION OF § 21-902(B), (C), OR
25 (D) OF THIS ARTICLE, WITHIN 5 YEARS OF THE CONVICTION FOR A VIOLATION OF §
26 21-902(A) OF THIS ARTICLE, SHALL BE CONSIDERED A CONVICTION OF § 21-902(A) OF
27 THIS ARTICLE.

28 (q) (1) [Any] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
29 SUBSECTION, ANY person who is convicted of a violation of § 21-902(a) of this article
30 and who, at the time of the offense, was transporting a minor is subject to:

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

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

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

37 (2) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF § 21-902(A) OF
38 THIS ARTICLE, UPON A DETERMINATION THAT THE PERSON WAS DRIVING OR
39 ATTEMPTING TO DRIVE A MOTOR VEHICLE WITH AN ALCOHOL CONCENTRATION OF

1 MORE THAN 0.15 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, AND WHO AT THE TIME OF THE OFFENSE WAS TRANSPORTING
4 A MINOR:

5 (I) FOR A FIRST OFFENSE, SHALL BE SUBJECT TO A FINE OF NOT
6 MORE THAN \$3,000, OR IMPRISONMENT FOR NOT MORE THAN 3 YEARS, OR BOTH;

7 (II) FOR A SECOND OFFENSE, SHALL BE SUBJECT TO A FINE OF NOT
8 MORE THAN \$4,000, OR IMPRISONMENT FOR NOT MORE THAN 4 YEARS, OR BOTH; AND

9 (III) FOR A THIRD OR SUBSEQUENT OFFENSE, SHALL BE SUBJECT
10 TO A FINE OF NOT MORE THAN \$6,000, OR IMPRISONMENT FOR NOT MORE THAN 6
11 YEARS, OR BOTH.

12 [(2)] (3) Any person who is convicted of a violation of § 21-902(b), §
13 21-902(c), or § 21-902(d) of this article and who, at the time of the offense, was
14 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)] (4) For the purpose of determining second or subsequent offender
20 penalties provided under this subsection, a prior conviction of any provision of §
21 21-902 of this article that subjected a person to the penalties under this subsection
22 shall be considered a prior conviction.

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