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Assigned to: Judiciary

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House action: Adopted

Read second time: March 24, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Vehicle Laws - Drunk Driving Penalties Administrative Per Se Offenses -**  
 3 **High Alcohol Concentration or Test Refusal - Mandatory Ignition Interlock**  
 4 **System - Suspension Modifications and Restrictive Licenses**

5 FOR the purpose of ~~requiring the Motor Vehicle Administration to require a person to~~  
 6 ~~participate in the Ignition Interlock System Program for a certain period of time~~  
 7 ~~following a certain period of suspension if a certain test result indicates a~~  
 8 ~~certain alcohol concentration; prohibiting the Administration from modifying a~~  
 9 ~~certain suspension of a driver's license or a driving privilege or issuing a~~  
 10 ~~restrictive license to a person if a certain test result indicates a certain alcohol~~  
 11 ~~concentration unless the person participates in the Ignition Interlock System~~  
 12 ~~Program for a certain period of time; altering the requirements for participation~~  
 13 ~~in the Ignition Interlock System Program; requiring a police officer to advise a~~  
 14 ~~person of certain facts concerning a certain alcohol concentration under certain~~  
 15 ~~circumstances; providing that certain facts concerning a certain alcohol~~  
 16 ~~concentration may be issues at a certain administrative hearing under certain~~  
 17 ~~circumstances; making a stylistic change; and generally relating to mandatory~~  
 18 ~~penalties if a certain test result indicates a certain alcohol concentration under~~  
 19 ~~certain circumstances increasing the period of a suspension of a driver's license~~  
 20 ~~required for certain administrative per se offenses if the driver took a certain~~  
 21 ~~test that indicates a certain alcohol concentration; requiring participation in the~~  
 22 ~~Ignition Interlock System Program if a person refused to take a certain test or if~~

1 a certain test indicates a certain alcohol concentration under certain  
 2 circumstances; requiring a police officer to advise a person of certain facts and  
 3 include certain facts in a certain sworn statement under certain circumstances;  
 4 providing that a person has the right to elect to participate in the Ignition  
 5 Interlock System Program under certain circumstances; providing that a certain  
 6 alcohol concentration may be an issue at a certain administrative hearing under  
 7 certain circumstances; establishing that the sworn statement of a police officer  
 8 regarding a certain alcohol concentration is prima facie evidence for a certain  
 9 purpose; authorizing the Administration to modify a license suspension or issue  
 10 a restrictive license for a licensee who has committed certain alcohol-related  
 11 driving offenses under certain circumstances; providing that if a licensee  
 12 refused to take a certain test or took a test indicating a certain alcohol  
 13 concentration the Administration may not modify a license suspension or issue a  
 14 restrictive license unless the licensee participates in the Ignition Interlock  
 15 System Program for a certain period; providing that if a licensee does not  
 16 successfully complete the Ignition Interlock Program under certain  
 17 circumstances that the Administration shall suspend the driver's license or  
 18 driving privilege for a certain period under certain circumstances; requiring the  
 19 Administration to adopt certain regulations; making clarifying and technical  
 20 changes; and generally relating to certain administrative per se offenses  
 21 involving refusing to take a certain test or certain test results indicating certain  
 22 alcohol concentrations.

23 BY repealing and reenacting, with amendments,  
 24 Article - Transportation  
 25 Section 16-205.1(b)(2) and (3)(vii)3. and (f)(7)(i) and (8)(i) and 16-404.1(b)(3)(iv)  
 26 Section 16-205.1(b)(1)(i) and (ii), (2), and (3), (f)(4)(i),(7), and (8)(i) and (iv), and  
 27 (n) and 16-404.1(b)(3)(iv)  
 28 Annotated Code of Maryland  
 29 (2002 Replacement Volume and 2005 Supplement)

30 ~~BY adding to~~  
 31 ~~Article - Transportation~~  
 32 ~~Section 16-205.1(f)(8)(ix) and (n)(5)~~  
 33 ~~Annotated Code of Maryland~~  
 34 ~~(2002 Replacement Volume and 2005 Supplement)~~

35 BY repealing and reenacting, without amendments,  
 36 Article - Transportation  
 37 Section 16-205.1(f)(1)  
 38 Annotated Code of Maryland  
 39 (2002 Replacement Volume and 2005 Supplement)

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

1

## Article - Transportation

2 16-205.1.

3 (b) (2) Except as provided in subsection (c) of this section, if a police officer  
 4 stops or detains any person who the police officer has reasonable grounds to believe is  
 5 or has been driving or attempting to drive a motor vehicle while under the influence  
 6 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 the person permit a test to be taken;

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

19 (iv) ~~FOR A TEST RESULT INDICATING AN ALCOHOL~~  
 20 ~~CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING, ADVISE THE PERSON~~  
 21 ~~OF:~~

22 ~~1. THE PERSON'S MANDATORY PARTICIPATION IN THE~~  
 23 ~~IGNITION INTERLOCK SYSTEM PROGRAM FOR NOT LESS THAN 3 YEARS FOLLOWING~~  
 24 ~~THE PERIOD OF SUSPENSION REQUIRED UNDER THIS SECTION; AND~~

25 ~~2. THE PERSON'S INELIGIBILITY FOR MODIFICATION OF A~~  
 26 ~~SUSPENSION OR ISSUANCE OF A RESTRICTIVE LICENSE UNDER THIS SECTION~~  
 27 ~~UNLESS THE PERSON PARTICIPATES IN THE IGNITION INTERLOCK SYSTEM~~  
 28 ~~PROGRAM FOR THE PERIOD OF SUSPENSION REQUIRED UNDER THIS SECTION; AND~~

29 (V) Advise the person of the additional criminal penalties that may  
 30 be imposed under § 27-101(x) of this article on conviction of a violation of § 21-902 of  
 31 this article if the person knowingly refused to take a test arising out of the same  
 32 circumstances as the violation.

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

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

1   3.       The person was fully advised of the administrative  
2 sanctions that shall be imposed, including:

3   A.       [the] THE fact that a person who refuses to take the test is  
4 ineligible for modification of a suspension or issuance of a restrictive license under  
5 subsection (n)(1) or (2) of this section;

6   B.       ~~THE FACT THAT A PERSON WHOSE TEST RESULT~~  
7 ~~INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF~~  
8 ~~TESTING IS REQUIRED TO PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM~~  
9 ~~PROGRAM FOR NOT LESS THAN 3 YEARS FOLLOWING THE PERIOD OF SUSPENSION~~  
10 ~~REQUIRED UNDER THIS SECTION; AND~~

11   C.       ~~THE FACT THAT A PERSON WHOSE TEST RESULT~~  
12 ~~INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF~~  
13 ~~TESTING IS INELIGIBLE FOR MODIFICATION OF A SUSPENSION OR ISSUANCE OF A~~  
14 ~~RESTRICTIVE LICENSE UNDER THIS SECTION UNLESS THE PERSON PARTICIPATES IN~~  
15 ~~THE IGNITION INTERLOCK SYSTEM PROGRAM FOR THE PERIOD OF SUSPENSION~~  
16 ~~REQUIRED UNDER THIS SECTION.~~

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

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

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

29   3.       Whether the police officer requested a test after the  
30 person was fully advised of the administrative sanctions that shall be imposed,  
31 including:

32   A.       [the] THE fact that a person who refuses to take the test is  
33 ineligible for modification of a suspension or issuance of a restrictive license under  
34 subsection (n)(1) and (2) of this section;

35   B.       ~~THE FACT THAT A PERSON WHOSE TEST RESULT~~  
36 ~~INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF~~  
37 ~~TESTING IS REQUIRED TO PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM~~  
38 ~~PROGRAM FOR NOT LESS THAN 3 YEARS FOLLOWING THE PERIOD OF SUSPENSION~~  
39 ~~REQUIRED UNDER THIS SECTION; AND~~

1                                   C.     ~~THE FACT THAT A PERSON WHOSE TEST RESULT~~  
 2 ~~INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF~~  
 3 ~~TESTING IS INELIGIBLE FOR MODIFICATION OF A SUSPENSION OR ISSUANCE OF A~~  
 4 ~~RESTRICTIVE LICENSE UNDER THIS SECTION UNLESS THE PERSON PARTICIPATES IN~~  
 5 ~~THE IGNITION INTERLOCK SYSTEM PROGRAM FOR THE PERIOD OF SUSPENSION~~  
 6 ~~REQUIRED UNDER THIS SECTION;~~

7                                   4.     ~~Whether the person refused to take the test;~~

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

10                               6.     ~~WHETHER THE PERSON DROVE OR ATTEMPTED TO DRIVE~~  
 11 ~~A MOTOR VEHICLE WHILE HAVING AN ALCOHOL CONCENTRATION OF 0.15 OR MORE~~  
 12 ~~AT THE TIME OF TESTING; or~~

13                               [6.] 7.     ~~If the hearing involves disqualification of a~~  
 14 ~~commercial driver's license, whether the person was operating a commercial motor~~  
 15 ~~vehicle or held a commercial driver's license.~~

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

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

26                               2.     ~~There was evidence of the use by the person of alcohol, any~~  
 27 ~~drug, any combination of drugs, a combination of one or more drugs and alcohol, or a~~  
 28 ~~controlled dangerous substance;~~

29                               3.     ~~The police officer requested a test after the person was~~  
 30 ~~fully advised of the administrative sanctions that shall be imposed, including:~~

31                               A.     ~~[the] THE fact that a person who refuses to take the test~~  
 32 ~~is ineligible for modification of a suspension or issuance of a restrictive license under~~  
 33 ~~subsection (n)(1) and (2) of this section;~~

34                               B.     ~~THE FACT THAT A PERSON WHOSE TEST RESULT~~  
 35 ~~INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF~~  
 36 ~~TESTING IS REQUIRED TO PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM~~  
 37 ~~PROGRAM FOR NOT LESS THAN 3 YEARS FOLLOWING THE PERIOD OF SUSPENSION~~  
 38 ~~REQUIRED UNDER THIS SECTION; AND~~

1                                   C.     ~~THE FACT THAT A PERSON WHOSE TEST RESULT~~  
 2 ~~INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF~~  
 3 ~~TESTING IS INELIGIBLE FOR MODIFICATION OF A SUSPENSION OR ISSUANCE OF A~~  
 4 ~~RESTRICTIVE LICENSE UNDER THIS SECTION UNLESS THE PERSON PARTICIPATES IN~~  
 5 ~~THE IGNITION INTERLOCK SYSTEM PROGRAM FOR THE PERIOD OF SUSPENSION~~  
 6 ~~REQUIRED UNDER THIS SECTION; and~~

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

8                                   B.     ~~A test to determine alcohol concentration was taken and~~  
 9 ~~the test result indicated an alcohol concentration of 0.08 or more at the time of~~  
 10 ~~testing.~~

11                                ~~(IX)     FOR A TEST RESULT INDICATING AN ALCOHOL~~  
 12 ~~CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING, THE ADMINISTRATION~~  
 13 ~~SHALL REQUIRE A PERSON CHARGED UNDER SUBSECTION (B) OR (C) OF THIS~~  
 14 ~~SECTION TO PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM FOR NOT~~  
 15 ~~LESS THAN 3 YEARS FOLLOWING THE PERIOD OF SUSPENSION REQUIRED UNDER~~  
 16 ~~THIS SECTION.~~

17     ~~(m)     (5)     NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE~~  
 18 ~~ADMINISTRATION MAY NOT MODIFY A SUSPENSION OR ISSUE A RESTRICTIVE~~  
 19 ~~LICENSE TO A PERSON WHOSE TEST RESULT INDICATED AN ALCOHOL~~  
 20 ~~CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING UNLESS THE PERSON~~  
 21 ~~PARTICIPATES IN THE IGNITION INTERLOCK SYSTEM PROGRAM FOR THE PERIOD OF~~  
 22 ~~SUSPENSION REQUIRED UNDER THIS SECTION.~~

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

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

29                                   ~~1.     [For] EXCEPT AS PROVIDED IN ITEM 2 OF THIS ITEM, FOR~~  
 30 ~~a test result indicating an alcohol concentration of 0.08 or more at the time of testing:~~

31                                   ~~A.     For a first offense, suspend the driver's license for 45 days;~~  
 32 ~~or~~

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

35                                   ~~2.     FOR A TEST RESULT INDICATING AN ALCOHOL~~  
 36 ~~CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING:~~

37                                   ~~A.     FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S LICENSE~~  
 38 ~~FOR 90 DAYS; OR~~



- 1                   (ii)     Request that the person permit a test to be taken;
- 2                   (III)    ADVISE THE PERSON OF THE ADMINISTRATIVE SANCTIONS  
3 THAT SHALL BE IMPOSED FOR TEST RESULTS INDICATING AN ALCOHOL  
4 CONCENTRATION OF AT LEAST 0.08 BUT LESS THAN 0.15 AT THE TIME OF TESTING;
- 5                   [(iii)]   (IV)    Advise the person of the administrative sanctions,  
6 INCLUDING INELIGIBILITY FOR MODIFICATION OF A SUSPENSION OR ISSUANCE OF A  
7 RESTRICTIVE LICENSE UNLESS THE PERSON PARTICIPATES IN THE IGNITION  
8 INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1 OF THIS TITLE, that shall be  
9 imposed for refusal to take the test[, including ineligibility for modification of a  
10 suspension or issuance of a restrictive license under subsection (n)(1) or (2) of this  
11 section.] and for test results indicating an alcohol concentration of [0.08] 0.15 or  
12 more at the time of testing; and
- 13                  [(iv)]   (V)     Advise the person of the additional criminal penalties that  
14 may be imposed under § 27-101(x) of this article on conviction of a violation of §  
15 21-902 of this article if the person knowingly refused to take a test arising out of the  
16 same circumstances as the violation.
- 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)    INFORM THE PERSON THAT, SUBJECT TO THE SAME TIME  
 5 LIMITS SET FORTH IN ITEM (V) OF THIS PARAGRAPH, THE PERSON HAS THE RIGHT TO  
 6 ELECT TO PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER §  
 7 16-404.1 OF THIS TITLE FOR 1 YEAR INSTEAD OF REQUESTING A HEARING UNDER  
 8 THIS PARAGRAPH, IF THE PERSON REFUSED A TEST OR TAKES A TEST THAT  
 9 INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF  
 10 TESTING; AND

11                   [(vii)]   (VIII)   Within 72 hours after the issuance of the order of  
 12 suspension, send any confiscated driver's license, copy of the suspension order, and a  
 13 sworn statement to the Administration, that states:

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

21                               2.     The person refused to take a test when requested by the  
 22 police officer [or], the person submitted to the test which indicated an alcohol  
 23 concentration of 0.08 or more at the time of testing, OR THE PERSON SUBMITTED TO  
 24 THE TEST WHICH INDICATED AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT  
 25 THE TIME OF TESTING; and

26                               3.     The person was fully advised of the administrative  
 27 sanctions that shall be imposed, including the fact that a person who refuses to take  
 28 the test OR TAKES A TEST THAT INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR  
 29 MORE AT THE TIME OF TESTING is ineligible for modification of a suspension or  
 30 issuance of a restrictive license under subsection (n)(1) or (2) of this section.

31           (f)     (1)     Subject to the provisions of this subsection, at the time of, or within  
 32 30 days from the date of, the issuance of an order of suspension, a person may submit  
 33 a written request for a hearing before an officer of the Administration if:

34                               (i)     The person is arrested for driving or attempting to drive a motor  
 35 vehicle while under the influence of alcohol, while impaired by alcohol, while so far  
 36 impaired by any drug, any combination of drugs, or a combination of one or more  
 37 drugs and alcohol that the person could not drive a vehicle safely, while impaired by  
 38 a controlled dangerous substance, in violation of an alcohol restriction, or in violation  
 39 of § 16-813 of this title; and

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

1                                   2.       The person refused to take a test.

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

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

5                                   1.       [For] EXCEPT AS PROVIDED IN ITEM 2 OF THIS ITEM, FOR  
6 a test result indicating an alcohol concentration of 0.08 or more at the time of testing:

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

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

9                                   2.       FOR A TEST RESULT INDICATING AN ALCOHOL  
10 CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING:

11                                  A.       FOR A FIRST OFFENSE, FOR 90 DAYS; OR

12                                  B.       FOR A SECOND OR SUBSEQUENT OFFENSE, FOR 180 DAYS;

13 OR

14                                  [2.]    3.       For a test refusal:

15                                  A.       For a first offense, for 120 days; or

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

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

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

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

29                                  3.       Whether the police officer requested a test after the  
30 person was fully advised of the administrative sanctions that shall be imposed[,  
31 including the fact that a person who refuses to take the test is ineligible for  
32 modification of a suspension or issuance of a restrictive license under subsection  
33 (n)(1) and (2) of this section] AS REQUIRED UNDER SUBSECTION (B)(2) OF THIS  
34 SECTION;

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

1                                   5.       Whether the person drove or attempted to drive a motor  
2 vehicle while having an alcohol concentration of 0.08 or more at the time of testing;  
3 [or]

4                                   6.       WHETHER THE PERSON DROVE OR ATTEMPTED TO DRIVE  
5 A MOTOR VEHICLE WHILE HAVING AN ALCOHOL CONCENTRATION OF 0.15 OR MORE  
6 AT THE TIME OF TESTING; OR

7                                   [6.]   7.       If the hearing involves disqualification of a  
8 commercial driver's license, whether the person was operating a commercial motor  
9 vehicle or held a commercial driver's license.

10                               (ii)       The sworn statement of the police officer and of the test  
11 technician or analyst shall be prima facie evidence of a test refusal [or], a test  
12 [resulting in] RESULT INDICATING an alcohol concentration of 0.08 or more at the  
13 time of testing, OR A TEST RESULT INDICATING AN ALCOHOL CONCENTRATION OF  
14 0.15 OR MORE AT THE TIME OF TESTING.

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

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

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

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

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

34                               B.       A test to determine alcohol concentration was taken and  
35 the test result indicated an alcohol concentration of 0.08 or more at the time of  
36 testing.

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

- 1                                   1.       Suspend the driver's license or privilege to drive; and  
 2                                   2.       If the driver is detained in a commercial motor vehicle or  
 3 holds a commercial driver's license, disqualify the person from operating a  
 4 commercial motor vehicle.

5                                   (v)       The suspension imposed shall be:

6                                   1.       [For] EXCEPT AS PROVIDED IN ITEM 2 OF THIS  
 7 SUBPARAGRAPH, FOR a test result indicating an alcohol concentration of 0.08 or more  
 8 at the time of testing:

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

10                                  B.       For a second or subsequent offense, a suspension for 90  
 11 days; [or]

12                                  2.       FOR A TEST RESULT INDICATING AN ALCOHOL  
 13 CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING:

14                                  A.       FOR A FIRST OFFENSE, A SUSPENSION OF 90 DAYS; OR

15                                  B.       FOR A SECOND OR SUBSEQUENT OFFENSE, A SUSPENSION  
 16 OF 180 DAYS; OR

17                                  [2.1]   3.       For a test refusal:

18                                  A.       For a first offense, a suspension for 120 days; or

19                                  B.       For a second or subsequent offense, a suspension for 1  
 20 year.

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

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

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

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

28                                  (IV)       THE LICENSEE HAS A TEST RESULT INDICATING AN ALCOHOL  
 29 CONCENTRATION OF LESS THAN 0.15; AND

30                                  [(iv)]   (V)       1.       The licensee is required to drive a motor vehicle in  
 31 the course of employment;

32                                  2.       The license is required for the purpose of attending an  
 33 alcoholic prevention or treatment program; [or]

1                                   3.       [It] THE ADMINISTRATION finds that the licensee has no  
 2 alternative means of transportation available to or from the licensee's place of  
 3 employment and, without the license, the licensee's ability to earn a living would be  
 4 severely impaired; OR

5                                   4.       THE ADMINISTRATION FINDS THAT THE LICENSE IS  
 6 REQUIRED FOR THE PURPOSE OF OBTAINING HEALTH CARE TREATMENT,  
 7 INCLUDING A PRESCRIPTION, THAT IS NECESSARY FOR THE LICENSEE OR A MEMBER  
 8 OF THE LICENSEE'S IMMEDIATE FAMILY AND THE LICENSEE AND THE LICENSEE'S  
 9 IMMEDIATE FAMILY HAVE NO ALTERNATIVE MEANS OF TRANSPORTATION  
 10 AVAILABLE TO OBTAIN THE HEALTH CARE TREATMENT.

11                   (2)       In addition to the authority to modify a suspension or issue a  
 12 restrictive license under paragraph (1) or (4) of this subsection, the Administration  
 13 may modify a suspension under this section or issue a restrictive license, including a  
 14 restriction that prohibits the licensee from driving or attempting to drive a motor  
 15 vehicle unless the licensee is a participant in the Ignition Interlock System Program  
 16 established 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 been convicted under § 21-902 of this  
 19 article; [and]

20                                   (III)       THE LICENSEE HAS A TEST RESULT INDICATING AN ALCOHOL  
 21 CONCENTRATION OF LESS THAN 0.15; AND

22                                   [(iii)]       (IV)       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 OR TOOK A TEST THAT  
 28 INDICATED AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF  
 29 TESTING, the Administration may not modify a suspension under this section or issue  
 30 a restrictive license except as provided under paragraph (4) of this subsection.

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

36                                   (II)       IF THE LICENSEE REFUSED TO TAKE A TEST OR TOOK A TEST  
 37 THAT INDICATED AN ALCOHOL CONCENTRATION OF 0.15 OR MORE, THE  
 38 ADMINISTRATION MAY MODIFY A SUSPENSION UNDER THIS SECTION OR ISSUE A

1 RESTRICTIVE LICENSE IF THE LICENSEE PARTICIPATES IN THE IGNITION  
2 INTERLOCK SYSTEM PROGRAM FOR 1 YEAR.

3           (5)    (I)    IF THE ADMINISTRATION MODIFIES A SUSPENSION OR ISSUES  
4 A RESTRICTIVE LICENSE UNDER PARAGRAPH (4) OF THIS SUBSECTION AND THE  
5 LICENSEE DOES NOT SUCCESSFULLY COMPLETE THE LICENSEE'S REQUIRED  
6 PARTICIPATION IN THE IGNITION INTERLOCK SYSTEM PROGRAM, THE  
7 ADMINISTRATION SHALL SUSPEND THE LICENSEE'S DRIVER'S LICENSE OR DRIVING  
8 PRIVILEGE FOR THE FULL PERIOD OF SUSPENSION SPECIFIED IN THIS SECTION FOR  
9 THE APPLICABLE OFFENSE.

10                   (II)    THE ADMINISTRATION SHALL NOTIFY A LICENSEE OF A  
11 PROPOSED SUSPENSION UNDER THIS PARAGRAPH.

12                   (III)    A LICENSEE MAY REQUEST AN ADMINISTRATIVE HEARING ON  
13 A PROPOSED SUSPENSION UNDER THIS PARAGRAPH.

14 16-404.1.

15       (b)       (3)       An individual may be a participant if:

16                   (iv)       The Administration modifies a suspension or issues a  
17 [restricted] RESTRICTIVE license to the individual under § 16-205.1(n)(2) [or], (4),  
18 OR (5) of this title.

19       SECTION 2. AND BE IT FURTHER ENACTED, That the Motor Vehicle  
20 Administration shall adopt regulations to implement the provisions of this Act.

21       SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
22 effect October 1, 2006.