

HOUSE BILL 293

R3

9lr0236
CF SB 262

By: **The Speaker (By Request - Administration) (Task Force to Combat Driving Under the Influence of Drugs and Alcohol) and Delegates Dumais, Bronrott, Ali, Lafferty, ~~and Waldstreicher~~ Waldstreicher, Anderson, Aumann, Barkley, Beidle, Bohanan, Boteler, Costa, DeBoy, Dwyer, Eckardt, Elliott, Elmore, Feldman, Frank, Frush, Haddaway, Heller, Holmes, Jameson, Jennings, Kaiser, Kramer, Krebs, Lee, Levy, McComas, Manno, Mathias, Morhaim, Murphy, Myers, Niemann, Norman, O'Donnell, Reznik, Riley, Robinson, Ross, Serafini, Shank, Shewell, Sophocleus, Sossi, Stocksdale, Stull, Walkup, Weldon, and Wood**

Introduced and read first time: January 29, 2009
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: April 6, 2009

CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws - Repeated Drunk and Drugged Driving Offenses - Suspension**
3 **of License**

4 FOR the purpose of ~~requiring~~ authorizing the Motor Vehicle Administration to
5 suspend for a certain period the ~~driver's~~ license of a person who has been
6 convicted of certain drunk and drugged driving offenses within a certain time
7 period after the person was previously convicted of certain drunk and drugged
8 driving offenses; authorizing a person whose license is suspended under certain
9 circumstances to participate in the Administration's Ignition Interlock System
10 Program under certain circumstances; requiring the Administration to suspend
11 for a certain period the license of a person who has been convicted of a certain
12 drunk driving offense within a certain time after the person was convicted of a
13 certain drugged driving offense; requiring the Administration to suspend for a
14 certain period the license of a person who has been convicted of a certain
15 drugged driving offense within a certain time after the person was convicted of
16 a certain drunk driving offense; requiring a person whose license is suspended
17 under certain circumstances to participate in the Administration's Ignition

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Interlock System Program under certain circumstances; altering certain
 2 provisions of the Maryland Vehicle Law concerning administrative penalties for
 3 certain subsequent drunk driving offenses to conform to certain changes in
 4 federal law incorporated in State law; providing for certain procedures; and
 5 generally relating to penalties for drunk and drugged driving.

6 BY repealing and reenacting, with amendments,
 7 Article – Transportation
 8 Section ~~16-205(e)(2), (3), and (4)~~ 16-205(d) and (e)(2) through (12)
 9 Annotated Code of Maryland
 10 (2006 Replacement Volume and 2008 Supplement)

11 BY adding to
 12 Article – Transportation
 13 Section 16-205(e)(5) and (6)
 14 Annotated Code of Maryland
 15 (2006 Replacement Volume and 2008 Supplement)

16 BY repealing and reenacting, without amendments,
 17 Article – Transportation
 18 Section 21-902(a) through (d)
 19 Annotated Code of Maryland
 20 (2006 Replacement Volume and 2008 Supplement)

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

23 **Article – Transportation**

24 16-205.

25 (d) (1) Subject to subsection (d-1) AND SUBSECTION (E) of this section,
 26 the Administration may suspend for not more than [120 days] 1 YEAR the license of
 27 any person who, within a [3-year] 5-YEAR period, is convicted OF ANY VIOLATION
 28 OF § 21-902 OF THIS ARTICLE AFTER THE PERSON WAS PREVIOUSLY
 29 CONVICTED OF ANY VIOLATION UNDER § 21-902 OF THIS ARTICLE [under
 30 21-902(b) or (c) of this article of driving or attempting to drive a motor vehicle while
 31 impaired by alcohol or while so far impaired by any drug, any combination of drugs, or
 32 a combination of one or more drugs and alcohol that the person cannot drive a motor
 33 vehicle safely and who was previously convicted of a violation under:

34 (1) § 21-902(a) of this article of driving or attempting to drive a motor
 35 vehicle while under the influence of alcohol or while under the influence of alcohol per
 36 se;

37 (2) § 21-902(b) of this article of driving or attempting to drive a motor
 38 vehicle while impaired by alcohol;

1 (3) § 21-902(c) of this article of driving or attempting to drive a motor
 2 vehicle while so far impaired by any drug, any combination of drugs, or a combination
 3 of one or more drugs and alcohol that the person cannot drive a motor vehicle safely;
 4 or

5 (4) § 21-902(d) of this article of driving or attempting to drive a motor
 6 vehicle while impaired by a controlled dangerous substance].

7 **(2) IF REQUESTED BY THE PERSON, THE ADMINISTRATION MAY**
 8 **ISSUE A RESTRICTED LICENSE FOR THE PERIOD OF A SUSPENSION TO A PERSON**
 9 **WHO PARTICIPATES IN THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER §**
 10 **16-404.1 OF THIS TITLE.**

11 **(3) A SUSPENSION UNDER THIS SUBSECTION SHALL BE**
 12 **CONCURRENT WITH ANY OTHER SUSPENSION OR REVOCATION IMPOSED BY THE**
 13 **ADMINISTRATION THAT ARISES OUT OF THE CIRCUMSTANCES OF THE**
 14 **CONVICTION FOR THE VIOLATION OF § 21-902 OF THIS ARTICLE DESCRIBED IN**
 15 **THIS SUBSECTION.**

16 ~~(e) (2) Subject to the provisions of this subsection, the Administration~~
 17 ~~shall suspend for 1 year the license of a person who is convicted of [a] ANY violation of~~
 18 ~~§ 21-902(a), (B), (C), OR (D) of this article [more than once] AND, within a 5 year~~
 19 ~~period, WAS PREVIOUSLY CONVICTED OF ANY VIOLATION UNDER § 21-902(A),~~
 20 ~~(B), (C), OR (D) OF THIS ARTICLE.~~

21 ~~(3) On receiving a record of a conviction of a person for [a] ANY~~
 22 ~~violation of § 21-902(a), (B), (C), OR (D) of this article [more than once] within a~~
 23 ~~5-year period AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF ANY~~
 24 ~~VIOLATION UNDER § 21-902(A), (B), (C), OR (D) OF THIS ARTICLE, the~~
 25 ~~Administration shall issue to the person a notice of suspension of the person's license~~
 26 ~~that:~~

27 ~~(i) States that the person's license shall be suspended for 1~~
 28 ~~year; and~~

29 ~~(ii) Advises the person of the right to request a hearing under~~
 30 ~~this paragraph.~~

31 ~~(4) After notice under paragraph (3) of this subsection, the~~
 32 ~~Administration shall suspend a person's license under this subsection if:~~

33 ~~(i) The person does not request a hearing;~~

34 ~~(ii) After a hearing, the Administration finds that the person~~
 35 ~~was convicted of [more than one] A violation of § 21-902(a), (B), (C), OR (D) of this~~

1 ~~article within a 5-year period AFTER THE PERSON WAS PREVIOUSLY CONVICTED~~
 2 ~~OF ANY VIOLATION OF § 21-902(A), (B), (C), OR (D) OF THIS ARTICLE; or~~

3 ~~(iii) The person fails to appear for a hearing requested by the~~
 4 ~~person.~~

5 (e) (2) Subject to the provisions of this subsection, the Administration
 6 shall suspend for 1 year the license of a person who is convicted of [a]:

7 (I) A violation of § 21-902(a) of this article more than once
 8 within a 5-year period;

9 (II) A VIOLATION OF § 21-902(A) OF THIS ARTICLE WITHIN
 10 A 5-YEAR PERIOD AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF A
 11 VIOLATION OF § 21-902(D) OF THIS ARTICLE; OR

12 (III) A VIOLATION OF § 21-902(D) OF THIS ARTICLE WITHIN
 13 A 5-YEAR PERIOD AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF A
 14 VIOLATION OF § 21-902(A) OF THIS ARTICLE.

15 (3) On receiving a record of a conviction of a person for a violation
 16 DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION [of § 21-902(a) of this article
 17 more than once within a 5-year period], the Administration shall issue to the person a
 18 notice of suspension of the person's license that:

19 (i) States that the person's license shall be suspended for 1
 20 year; [and]

21 (ii) [Advises the person of the right to request a hearing under
 22 this paragraph] STATES THAT THE PERIOD OF THE FIRST 45 DAYS OF THE
 23 1-YEAR PERIOD OF SUSPENSION IS NOT SUBJECT TO MODIFICATION BY THE
 24 ADMINISTRATION;

25 (III) STATES A RESTRICTED LICENSE MAY BE ISSUED FOR
 26 THE REMAINDER OF THE 1-YEAR PERIOD OF SUSPENSION IF:

27 1. THE PERSON MAINTAINS AN IGNITION INTERLOCK
 28 SYSTEM ON A MOTOR VEHICLE OWNED OR OPERATED BY THE PERSON FOR THE
 29 REMAINDER OF THE 1-YEAR PERIOD OF SUSPENSION;

30 2. THE LICENSE IS RESTRICTED TO PROHIBIT THE
 31 PERSON FROM DRIVING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN
 32 IGNITION INTERLOCK SYSTEM;

1 **3. THE LICENSE IS RESTRICTED TO PERMIT THE**
2 **PERSON TO DRIVE ONLY TO AND FROM WORK, SCHOOL, AN ALCOHOL**
3 **TREATMENT PROGRAM, OR AN IGNITION INTERLOCK SYSTEM SERVICE**
4 **FACILITY, IF THE PERSON WAS CONVICTED OF A VIOLATION OF § 21-902(A) OF**
5 **THIS ARTICLE MORE THAN ONCE WITHIN A 5-YEAR PERIOD; AND**

6 **4. THE LICENSE IS RESTRICTED TO PERMIT THE**
7 **PERSON TO DRIVE ONLY TO AND FROM WORK, SCHOOL, AN ALCOHOL**
8 **TREATMENT PROGRAM, A DRUG TREATMENT PROGRAM, OR AN IGNITION**
9 **INTERLOCK SYSTEM SERVICE FACILITY, IF THE PERSON WAS CONVICTED OF:**

10 **A. A VIOLATION OF § 21-902(A) OF THIS ARTICLE**
11 **WITHIN A 5-YEAR PERIOD AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF**
12 **A VIOLATION OF § 21-902(D) OF THIS ARTICLE; OR**

13 **B. A VIOLATION OF § 21-902(D) OF THIS ARTICLE**
14 **WITHIN A 5-YEAR PERIOD AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF**
15 **A VIOLATION OF § 21-902(A) OF THIS ARTICLE;**

16 **(IV) ADVISES THE PERSON OF THE REQUIREMENTS UNDER**
17 **PARAGRAPH (7) OF THIS SUBSECTION FOR A PERSON WHO DOES NOT**
18 **PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM IN ACCORDANCE**
19 **WITH THIS PARAGRAPH DURING THE 1-YEAR PERIOD OF SUSPENSION;**

20 **(V) ADVISES THE PERSON OF THE RIGHT TO REQUEST A**
21 **HEARING ON A SUSPENSION UNDER THIS PARAGRAPH; AND**

22 **(VI) ADVISES THE PERSON OF THE RIGHT, INSTEAD OF**
23 **REQUESTING A HEARING ON A SUSPENSION UNDER THIS PARAGRAPH, TO BE**
24 **SUBJECT TO A 1-YEAR PERIOD OF SUSPENSION, WITH THE PERIOD OF THE**
25 **FIRST 45 DAYS OF THE SUSPENSION NOT SUBJECT TO MODIFICATION BY THE**
26 **ADMINISTRATION, AND FOR THE REMAINDER OF THE 1-YEAR PERIOD OF**
27 **SUSPENSION TO BE ISSUED A RESTRICTED LICENSE UNDER THIS PARAGRAPH IF**
28 **THE FOLLOWING CONDITIONS ARE MET:**

29 **1. THE PERSON'S DRIVER'S LICENSE IS NOT**
30 **CURRENTLY SUSPENDED, REVOKED, CANCELED, OR REFUSED;**

31 **2. THE VIOLATION DID NOT ARISE OUT OF**
32 **CIRCUMSTANCES THAT INVOLVED A DEATH OF, OR SERIOUS PHYSICAL INJURY**
33 **TO, ANOTHER PERSON;**

34 **3. THE PERSON SURRENDERS A VALID MARYLAND**
35 **DRIVER'S LICENSE OR SIGNS A STATEMENT CERTIFYING THAT THE DRIVER'S**
36 **LICENSE IS NO LONGER IN THE PERSON'S POSSESSION; AND**

1 **4. THE PERSON ELECTS IN WRITING, WITHIN THE**
 2 **SAME TIME LIMIT FOR REQUESTING A HEARING, TO MEET THE IGNITION**
 3 **INTERLOCK SYSTEM REQUIREMENTS UNDER THIS PARAGRAPH FOR THE**
 4 **REMAINDER OF THE 1-YEAR PERIOD OF SUSPENSION.**

5 (4) After notice under paragraph (3) of this subsection, the
 6 Administration shall suspend a person's license under this subsection if:

7 (i) The person does not request a hearing;

8 (ii) After a hearing, the Administration finds that the person
 9 was convicted of:

10 1. [more] MORE than one violation of § 21-902(a) of this
 11 article within a 5-year period;[or]

12 2. A VIOLATION OF § 21-902(A) OF THIS ARTICLE
 13 WITHIN A 5-YEAR PERIOD AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF
 14 A VIOLATION OF § 21-902(D) OF THIS ARTICLE; OR

15 3. A VIOLATION OF § 21-902(D) OF THIS ARTICLE
 16 WITHIN A 5-YEAR PERIOD AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF
 17 A VIOLATION OF § 21-902(A) OF THIS ARTICLE; OR

18 (iii) The person fails to appear for a hearing requested by the
 19 person.

20 (5) THE ADMINISTRATION MAY MODIFY A SUSPENSION UNDER
 21 PARAGRAPH (4) OF THIS SUBSECTION TO:

22 (I) IMPOSE A SUSPENSION OF 45 DAYS;

23 (II) ORDER THE PERSON TO MAINTAIN, FOR THE
 24 REMAINDER OF THE 1-YEAR PERIOD OF SUSPENSION, AN IGNITION INTERLOCK
 25 SYSTEM ON A MOTOR VEHICLE OWNED OR OPERATED BY THE PERSON; AND

26 (III) IMPOSE A RESTRICTION ON THE PERSON'S LICENSE FOR
 27 THE REMAINDER OF THE 1-YEAR PERIOD OF SUSPENSION THAT PROHIBITS THE
 28 PERSON FROM DRIVING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN
 29 IGNITION INTERLOCK SYSTEM AND PERMITS THE PERSON TO DRIVE ONLY TO
 30 AND FROM:

31 1. WORK, SCHOOL, AN ALCOHOL TREATMENT
 32 PROGRAM, OR AN IGNITION INTERLOCK SYSTEM SERVICE FACILITY, IF THE

1 PERSON WAS CONVICTED OF A VIOLATION OF § 21-902(A) OF THIS ARTICLE
 2 MORE THAN ONCE WITHIN A 5-YEAR PERIOD; OR

3 2. WORK, SCHOOL, AN ALCOHOL TREATMENT
 4 PROGRAM, A DRUG TREATMENT PROGRAM, OR AN IGNITION INTERLOCK SYSTEM
 5 SERVICE FACILITY, IF THE PERSON WAS CONVICTED OF:

6 A. A VIOLATION OF § 21-902(A) OF THIS ARTICLE
 7 WITHIN A 5-YEAR PERIOD AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF
 8 A VIOLATION OF § 21-902(D) OF THIS ARTICLE; OR

9 B. A VIOLATION OF § 21-902(D) OF THIS ARTICLE
 10 WITHIN A 5-YEAR PERIOD AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF
 11 A VIOLATION OF § 21-902(A) OF THIS ARTICLE.

12 (6) A PERSON WHO PARTICIPATES IN THE IGNITION INTERLOCK
 13 SYSTEM PROGRAM FOR AT LEAST 3 MONTHS UNDER PARAGRAPH (5) OF THIS
 14 SUBSECTION IS EXEMPT FROM THE REQUIREMENTS OF PARAGRAPHS (7)
 15 THROUGH (11) OF THIS SUBSECTION.

16 [(5)] (7) The Administration shall, within 90 days of the expiration of
 17 the 1-year period of suspension, issue to the person a notice, unless this notice
 18 requirement was waived at a hearing described in paragraph (4) of this subsection,
 19 that:

20 (i) States that the person shall maintain for not less than 3
 21 months and not more than 1 year, dating from the expiration of the 1-year period of
 22 suspension, an ignition interlock system on each motor vehicle owned by the person;

23 (ii) States that the Administration shall impose a restriction on
 24 the person's license that prohibits the person from driving a motor vehicle that is not
 25 equipped with an ignition interlock system for a period of not less than 3 months and
 26 not more than 1 year, dating from the expiration of the 1-year period of suspension;
 27 and

28 (iii) Advises the person of the right to request a hearing under
 29 this paragraph.

30 [(6)] (8) After notice under paragraph [(5)] (7) of this subsection, or
 31 a waiver of notice, the Administration shall order a person to maintain for not less
 32 than 3 months and not more than 1 year, dating from the expiration of the 1-year
 33 period of suspension, an ignition interlock system on each motor vehicle owned by the
 34 person and impose a license restriction that prohibits the person from driving a motor
 35 vehicle that is not equipped with an ignition interlock system if:

36 (i) The person does not request a hearing;

1 (ii) The Administration finds at a hearing that the person owns
2 one or more motor vehicles and that no financial hardship, as described in paragraphs
3 [(7) and (8)] (9) AND (10) of this subsection, will be created by requiring the person to
4 maintain an ignition interlock system on each motor vehicle owned by the person; or

5 (iii) The person fails to appear for a hearing requested by the
6 person.

7 [(7)] (9) If the Administration finds at a hearing that maintenance of
8 an ignition interlock system on a motor vehicle owned by the person creates a financial
9 hardship on the person, the family of the person, or a co-owner of the motor vehicle,
10 the Administration:

11 (i) Shall impose a restriction on the license of the person for not
12 less than 3 months and not more than 1 year, dating from the expiration of the 1-year
13 period of suspension, that prohibits the person from driving any motor vehicle that is
14 not equipped with an ignition interlock system; and

15 (ii) May not require the person to maintain an ignition interlock
16 system on any motor vehicle to which the financial hardship applies.

17 [(8)] (10) An exemption under paragraph [(7)(ii)] (9)(II) of this
18 subsection applies only under circumstances that:

19 (i) Are specific to the person's motor vehicle; and

20 (ii) Meet criteria contained in regulations that shall be adopted
21 by the Administration.

22 [(9)] (11) If a person requests a hearing and the Administration finds
23 that the person does not own a motor vehicle at the expiration of the 1-year period of
24 suspension, the Administration shall impose a restriction on the license of the person
25 for not less than 3 months and not more than 1 year, dating from the expiration of the
26 1-year period of suspension, that prohibits the person from driving any motor vehicle
27 that is not equipped with an ignition interlock system.

28 [(10)] (12) Each notice and hearing under this subsection shall meet
29 the requirements of Title 12, Subtitle 2 of this article.

30 [(11)] (13) This subsection does not limit any provision of this article
31 that allows or requires the Administration to:

32 (i) Revoke or suspend a license of a person; or

33 (ii) Prohibit a person from driving a motor vehicle that is not
34 equipped with an ignition interlock system.

1 ~~[(12)]~~ (14) A suspension imposed under this subsection shall be
2 concurrent with any other suspension or revocation imposed by the Administration
3 that arises out of the circumstances of the conviction for a violation of § 21-902(a) OR
4 (D) of this article described in this subsection.

5 21-902.

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

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

10 (3) A person may not violate paragraph (1) or (2) of this subsection
11 while transporting a minor.

12 (b) (1) A person may not drive or attempt to drive any vehicle while
13 impaired by alcohol.

14 (2) A person may not violate paragraph (1) of this subsection while
15 transporting a minor.

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

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

24 (3) A person may not violate paragraph (1) or (2) of this subsection
25 while transporting a minor.

26 (d) (1) A person may not drive or attempt to drive any vehicle while the
27 person is impaired by any controlled dangerous substance, as that term is defined in §
28 5-101 of the Criminal Law Article, if the person is not entitled to use the controlled
29 dangerous substance under the laws of this State.

30 (2) A person may not violate paragraph (1) of this subsection while
31 transporting a minor.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.