

# SENATE BILL 262

R3

(9lr0182)

## ***ENROLLED BILL***

***—Judicial Proceedings / Judiciary—***

Introduced by **The President (By Request – Administration) (Task Force to Combat Driving Under the Influence of Drugs and Alcohol) and Senator Forehand and Senators Forehand, Jacobs, and Mooney**

Read and Examined by Proofreaders:

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Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

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President.

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; requiring the Administration to include a certain additional  
9 statement when issuing a notice of suspension of a drivers license; authorizing  
10 the Administration, under certain circumstances, to modify a certain suspension  
11 and issue a certain restrictive license during a certain mandatory period of  
12 suspension; providing that a person who participates in the Ignition Interlock  
13 System Program for at least a certain number of months is exempt from certain

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**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.

*Italics* indicate opposite chamber / conference committee amendments.



1 ~~requirements authorizing a person whose license is suspended under certain~~  
2 ~~circumstances to participate in the Administration's Ignition Interlock System~~  
3 ~~Program under certain circumstances; requiring the Administration to suspend~~  
4 ~~for a certain period the license of a person who has been convicted of a certain~~  
5 ~~drunk driving offense within a certain time after the person was convicted of a certain~~  
6 ~~certain drugged driving offense; requiring the Administration to suspend for a~~  
7 ~~certain period the license of a person who has been convicted of a certain drugged~~  
8 ~~driving offense within a certain time after the person was convicted of a certain~~  
9 ~~drunk driving offense; requiring a person whose license is suspended under~~  
10 ~~certain circumstances to participate in the Administration's Ignition Interlock~~  
11 ~~System Program under certain circumstances; altering certain provisions of the~~  
12 ~~Maryland Vehicle Law concerning administrative penalties for certain~~  
13 ~~subsequent drunk driving offenses to conform to certain changes in federal law~~  
14 ~~incorporated in State law; providing for certain procedures; and generally~~  
15 ~~relating to penalties for drunk and drugged driving.~~

16 BY repealing and reenacting, with amendments,

17 Article – Transportation

18 ~~Section 16-205(e)(2), (3), and (4) (e) and (f)~~

19 ~~Section 16-205(d) and (e)(2) through (12)~~

20 Annotated Code of Maryland

21 (2006 Replacement Volume and 2008 Supplement)

22 BY adding to

23 Article – Transportation

24 Section 16-205(e)(5) and (6)

25 Annotated Code of Maryland

26 (2006 Replacement Volume and 2008 Supplement)

27 BY repealing and reenacting, without amendments,

28 Article – Transportation

29 Section 21-902(a) through (d)

30 Annotated Code of Maryland

31 (2006 Replacement Volume and 2008 Supplement)

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

### 34 Article – Transportation

35 16-205.

36 (e) (1) ~~In this subsection, "motor vehicle" does not include a commercial~~  
37 ~~motor vehicle.~~

38 (2) ~~Subject to the provisions of this subsection, the Administration~~  
39 ~~shall suspend for 1 year the license of a person who is convicted of [a] ANY violation of~~

1 ~~§ 21-902(a), (B), (C), OR (D) of this article [more than once] AND, within a 5 year~~  
2 ~~period, WAS PREVIOUSLY CONVICTED OF ANY VIOLATION UNDER § 21-902(A),~~  
3 ~~(B), (C), OR (D) OF THIS ARTICLE.~~

4 ~~(3) On receiving a record of a conviction of a person for [a] ANY~~  
5 ~~violation of § 21-902(a), (B), (C), OR (D) of this article [more than once] within a~~  
6 ~~5 year period AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF ANY~~  
7 ~~VIOLATION UNDER § 21-902(A), (B), (C), OR (D) OF THIS ARTICLE, the~~  
8 ~~Administration shall issue to the person a notice of suspension of the person's license~~  
9 ~~that:~~

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

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

14 ~~(ii) States that the person's license shall be suspended for 1~~  
15 ~~year; [and]~~

16 ~~(III) STATES THAT A RESTRICTIVE LICENSE MAY BE ISSUED~~  
17 ~~DURING THE MANDATORY PERIOD OF SUSPENSION AS PROVIDED UNDER~~  
18 ~~PARAGRAPH (5) OF THIS SUBSECTION; AND~~

19 ~~[(ii)] (III) Advises the person of the right to request a hearing~~  
20 ~~under this paragraph.~~

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

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

24 ~~(ii) After a hearing, the Administration finds that the person~~  
25 ~~was convicted of [more than one] A violation of § 21-902(a), (B), (C), OR (D) of this~~  
26 ~~article within a 5 year period AFTER THE PERSON WAS PREVIOUSLY CONVICTED~~  
27 ~~OF ANY VIOLATION OF § 21-902(A), (B), (C), OR (D) OF THIS ARTICLE; or~~

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

30 ~~(5) IF REQUESTED BY THE PERSON, THE ADMINISTRATION MAY~~  
31 ~~MODIFY A SUSPENSION UNDER PARAGRAPH (4) OF THIS SUBSECTION TO:~~

32 ~~(i) IMPOSE A MINIMUM SUSPENSION PERIOD OF AT LEAST~~  
33 ~~45 DAYS;~~

**(H) ORDER THE PERSON TO MAINTAIN FOR THE  
REMAINDER OF THE 1 YEAR PERIOD OF SUSPENSION, AN IGNITION INTERLOCK  
SYSTEM ON EACH MOTOR VEHICLE OWNED OR OPERATED BY THE PERSON; AND**

**(iii) IMPOSE A RESTRICTION ON THE PERSON'S LICENSE FOR THE REMAINDER OF THE 1 YEAR PERIOD OF SUSPENSION THAT:**

1. PROHIBITS THE PERSON FROM DRIVING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM; AND

**2. ALLOWS THE PERSON TO DRIVE ONLY TO AND FROM WORK, SCHOOL, AN ALCOHOL TREATMENT PROGRAM, OR AN IGNITION INTERLOCK SERVICE FACILITY.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**2. THE LICENSE IS RESTRICTED TO PROHIBIT THE PERSON FROM DRIVING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN 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 FACILITY,  
4 IF THE PERSON WAS CONVICTED OF A VIOLATION OF § 21-902(A) OF THIS  
5 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 FIRST  
25 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;

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

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

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

10                   **(i) The person does not request a hearing;**  
11                   **(ii) After a hearing, the Administration finds that the person was**  
12                   **convicted of:**

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

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

18                   **3. A VIOLATION OF § 21-902(D) OF THIS ARTICLE**  
19                   **WITHIN A 5-YEAR PERIOD AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF**  
20                   **A VIOLATION OF § 21-902(A) OF THIS ARTICLE; OR**

21                   **(iii) The person fails to appear for a hearing requested by the**  
22                   **person.**

23                   **(5) THE ADMINISTRATION MAY MODIFY A SUSPENSION UNDER**  
24                   **PARAGRAPH (4) OF THIS SUBSECTION TO:**

25                   **(I) IMPOSE A SUSPENSION OF 45 DAYS;**  
26                   **(II) ORDER THE PERSON TO MAINTAIN, FOR THE**  
27                   **REMAINDER OF THE 1-YEAR PERIOD OF SUSPENSION, AN IGNITION INTERLOCK**  
28                   **SYSTEM ON A MOTOR VEHICLE OWNED OR OPERATED BY THE PERSON; AND**

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

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

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

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

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

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

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

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

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

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

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

1 person and impose a license restriction that prohibits the person from driving a motor  
2 vehicle that is not equipped with an ignition interlock system if:

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

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

8                   (iii) The person fails to appear for a hearing requested by the  
9 person.

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

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

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

20               [(8)] (10) An exemption under paragraph [(7)(ii)] (9)(II) of this  
21 subsection applies only under circumstances that:

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

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

25               [(9)] (11) If a person requests a hearing and the Administration finds  
26 that the person does not own a motor vehicle at the expiration of the 1-year period of  
27 suspension, the Administration shall impose a restriction on the license of the person  
28 for not less than 3 months and not more than 1 year, dating from the expiration of the  
29 1-year period of suspension, that prohibits the person from driving any motor vehicle  
30 that is not equipped with an ignition interlock system.

31               [(10)] (12) Each notice and hearing under this subsection shall meet  
32 the requirements of Title 12, Subtitle 2 of this article.

33               [(11)] (13) This subsection does not limit any provision of this article  
34 that allows or requires the Administration to:

- (i) Revoke or suspend a license of a person; or
- (ii) Prohibit a person from driving a motor vehicle that is not equipped with an ignition interlock system.

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

(f) (1) Subject to [paragraph (2)] SUBSECTIONS (D) AND (E) of this [subsection,] SECTION, the Administration may modify any suspension under this section or any suspension under § 16-205.1 of this subtitle and issue a restrictive license to a licensee who participates in the Ignition Interlock System Program established under § 16-404.1 of this title.

[2] The Administration may not modify a suspension and issue a restrictive license during a mandatory period of suspension described in subsection (e) of this section.]

16 21-902.

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

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

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

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

(2) It is not a defense to any charge of violating this subsection that the person charged is or was entitled under the laws of this State to use the drug, combination of drugs, or combination of one or more drugs and alcohol, unless the

1 person was unaware that the drug or combination would make the person incapable of  
2 safely driving a vehicle.

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

5 (d) (1) A person may not drive or attempt to drive any vehicle while the  
6 person is impaired by any controlled dangerous substance, as that term is defined in §  
7 5-101 of the Criminal Law Article, if the person is not entitled to use the controlled  
8 dangerous substance under the laws of this State.

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.