
By: **Senator Jimeno**
Introduced and read first time: February 5, 2004
Assigned to: Judicial Proceedings

Committee Report: Favorable
Senate action: Adopted
Read second time: March 18, 2004

CHAPTER _____

1 AN ACT concerning

2 **Commercial Drivers' Licenses - Standards, Requirements, and Penalties**

3 FOR the purpose of requiring a clerk of a court to establish certain procedures for
4 reporting certain cases to the Motor Vehicle Administration; applying certain
5 sanctions to a holder of a commercial driver's license under certain
6 circumstances; adding additional offenses, including certain offenses committed
7 in a noncommercial vehicle, to the list of disqualifying offenses for commercial
8 drivers; prohibiting an individual from driving a commercial motor vehicle
9 unless the individual has been issued a commercial driver's license meeting
10 certain requirements; altering certain definitions; establishing a certain defense
11 for a certain violation; expanding the list of persons to whom certain segregated
12 information in a driver's driving record may be made available; altering certain
13 provisions concerning the reporting of certain offenses of nonresidents;
14 providing for a delayed effective date of certain provisions of this Act; providing
15 for the termination of certain provisions of this Act; and generally relating to
16 commercial drivers' licenses.

17 BY repealing and reenacting, with amendments,
18 Article - Courts and Judicial Proceedings
19 Section 2-201
20 Annotated Code of Maryland
21 (2002 Replacement Volume and 2003 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Transportation
24 Section 16-117, 16-205.1, 16-803, 16-807, 16-812, and 16-814
25 Annotated Code of Maryland

1 (2002 Replacement Volume and 2003 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Transportation

4 Section 16-814

5 Annotated Code of Maryland

6 (2002 Replacement Volume and 2003 Supplement)

7 (As enacted by Section 2 of this Act)

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

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

10 **Article - Courts and Judicial Proceedings**

11 2-201.

12 (a) The clerk of a court shall:

13 (1) Have custody of the books, records, and papers of his office;

14 (2) Make proper legible entries of all proceedings of the court and keep
15 them in well bound books or other permanent form;

16 (3) When requested in writing to do so, record any paper filed with his
17 office and required by law to be recorded in the appropriate place, whether or not the
18 title to land is involved;

19 (4) Unless prohibited by law or order of court, provide copies of records or
20 papers in his custody to a person requesting a copy, under the seal of the court if
21 required;

22 (5) Issue all writs which may legally be issued from the court;

23 (6) Deliver a full statement of the costs of a suit to a party requesting a
24 copy;

25 (7) Receive all books, documents, public letters, and packages sent to
26 him pursuant to law, and carefully dispose of them as the law requires;

27 (8) Administer an oath;

28 (9) Replace worn books and records with new ones; [and]

29 (10) IN CONJUNCTION WITH THE MOTOR VEHICLE ADMINISTRATOR,
30 ESTABLISH UNIFORM PROCEDURES FOR REPORTING BOTH TRAFFIC CASES AND
31 CRIMINAL CASES INVOLVING A MOTOR VEHICLE IN THE CIRCUIT COURT TO THE
32 MOTOR VEHICLE ADMINISTRATION; AND

33 [(10)] (11) Perform any other duty required by law or rule.

1 (b) Unless otherwise provided by law, a clerk is not required to record any
2 paper filed with him or to provide any person with a copy of a paper until the
3 applicable charge has been paid.

4 **Article - Transportation**

5 16-117.

6 (a) The Administration shall keep a record of:

7 (1) Each driver's license application that it receives;

8 (2) Each driver's license that it issues; and

9 (3) Each licensee whose license to drive the Administration has
10 suspended or revoked, and the reasons for the action.

11 (b) (1) The Administration shall file each accident report and abstract of
12 court disposition records that it receives under the laws of this State.

13 (2) The Administration shall keep convenient records or make suitable
14 notations showing the convictions or traffic accidents in which each licensee has been
15 involved and every probation before judgment disposition of any violation of the
16 Maryland Vehicle Law. A record or notation of a probation before judgment
17 disposition, or a first offense of driving with an alcohol concentration of 0.08 or more
18 under § 16-205.1 of this title, shall be segregated by the Administration and shall be
19 available only to the Administration, OTHER DRIVER LICENSING AUTHORITIES, THE
20 UNITED STATES SECRETARY OF TRANSPORTATION, CURRENT AND PROSPECTIVE
21 EMPLOYERS, AS DEFINED IN § 16-803(D) OF THIS TITLE, OF DRIVERS REQUIRED TO
22 HOLD COMMERCIAL DRIVERS' LICENSES, the courts, criminal justice agencies, and
23 the defendant or the defendant's attorney. However, a record or notation of a
24 probation before judgment, or a first offense of driving with an alcohol concentration
25 of 0.08 or more under § 16-205.1 of this title, may not be received or considered by the
26 courts until a plea of guilty or nolo contendere is made by the defendant or a finding
27 of guilty is made by the court.

28 (3) These records or notations shall be made so that they are readily
29 available for consideration by the Administration of any license renewal application
30 and at any other suitable time.

31 (4) Accident reports and abstracts of court convictions pertaining to
32 driving an emergency vehicle, if received by a person who was driving an emergency
33 vehicle pursuant to the provisions of § 21-106 of this article, shall be segregated by
34 the Administration and shall be available only to the Administration.

35 (5) Except as provided in this section, an employee of the Administration
36 may not disclose any records or information regarding probation before judgment, or
37 a first offense of driving with an alcohol concentration of 0.08 or more under §
38 16-205.1 of this title.

1 (c) If a charge of a Maryland Vehicle Law violation against any individual is
2 dismissed by a court of competent jurisdiction, a record of the charge and dismissal
3 may not be included in the individual's driving record.

4 16-205.1.

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

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

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

12 (iv) "Test" means:

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

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

17 3. Both:

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

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

22 (2) Any person who drives or attempts to drive a motor vehicle on a
23 highway or on any private property that is used by the public in general in this State
24 is deemed to have consented, subject to the provisions of §§ 10-302 through 10-309,
25 inclusive, of the Courts and Judicial Proceedings Article, to take a test if the person
26 should be detained on suspicion of driving or attempting to drive while under the
27 influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any
28 combination of drugs, or a combination of one or more drugs and alcohol that the
29 person could not drive a vehicle safely, while impaired by a controlled dangerous
30 substance, in violation of an alcohol restriction, or in violation of § 16-813 of this title.

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

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

- 1 1. For a test result indicating an alcohol concentration of
2 0.08 or more at the time of testing:
- 3 A. For a first offense, suspend the driver's license for 45 days;
4 or
- 5 B. For a second or subsequent offense, suspend the driver's
6 license for 90 days; or
- 7 2. For a test refusal:
- 8 A. For a first offense, suspend the driver's license for 120
9 days; or
- 10 B. For a second or subsequent offense, suspend the driver's
11 license for 1 year;
- 12 (ii) In the case of a nonresident or unlicensed person:
- 13 1. For a test result indicating an alcohol concentration of
14 0.08 or more at the time of testing:
- 15 A. For a first offense, suspend the person's driving privilege
16 for 45 days; or
- 17 B. For a second or subsequent offense, suspend the person's
18 driving privilege for 90 days; or
- 19 2. For a test refusal:
- 20 A. For a first offense, suspend the person's driving privilege
21 for 120 days; or
- 22 B. For a second or subsequent offense, suspend the person's
23 driving privilege for 1 year; and
- 24 (iii) In addition to any applicable driver's license suspensions
25 authorized under this section, in the case of a person operating a commercial motor
26 vehicle OR WHO HOLDS A COMMERCIAL DRIVER'S LICENSE who refuses to take a test:
- 27 1. Disqualify the person's commercial driver's license for a
28 period of 1 year for a first offense, 3 years for a first offense which occurs while
29 transporting hazardous materials required to be placarded, and disqualify for life for
30 a second or subsequent offense which occurs while operating any commercial motor
31 vehicle; or
- 32 2. If the person [is licensed as a commercial driver] HOLDS A
33 COMMERCIAL DRIVER'S LICENSE ISSUED by another state, disqualify the person's
34 privilege to operate a commercial motor vehicle and report the refusal and
35 disqualification to the person's resident state which may result in further penalties
36 imposed by the person's resident state.

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

10 (i) Detain the person;

11 (ii) Request that the person permit a test to be taken; and

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

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

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

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

22 (iii) Issue a temporary license to drive;

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

25 (v) Inform the person that:

26 1. The person has a right to request, at that time or within
27 10 days, a hearing to show cause why the driver's license should not be suspended
28 concerning the refusal to take the test or for test results indicating an alcohol
29 concentration of 0.08 or more at the time of testing, and the hearing will be scheduled
30 within 45 days; and

31 2. If a hearing request is not made at that time or within 10
32 days, but within 30 days the person requests a hearing, a hearing to show cause why
33 the driver's license should not be suspended concerning the refusal to take the test or
34 for test results indicating an alcohol concentration of 0.08 or more at the time of
35 testing will be scheduled, but a request made after 10 days does not extend a
36 temporary license issued by the police officer that allows the person to continue
37 driving for 45 days;

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

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

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

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

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

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

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

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

34 (d) (1) If a police officer has reasonable grounds to believe that a person has
35 been driving or attempting to drive a motor vehicle while under the influence of
36 alcohol, while impaired by alcohol, while so far impaired by any drug, any
37 combination of drugs, or a combination of one or more drugs and alcohol that the
38 person could not drive a vehicle safely, while impaired by a controlled dangerous
39 substance, or in violation of § 16-813 of this title, and if the police officer determines
40 that the person is unconscious or otherwise incapable of refusing to take a test, the
41 police officer shall:

- 1 (i) Obtain prompt medical attention for the person;
- 2 (ii) If necessary, arrange for removal of the person to a nearby
3 medical facility; and
- 4 (iii) If a test would not jeopardize the health or well-being of the
5 person, direct a qualified medical person to withdraw blood for a test.
- 6 (2) If a person regains consciousness or otherwise becomes capable of
7 refusing before the taking of a test, the police officer shall follow the procedure set
8 forth in subsection (b) or (c) of this section.
- 9 (e) (1) The tests to determine alcohol concentration may be administered by
10 an individual who has been examined and is certified by the Department of State
11 Police as sufficiently equipped and trained to administer the tests.
- 12 (2) The Department of State Police may adopt regulations for the
13 examination and certification of individuals trained to administer tests to determine
14 alcohol concentration.
- 15 (f) (1) Subject to the provisions of this subsection, at the time of, or within
16 30 days from the date of, the issuance of an order of suspension, a person may submit
17 a written request for a hearing before an officer of the Administration if:
- 18 (i) The person is arrested for driving or attempting to drive a motor
19 vehicle while under the influence of alcohol, while impaired by alcohol, while so far
20 impaired by any drug, any combination of drugs, or a combination of one or more
21 drugs and alcohol that the person could not drive a vehicle safely, while impaired by
22 a controlled dangerous substance, in violation of an alcohol restriction, or in violation
23 of § 16-813 of this title; and
- 24 (ii) 1. There is an alcohol concentration of 0.08 or more at the
25 time of testing; or
- 26 2. The person refused to take a test.
- 27 (2) A request for a hearing made by mail shall be deemed to have been
28 made on the date of the United States Postal Service postmark on the mail.
- 29 (3) If the driver's license has not been previously surrendered, the
30 license must be surrendered at the time the request for a hearing is made.
- 31 (4) If a hearing request is not made at the time of or within 10 days after
32 the issuance of the order of suspension, the Administration shall:
- 33 (i) Make the suspension order effective suspending the license:
- 34 1. For a test result indicating an alcohol concentration of
35 0.08 or more at the time of testing:
- 36 A. For a first offense, for 45 days; or

- 1 B. For a second or subsequent offense, for 90 days; or
- 2 2. For a test refusal:
- 3 A. For a first offense, for 120 days; or
- 4 B. For a second offense or subsequent offense, for 1 year; and
- 5 (ii) 1. In the case of a person operating a commercial motor
6 vehicle OR WHO HOLDS A COMMERCIAL DRIVER'S LICENSE who refuses to take a test,
7 disqualify the [person's commercial driver's license] PERSON FROM OPERATING A
8 COMMERCIAL MOTOR VEHICLE for a period of 1 year for a first offense, 3 years for a
9 first offense which occurs while transporting hazardous materials required to be
10 placarded, and for life for a second or subsequent offense which occurs while
11 operating any commercial vehicle; or
- 12 2. In the case of a person operating a commercial motor
13 vehicle who refuses to take a test, and who [is licensed as a commercial driver]
14 HOLDS A COMMERCIAL DRIVER'S LICENSE ISSUED by another state, disqualify the
15 person's privilege to operate a commercial motor vehicle in this State and report the
16 refusal and disqualification to the person's resident state which may result in further
17 penalties imposed by the person's resident state.
- 18 (5) (i) If the person requests a hearing at the time of or within 10 days
19 after the issuance of the order of suspension and surrenders the driver's license or, if
20 applicable, the person's commercial driver's license, the Administration shall set a
21 hearing for a date within 30 days of the receipt of the request.
- 22 (ii) Subject to the provisions of this paragraph, a postponement of a
23 hearing under this paragraph does not extend the period for which the person is
24 authorized to drive and the suspension and, if applicable, the disqualification shall
25 become effective on the expiration of the 45-day period after the issuance of the order
26 of suspension.
- 27 (iii) A postponement of a hearing described under this paragraph
28 shall extend the period for which the person is authorized to drive if:
- 29 1. Both the person and the Administration agree to the
30 postponement;
- 31 2. The Administration cannot provide a hearing within the
32 period required under this paragraph; or
- 33 3. Under circumstances in which the person made a request,
34 within 10 days of the date that the order of suspension was served under this section,
35 for the issuance of a subpoena under § 12-108 of this article except as time limits are
36 changed by this paragraph:
- 37 A. The subpoena was not issued by the Administration;

1 B. An adverse witness for whom the subpoena was requested,
2 and on whom the subpoena was served not less than 5 days before the hearing
3 described under this paragraph, fails to comply with the subpoena at an initial or
4 subsequent hearing described under this paragraph held within the 45-day period; or

5 C. A witness for whom the subpoena was requested fails to
6 comply with the subpoena, for good cause shown, at an initial or subsequent hearing
7 described under this paragraph held within the 45-day period after the issuance of
8 the order of suspension.

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

12 (v) If a hearing is postponed beyond the 45-day period after the
13 issuance of the order of suspension under the circumstances described in
14 subparagraph (iii) of this paragraph, the Administration shall stay the suspension
15 and issue a temporary license that authorizes the person to drive only until the date
16 of the rescheduled hearing described under this paragraph.

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

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

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

27 B. In the case of a person operating a commercial motor
28 vehicle OR WHO HOLDS A COMMERCIAL DRIVER'S LICENSE who refuses to take a test,
29 disqualify the person's commercial driver's license, or privilege to operate a
30 commercial motor vehicle in this State, for the applicable period of time described
31 under paragraph (4)(ii) of this subsection; and

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

34 (ii) A request for hearing scheduled under this paragraph does not
35 extend the period for which the person is authorized to drive, and the suspension and,
36 if applicable, the disqualification shall become effective on the expiration of the
37 45-day period that begins on the date of the issuance of the order of suspension.

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

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

3 1. The person was detained while operating a commercial
4 motor vehicle OR WHILE HOLDING A COMMERCIAL DRIVER'S LICENSE;

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

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

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

17 5. The person refused to take the test.

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

22 1. The person was detained while operating a commercial
23 motor vehicle OR WHILE HOLDING A COMMERCIAL DRIVER'S LICENSE;

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

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

31 4. The driver refused to take a test.

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

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

1 (2) May not impose any additional periods of suspension for the
2 remainder of the administrative offenses.

3 (i) Notwithstanding any other provision of this section, a test for drug or
4 controlled dangerous substance content under this section:

5 (1) May not be requested as described under subsection (b) of this
6 section, required as described under subsection (c) of this section, or directed as
7 described under subsection (d) of this section, by a police officer unless the law
8 enforcement agency of which the officer is a member has the capacity to have such
9 tests conducted;

10 (2) May only be requested as described under subsection (b) of this
11 section, required as described under subsection (c) of this section, or directed as
12 described under subsection (d) of this section, by a police officer who is a trainee, has
13 been trained, or is participating directly or indirectly in a program of training that is:

14 (i) Designed to train and certify police officers as drug recognition
15 experts; and

16 (ii) Conducted by a law enforcement agency of the State, or any
17 county, municipal, or other law enforcement agency in the State described in items
18 (3)(i)1 through 12 of this subsection:

19 1. In conjunction with the National Highway Traffic Safety
20 Administration; or

21 2. As a program of training of police officers as drug
22 recognition experts that contains requirements for successful completion of the
23 training program that are the substantial equivalent of the requirements of the Drug
24 Recognition Training Program developed by the National Highway Traffic Safety
25 Administration; and

26 (3) May only be requested as described under subsection (b) of this
27 section, required as described under subsection (c) of this section, or directed as
28 described under subsection (d) of this section:

29 (i) In the case of a police officer who is a trainee, or who is
30 participating directly or indirectly in a program of training described in paragraph (2)
31 of this subsection, if the police officer is a member of, and is designated as a trainee or
32 a participant by the head of:

33 1. The Department of State Police;

34 2. The Baltimore City Police Department;

35 3. A police department, bureau, or force of a county;

36 4. A police department, bureau, or force of an incorporated
37 city or town;

- 1 (i) The licensee did not refuse to take a test;
- 2 (ii) The licensee has not had a license suspended under this section
3 during the past 5 years;
- 4 (iii) The licensee has not been convicted under § 21-902 of this
5 article during the past 5 years; and
- 6 (iv) 1. The licensee is required to drive a motor vehicle in the
7 course of employment;
- 8 2. The license is required for the purpose of attending an
9 alcoholic prevention or treatment program; or
- 10 3. It finds that the licensee has no alternative means of
11 transportation available to or from the licensee's place of employment and, without
12 the license, the licensee's ability to earn a living would be severely impaired.

13 (2) In addition to the authority to modify a suspension or issue a
14 restrictive license under paragraph (1) or (4) of this subsection, the Administration
15 may modify a suspension under this section or issue a restrictive license, including a
16 restriction that prohibits the licensee from driving or attempting to drive a motor
17 vehicle unless the licensee is a participant in the Ignition Interlock System Program
18 established under § 16-404.1 of this title, if:

- 19 (i) The licensee did not refuse to take a test;
- 20 (ii) The licensee has not been convicted under § 21-902 of this
21 article; and
- 22 (iii) The license is required for the purpose of attending:
- 23 1. A noncollegiate educational institution as defined in §
24 2-206(a) of the Education Article; or
- 25 2. A regular program at an institution of postsecondary
26 education.

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

30 (4) In addition to the authority to modify a suspension or issue a
31 restrictive license under paragraph (1) or (2) of this subsection, the Administration
32 may modify a suspension under this section or issue a restrictive license to a licensee
33 who participates in the Ignition Interlock System Program established under §
34 16-404.1 of this title for at least 1 year.

35 16-803.

36 (a) In this subtitle the following words have the meanings indicated.

1 (b) "Commerce" means:

2 (1) Trade, traffic, and transportation within the jurisdiction of the
3 United States between a place in a state and a place outside of the state, including a
4 place outside the United States; and

5 (2) Trade, traffic, and transportation in the United States which affects
6 any trade, traffic, and transportation within the jurisdiction of the United States
7 between a place in a state and a place outside of the state, including a place outside
8 the United States.

9 (c) "Conviction" means a final unvacated adjudication of guilt, or a
10 determination that an individual has violated or failed to comply with the law in a
11 court of original jurisdiction or by an authorized administrative tribunal, an
12 unvacated forfeiture of bail or collateral deposited to secure the person's appearance
13 in court, a plea of guilty or nolo contendere accepted by the court, the payment of a
14 fine or court cost, A PROBATION BEFORE JUDGMENT FINDING, or violation of a
15 condition of release without bail, regardless of whether or not the penalty is rebated,
16 suspended, or probated.

17 (d) "Employer" means any individual, including the United States, a state, or
18 a political subdivision of a state, who owns or leases a commercial motor vehicle or
19 assigns drivers to operate such a vehicle. An individual who employs himself as a
20 commercial motor vehicle driver is considered to be both an employer and a driver for
21 the purposes of this subtitle.

22 (e) "Endorsement" means an authorization to an individual's commercial
23 driver's license required to permit the individual to operate certain types of
24 commercial motor vehicles.

25 (f) "Gross vehicle weight (GVW)" and "gross combination weight (GCW)"
26 mean the greatest of the following weights for a single vehicle or a combination of
27 vehicles:

28 (1) The value specified by the manufacturer as the maximum gross
29 weight;

30 (2) The operating weight; or

31 (3) The registered gross weight.

32 (g) "Hazardous materials" [has the meaning stated in § 103 of the Hazardous
33 Materials Transportation Act (49 U.S.C. § 1802)] MEANS ANY MATERIAL THAT HAS
34 BEEN DESIGNATED AS HAZARDOUS UNDER 49 U.S.C. § 5103 AND IS REQUIRED TO BE
35 PLACARDED UNDER SUBPART F OF 49 CFR PART 172 OR ANY QUANTITY OF A
36 MATERIAL LISTED AS A SELECT AGENT OR TOXIN IN 42 CFR PART 73.

37 (h) (1) "Serious traffic violation" means:

1 (i) Excessive speeding, as defined by the United States Secretary
2 of Transportation by regulation;

3 (ii) Reckless driving;

4 (iii) A violation of any state or local law relating to operating a
5 motor vehicle, other than a parking violation, arising in connection with an accident
6 or collision resulting in death to any individual; [or]

7 (IV) DRIVING A COMMERCIAL MOTOR VEHICLE WITHOUT
8 OBTAINING A COMMERCIAL DRIVER'S LICENSE;

9 (V) DRIVING A COMMERCIAL MOTOR VEHICLE WITHOUT A
10 COMMERCIAL DRIVER'S LICENSE IN THE DRIVER'S POSSESSION;

11 (VI) DRIVING A COMMERCIAL MOTOR VEHICLE WITHOUT THE
12 PROPER CLASS OF COMMERCIAL DRIVER'S LICENSE;

13 (VII) DRIVING A COMMERCIAL MOTOR VEHICLE WITHOUT THE
14 PROPER ENDORSEMENTS; OR

15 [(iv)] (VIII) Any other violation of a state or local law which the
16 United States Secretary of Transportation determines by regulation to be serious.

17 (2) Serious traffic violations does not include vehicle weight and vehicle
18 defect violations.

19 (i) (1) "Tank vehicle" means any commercial motor vehicle that is designed
20 to transport any liquid or gaseous material within a tank that is either permanently
21 or temporarily attached to the vehicle or chassis.

22 (2) Tank vehicles include cargo tanks and portable tanks.

23 (3) Tank vehicle does not include portable tanks having a rated capacity
24 under 1,000 gallons.

25 (j) "United States" means the 50 states and the District of Columbia.

26 16-807.

27 (a) (1) Except when driving under a commercial driver's instructional
28 permit and accompanied by the holder of a driver's license valid for the class of vehicle
29 being driven, an individual may not drive a commercial motor vehicle unless the
30 individual [has]:

31 (I) HAS been issued A COMMERCIAL DRIVER'S LICENSE THAT:

32 1. IS VALID FOR THE CLASS OF VEHICLE BEING OPERATED;

33 AND

1 (2) The holder of a commercial driver's instructional permit may drive a
2 commercial motor vehicle on a highway only when the individual is accompanied by
3 and under the immediate supervision of the holder of a driver's license valid for the
4 type of vehicle driven, if the accompanying driver:

5 (i) Is at least 21 years old; and

6 (ii) Has been licensed for at least 3 years in this State or in another
7 state to drive vehicles of the class then being driven.

8 16-812.

9 (a) The Administration shall disqualify any individual from driving a
10 commercial motor vehicle for a period of 1 year if:

11 (1) The individual is convicted of committing any of the following
12 offenses while driving a commercial motor vehicle OR WHILE HOLDING A
13 COMMERCIAL DRIVER'S LICENSE:

14 (i) Driving in violation of § 21-902 of this article;

15 (ii) Driving in violation of a federal law or any other state's law
16 which is substantially similar in nature to the provisions in § 21-902 of this article;

17 (iii) Leaving the scene of an accident which requires disqualification
18 as provided by the United States Secretary of Transportation;

19 (iv) A crime, other than a crime described in subsection (e) of this
20 section, that is punishable by death or imprisonment for a term exceeding 1 year; or

21 (v) Driving in violation of § 25-112 of this article;

22 (2) The individual, while driving a commercial motor vehicle, refuses to
23 undergo testing as provided in § 16-205.1 of this title or as is required by any other
24 state's law or by federal law in the enforcement of 49 CFR § 383.51(b)(2)(i)(A) or (B),
25 or 49 CFR § 392.5(a)(2); [or]

26 (3) The individual drives or attempts to drive a commercial motor vehicle
27 while the alcohol concentration of the person's blood or breath is 0.04 or more;

28 (4) THE INDIVIDUAL IS CONVICTED FOR A VIOLATION OF § 2-209, § 2-503,
29 § 2-504, § 2-505, OR § 2-506 OF THE CRIMINAL LAW ARTICLE; OR

30 (5) THE INDIVIDUAL DRIVES A COMMERCIAL MOTOR VEHICLE WHEN, AS
31 A RESULT OF PRIOR VIOLATIONS COMMITTED WHILE OPERATING A COMMERCIAL
32 MOTOR VEHICLE, THE DRIVER'S COMMERCIAL DRIVER'S LICENSE IS REVOKED,
33 SUSPENDED, OR CANCELED OR THE DRIVER IS DISQUALIFIED FROM OPERATING A
34 COMMERCIAL MOTOR VEHICLE.

1 (b) If any of the offenses in subsection (a) of this section occurred while
2 transporting a hazardous material required to be placarded, the Administration shall
3 disqualify the individual for a period of 3 years.

4 (c) The Administration shall disqualify any person from driving a commercial
5 motor vehicle for life for 2 or more violations of any of the offenses specified in
6 subsection (a) or (b) of this section, or any combination of those offenses, arising from
7 2 or more separate incidents.

8 (d) The Administration may adopt regulations establishing guidelines,
9 including conditions, under which a disqualification for life may be reduced to a
10 period of time which may be permitted by federal regulations.

11 (e) The Administration shall disqualify any person from driving a commercial
12 motor vehicle for life who uses a commercial motor vehicle in the commission of any
13 felony involving the manufacture, distribution, or dispensing of a controlled
14 dangerous substance, or possession with intent to manufacture, distribute, or
15 dispense a controlled dangerous substance.

16 (f) The Administration shall disqualify any person from driving a commercial
17 motor vehicle for a period of 60 days if convicted under the laws of this State or any
18 other state of 2 serious traffic violations [committed in a commercial motor vehicle]
19 arising from separate incidents occurring within a 3-year period COMMITTED:

20 (1) WHILE OPERATING A COMMERCIAL MOTOR VEHICLE; OR

21 (2) WHILE HOLDING A COMMERCIAL DRIVER'S LICENSE AND
22 OPERATING A NONCOMMERCIAL MOTOR VEHICLE, AND THE CONVICTION WOULD
23 RESULT IN SUSPENSION, REVOCATION, OR CANCELLATION OF THE DRIVER'S
24 LICENSE.

25 (g) The Administration shall disqualify any person from driving a commercial
26 motor vehicle for a period of 120 days if convicted under the laws of this State or any
27 other state of 3 serious traffic violations [committed in a commercial motor vehicle]
28 arising from separate incidents occurring within a 3-year period COMMITTED:

29 (1) WHILE OPERATING A COMMERCIAL MOTOR VEHICLE; OR

30 (2) WHILE HOLDING A COMMERCIAL DRIVER'S LICENSE AND
31 OPERATING A NONCOMMERCIAL MOTOR VEHICLE, AND THE CONVICTION WOULD
32 RESULT IN SUSPENSION, REVOCATION, OR CANCELLATION OF THE DRIVER'S
33 LICENSE.

34 (h) The Administration may disqualify a person from driving a commercial
35 motor vehicle for a controlled dangerous substance offense in the manner provided
36 under Article 41, Title 1, Subtitle 5 of the Code.

37 (i) (1) In this subsection the following terms have the meanings indicated:

38 (i) "Commercial motor vehicle" means:

1 (p) Upon termination of a disqualification period, an individual may apply for
2 a new commercial driver's license. The Administration shall issue a commercial
3 driver's license to the applicant when the applicant:

4 (1) Passes the skills and knowledge tests required by this subtitle;

5 (2) Is eligible to drive pursuant to the Commercial Driver's License
6 Information System, and National Driver's Register;

7 (3) Surrenders any previously issued driver's instructional permit or
8 license; and

9 (4) Pays the fees required by § 16-818(a)(1) of this subtitle.

10 (q) If an individual is disqualified based on multiple offenses committed at the
11 same time, or arising out of circumstances simultaneous in time and place, or arising
12 out of the same incident, the Administration:

13 (1) Shall disqualify the individual from driving a commercial motor
14 vehicle for the offense which results in the lengthiest period of disqualification; and

15 (2) May not impose any additional periods of disqualification for the
16 remainder of the offenses.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
18 read as follows:

19 **Article - Transportation**

20 16-814.

21 Within [10] 30 days [of receiving a report] of the conviction [of any nonresident
22 holder of a commercial driver's license for the violation of any State law or local
23 ordinance relating to operating a motor vehicle, other than parking violations,
24 committed in a commercial motor vehicle], the Administration shall notify the driver
25 licensing authority in the licensing state of the conviction OF:

26 (1) ANY NONRESIDENT HOLDER OF A COMMERCIAL DRIVER'S LICENSE
27 FOR THE VIOLATION OF ANY STATE LAW OR LOCAL ORDINANCE RELATING TO
28 OPERATING A MOTOR VEHICLE, OTHER THAN PARKING VIOLATIONS;

29 (2) ANY NONRESIDENT HOLDER OF A NONCOMMERCIAL DRIVER'S
30 LICENSE FOR THE VIOLATION OF ANY STATE LAW OR LOCAL ORDINANCE RELATING
31 TO OPERATING A MOTOR VEHICLE, OTHER THAN PARKING VIOLATIONS, COMMITTED
32 IN A COMMERCIAL MOTOR VEHICLE; OR

33 (3) ANY NONRESIDENT WHO DOES NOT HOLD ANY TYPE OF LICENSE TO
34 DRIVE, OR WHOSE LICENSE TO DRIVE IS SUSPENDED, REVOKED, OR CANCELED, FOR
35 THE VIOLATION OF ANY STATE LAW OR LOCAL ORDINANCE RELATING TO
36 OPERATING A COMMERCIAL MOTOR VEHICLE, OTHER THAN PARKING VIOLATIONS.

1 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article - Transportation**

4 16-814.

5 Within [30] 10 days of the conviction, the Administration shall notify the driver
6 licensing authority in the licensing state of the conviction of:

7 (1) Any nonresident holder of a commercial driver's license for the
8 violation of any State law or local ordinance relating to operating a motor vehicle,
9 other than parking violations;

10 (2) Any nonresident holder of a noncommercial driver's license for the
11 violation of any State law or local ordinance relating to operating a motor vehicle,
12 other than parking violations, committed in a commercial motor vehicle; or

13 (3) Any nonresident who does not hold any type of license to drive, or
14 whose license to drive is suspended, revoked, or canceled for the violation of any State
15 law or local ordinance relating to operating a commercial motor vehicle, other than
16 parking violations.

17 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act
18 shall take effect September 30, 2005. It shall remain effective for a period of 3 years
19 and, at the end of September 29, 2008, with no further action required by the General
20 Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

21 SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act
22 shall take effect on the taking effect of the termination provision specified in Section
23 4 of this Act. If that termination provision takes effect, Section 2 of this Act shall be
24 abrogated and of no further force and effect.

25 SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the
26 provisions of Sections 4 and 5 of this Act, this Act shall take effect September 30,
27 2005.