

# SENATE BILL 262

R3

9lr0182  
CF HB 293

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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**

Introduced and read first time: January 23, 2009

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 25, 2009

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

4 FOR the purpose of requiring the Motor Vehicle Administration to suspend for a  
5 certain period the driver's license of a person who has been convicted of certain  
6 drunk and drugged driving offenses within a certain time period after the  
7 person was previously convicted of certain drunk and drugged driving offenses;  
8 requiring the Administration to include a certain additional statement when  
9 issuing a notice of suspension of a drivers license; authorizing the  
10 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  
14 requirements; and generally relating to penalties for drunk and drugged  
15 driving.

16 BY repealing and reenacting, with amendments,  
17 Article – Transportation  
18 Section 16-205~~(e)(2), (3), and (4)~~ (e) and (f)  
19 Annotated Code of Maryland  
20 (2006 Replacement Volume and 2008 Supplement)

21 BY repealing and reenacting, without amendments,  
22 Article – Transportation

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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.



1 Section 21-902(a) through (d)  
 2 Annotated Code of Maryland  
 3 (2006 Replacement Volume and 2008 Supplement)

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

6 **Article - Transportation**

7 16-205.

8 (e) (1) In this subsection, "motor vehicle" does not include a commercial  
 9 motor vehicle.

10 (2) Subject to the provisions of this subsection, the Administration  
 11 shall suspend for 1 year the license of a person who is convicted of [a] ANY violation of  
 12 § 21-902(a), (B), (C), OR (D) of this article [more than once] AND, within a 5-year  
 13 period, **WAS PREVIOUSLY CONVICTED OF ANY VIOLATION UNDER § 21-902(A),**  
 14 **(B), (C), OR (D) OF THIS ARTICLE.**

15 (3) On receiving a record of a conviction of a person for [a] ANY  
 16 violation of § 21-902(a), (B), (C), OR (D) of this article [more than once] within a  
 17 5-year period **AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF ANY**  
 18 **VIOLATION UNDER § 21-902(A), (B), (C), OR (D) OF THIS ARTICLE,** the  
 19 Administration shall issue to the person a notice of suspension of the person's license  
 20 that:

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

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

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

27 **(II) STATES THAT A RESTRICTIVE LICENSE MAY BE ISSUED**  
 28 **DURING THE MANDATORY PERIOD OF SUSPENSION AS PROVIDED UNDER**  
 29 **PARAGRAPH (5) OF THIS SUBSECTION; AND**

30 [(ii)] (III) Advises the person of the right to request a hearing  
 31 under this paragraph.

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

- 1 (i) The person does not request a hearing;
- 2 (ii) After a hearing, the Administration finds that the person  
3 was convicted of [more than one] A violation of § 21-902(a), (B), (C), OR (D) of this  
4 article within a 5-year period **AFTER THE PERSON WAS PREVIOUSLY CONVICTED**  
5 **OF ANY VIOLATION OF § 21-902(A), (B), (C), OR (D) OF THIS ARTICLE;** or
- 6 (iii) The person fails to appear for a hearing requested by the  
7 person.

8 **(5) IF REQUESTED BY THE PERSON, THE ADMINISTRATION MAY**  
9 **MODIFY A SUSPENSION UNDER PARAGRAPH (4) OF THIS SUBSECTION TO:**

10 **(I) IMPOSE A MINIMUM SUSPENSION PERIOD OF AT LEAST**  
11 **45 DAYS;**

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

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

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

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

22 **(6) A PERSON WHO PARTICIPATES IN THE IGNITION INTERLOCK**  
23 **SYSTEM PROGRAM FOR AT LEAST 3 MONTHS UNDER PARAGRAPH (5) OF THIS**  
24 **SUBSECTION IS EXEMPT FROM THE REQUIREMENTS OF PARAGRAPHS (7)**  
25 **THROUGH (11) OF THIS SUBSECTION.**

26 **[(5)] (7) The Administration shall, within 90 days of the expiration of**  
27 **the 1-year period of suspension, issue to the person a notice, unless this notice**  
28 **requirement was waived at a hearing described in paragraph (4) of this subsection,**  
29 **that:**

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

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

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

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

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

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

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

21                   [(7)] **(9)** If the Administration finds at a hearing that maintenance of  
22 an ignition interlock system on a motor vehicle owned by the person creates a financial  
23 hardship on the person, the family of the person, or a co-owner of the motor vehicle,  
24 the Administration:

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

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

31                   [(8)] **(10)** An exemption under paragraph [(7)(ii)] **(9)(II)** of this  
32 subsection applies only under circumstances that:

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

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

1            [(9)] (11) If a person requests a hearing and the Administration finds  
2 that the person does not own a motor vehicle at the expiration of the 1-year period of  
3 suspension, the Administration shall impose a restriction on the license of the person  
4 for not less than 3 months and not more than 1 year, dating from the expiration of the  
5 1-year period of suspension, that prohibits the person from driving any motor vehicle  
6 that is not equipped with an ignition interlock system.

7            [(10)] (12) Each notice and hearing under this subsection shall meet  
8 the requirements of Title 12, Subtitle 2 of this article.

9            [(11)] (13) This subsection does not limit any provision of this article  
10 that allows or requires the Administration to:

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

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

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

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

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

26 21-902.

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

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

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

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

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

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

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

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

13                  (d)    (1)    A person may not drive or attempt to drive any vehicle while the  
14 person is impaired by any controlled dangerous substance, as that term is defined in §  
15 5–101 of the Criminal Law Article, if the person is not entitled to use the controlled  
16 dangerous substance under the laws of this State.

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

19                  SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 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.