

SENATE BILL 262

R3

9lr0182
CF HB 293

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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 25, 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 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

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:

Governor.

President of the Senate.

Speaker of the House of Delegates.