Unofficial Copy R3

By: **Delegates Kelley, Vallario, Ramirez, and Sophocleus** Introduced and read first time: February 12, 2004 Assigned to: Judiciary

Committee Report: Favorable with amendments House action: Adopted Read second time: March 23, 2004

CHAPTER_____

1 AN ACT concerning

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Drunk and Drugged Driving - Administrative Per Se Offenses - Hearings

3 FOR the purpose of providing that a person who requests a hearing for a certain

- 4 alcohol- or drug-related administrative per se offense may elect in writing that
- 5 another hearing on certain license sanctions <u>arising out of the same</u>
- 6 <u>circumstances</u> proposed by the Motor Vehicle Administration be consolidated
- 7 with the hearing on the administrative per se offense under certain
- 8 circumstances; providing that a certain hearing may not be postponed due to a
- 9 consolidation of the hearing with another hearing; requiring the Administration
- 10 to consolidate certain administrative hearings under certain circumstances; and
- 11 generally relating to consolidation of certain administrative hearings by the
- 12 Administration.

13 BY adding to

- 14 Article Transportation
- 15 Section 12-203.1 and 16-205.1(o)
- 16 Annotated Code of Maryland
- 17 (2002 Replacement Volume and 2003 Supplement)

18 BY repealing and reenacting, without amendments,

- 19 Article Transportation
- 20 Section 16-205.1(b)(3) and (f)(1)
- 21 Annotated Code of Maryland
- 22 (2002 Replacement Volume and 2003 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

24 MARYLAND, That the Laws of Maryland read as follows:

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1 **Article - Transportation** 2 12-203.1. 3 NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE. THE 5 16-205.1(O) OF THIS ARTICLE. 6 16-205.1. 7 (b) (3)9 (i) 10 (ii) 11 order of suspension on the person; 12 Issue a temporary license to drive; (iii) 13 (iv) 14 to continue driving for 45 days if the person is licensed under this title; Inform the person that: 15 (v) 1. 16 17 10 days, a hearing to show cause why the driver's license should not be suspended 18 concerning the refusal to take the test or for test results indicating an alcohol 19 concentration of 0.08 or more at the time of testing, and the hearing will be scheduled 20 within 45 days; and 21 2. If a hearing request is not made at that time or within 10 22 days, but within 30 days the person requests a hearing, a hearing to show cause why 23 the driver's license should not be suspended concerning the refusal to take the test or

25 testing will be scheduled, but a request made after 10 days does not extend a

26 temporary license issued by the police officer that allows the person to continue

27 driving for 45 days;

28 (vi) Advise the person of the administrative sanctions that shall be 29 imposed in the event of failure to request a hearing, failure to attend a requested 30 hearing, or upon an adverse finding by the hearing officer; and

31 (vii) Within 72 hours after the issuance of the order of suspension, 32 send any confiscated driver's license, copy of the suspension order, and a sworn

33 statement to the Administration, that states:

34 1. The officer had reasonable grounds to believe that the 35 person had been driving or attempting to drive a motor vehicle on a highway or on 36 any private property that is used by the public in general in this State while under

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4 ADMINISTRATION SHALL CONSOLIDATE HEARINGS IN ACCORDANCE WITH §

If the person refuses to take the test or takes a test which results in 8 an alcohol concentration of 0.08 or more at the time of testing, the police officer shall:

Confiscate the person's driver's license issued by this State;

Acting on behalf of the Administration, personally serve an

Inform the person that the temporary license allows the person

The person has a right to request, at that time or within

- 24 for test results indicating an alcohol concentration of 0.08 or more at the time of

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1 the influence of alcohol, while impaired by alcohol, while so far impaired by any drug,

 $2\,$ any combination of drugs, or a combination of one or more drugs and alcohol that the

3 person could not drive a vehicle safely, while impaired by a controlled dangerous

4 substance, in violation of an alcohol restriction, or in violation of § 16-813 of this title;

5 2. The person refused to take a test when requested by the 6 police officer or the person submitted to the test which indicated an alcohol 7 concentration of 0.08 or more at the time of testing; and

8 3. The person was fully advised of the administrative 9 sanctions that shall be imposed, including the fact that a person who refuses to take 10 the test is ineligible for modification of a suspension or issuance of a restrictive 11 license under subsection (n)(1) or (2) of this section.

12 (f) (1) Subject to the provisions of this subsection, at the time of, or within 13 30 days from the date of, the issuance of an order of suspension, a person may submit 14 a written request for a hearing before an officer of the Administration if:

15 (i) The person is arrested for driving or attempting to drive a motor 16 vehicle while under the influence of alcohol, while impaired by alcohol, while so far 17 impaired by any drug, any combination of drugs, or a combination of one or more 18 drugs and alcohol that the person could not drive a vehicle safely, while impaired by

19 a controlled dangerous substance, in violation of an alcohol restriction, or in violation

20 of § 16-813 of this title; and

21(ii)1.There is an alcohol concentration of 0.08 or more at the22time of testing; or

23 2. The person refused to take a test.

24(O)(1)A PERSON WHO REQUESTS A HEARING IN ACCORDANCE WITH THIS25SECTION MAY ELECT IN WRITING THAT ANY OTHER HEARING ON ANOTHER26PROPOSED SUSPENSION OR REVOCATION OF A LICENSE BE CONSOLIDATED WITH27THE LEAD AND REVOCATION OF ALLOCATION OF ALL

27 THE HEARING REQUESTED UNDER THIS SECTION.

28(2)A PERSON MAY NOT MAKE AN ELECTION UNDER PARAGRAPH (1) OF29THIS SUBSECTION LESS THAN 7 DAYS BEFORE THE DATE OF THE HEARING

30 SCHEDULED UNDER THIS SECTION.

<u>(0)</u> (1) <u>A PERSON MAY ELECT IN WRITING THAT A HEARING UNDER THIS</u>
<u>SECTION AND ANY OTHER HEARING ON ANOTHER PROPOSED SUSPENSION OR</u>
<u>REVOCATION OF A LICENSE ARISING OUT OF THE SAME CIRCUMSTANCES BE</u>
<u>CONSOLIDATED IF THE PERSON WAIVES EACH NOTICE REQUIRED UNDER TITLE 12,</u>
<u>SUBTITLE 2 OF THIS ARTICLE THAT APPLIES TO THE OTHER PROPOSED SUSPENSION</u>
<u>OR REVOCATION.</u>

- 37 (2) <u>A HEARING UNDER THIS SECTION MAY NOT BE POSTPONED DUE TO</u>
- 38 A CONSOLIDATION OF THE HEARING WITH ANOTHER HEARING UNDER THIS
- 39 <u>SUBSECTION.</u>

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1 (3) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE 2 ADMINISTRATION SHALL CONSOLIDATE THE HEARINGS DESCRIBED IN THIS 3 SUBSECTION.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 5 October 1, 2004.

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