

HOUSE BILL 430

R3

5lr0473

By: **Delegates Folden and Afzali**

Introduced and read first time: February 9, 2015

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 19, 2015

CHAPTER _____

1 AN ACT concerning

2 **Drunk Driving – Accidents Resulting in Death – Sanctions for Administrative**
3 **Per Se Offenses**

4 FOR the purpose of altering the administrative sanctions for certain alcohol-related
5 administrative per se offenses applicable to a person who was involved in a motor
6 vehicle accident that resulted in the death of another person; expanding the list of
7 issues that may be considered during a certain hearing to include whether a certain
8 person was involved in a motor vehicle accident that resulted in the death of another
9 person; altering the circumstances under which the Motor Vehicle Administration is
10 required to take certain actions and the actions the Administration may take against
11 a person's driver's license for certain administrative per se offenses; authorizing the
12 Administration, under certain circumstances, to issue a certain restrictive license to
13 allow for participation in the Ignition Interlock System Program by a person whose
14 license is suspended or revoked under this Act; making conforming changes; and
15 generally relating to motor vehicle accidents resulting in death and administrative
16 sanctions for alcohol-related administrative per se offenses.

17 BY repealing and reenacting, with amendments,

18 Article – Transportation

19 Section 16–205.1(b)(1)(i) and (ii), (f)(4), (7), and (8)(i) and (v), and (j) and 16–404.1(f)

20 Annotated Code of Maryland

21 (2012 Replacement Volume and 2014 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

23 That the Laws of Maryland read as follows:

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.



Article – Transportation

16–205.1.

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

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

1. Except as provided in [item 2] **ITEMS 2, 3, AND 4** of this item, for a test result indicating an alcohol concentration of 0.08 or more at the time of testing:

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

or

B. For a second or subsequent offense, suspend the driver's license for 90 days;

2. **[For] EXCEPT AS PROVIDED IN ITEM 4 OF THIS ITEM, FOR** a test result indicating an alcohol concentration of 0.15 or more at the time of testing:

A. For a first offense, suspend the person's driving privilege for 90 days; or

B. For a second or subsequent offense, suspend the person's driving privilege for 180 days; [or]

3. **EXCEPT AS PROVIDED IN ITEM 4 OF THIS ITEM, FOR A TEST RESULT INDICATING AN ALCOHOL CONCENTRATION OF 0.08 OR MORE AT THE TIME OF TESTING, IF THE PERSON WAS INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF ANOTHER PERSON:**

A. **FOR A FIRST OFFENSE, SUSPEND THE PERSON'S DRIVING PRIVILEGE FOR 6 MONTHS; OR**

B. **FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND THE PERSON'S DRIVING PRIVILEGE FOR 1 YEAR;**

4. **FOR A TEST RESULT INDICATING AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING, IF THE PERSON WAS**

1 INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF
2 ANOTHER PERSON:

3 A. FOR A FIRST OFFENSE, SUSPEND THE PERSON'S
4 DRIVING PRIVILEGE FOR 1 YEAR; OR

5 B. FOR A SECOND OR SUBSEQUENT OFFENSE, REVOKE
6 THE PERSON'S DRIVING PRIVILEGE; OR

7 5. For a test refusal:

8 A. For a first offense, suspend the driver's license for 120
9 days; or

10 B. For a second or subsequent offense, suspend the driver's
11 license for 1 year;

12 (ii) In the case of a nonresident or unlicensed person:

13 1. Except as provided in [item 2] ITEMS 2, 3, AND 4 of this
14 item, for a test result indicating an alcohol concentration of 0.08 or more at the time of
15 testing:

16 A. For a first offense, suspend the person's driving privilege
17 for 45 days; or

18 B. For a second or subsequent offense, suspend the person's
19 driving privilege for 90 days;

20 2. [For] EXCEPT AS PROVIDED IN ITEM 4 OF THIS ITEM,
21 FOR a test result indicating an alcohol concentration of 0.15 or more at the time of testing:

22 A. For a first offense, suspend the person's driving privilege
23 for 90 days; or

24 B. For a second or subsequent offense, suspend the person's
25 driving privilege for 180 days; [or]

26 3. EXCEPT AS PROVIDED IN ITEM 4 OF THIS ITEM, FOR A
27 TEST RESULT INDICATING AN ALCOHOL CONCENTRATION OF 0.08 OR MORE AT THE
28 TIME OF TESTING, IF THE PERSON WAS INVOLVED IN A MOTOR VEHICLE ACCIDENT
29 THAT RESULTED IN THE DEATH OF ANOTHER PERSON:

30 A. FOR A FIRST OFFENSE, SUSPEND THE PERSON'S
31 DRIVING PRIVILEGE FOR 6 MONTHS; OR

1 **B. FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND**
 2 **THE PERSON'S DRIVING PRIVILEGE FOR 1 YEAR;**

3 **4. FOR A TEST RESULT INDICATING AN ALCOHOL**
 4 **CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING, IF THE PERSON WAS**
 5 **INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF**
 6 **ANOTHER PERSON:**

7 **A. FOR A FIRST OFFENSE, SUSPEND THE PERSON'S**
 8 **DRIVING PRIVILEGE FOR 1 YEAR; OR**

9 **B. FOR A SECOND OR SUBSEQUENT OFFENSE, REVOKE**
 10 **THE PERSON'S DRIVING PRIVILEGE; OR**

11 **5.** For a test refusal:

12 A. For a first offense, suspend the person's driving privilege
 13 for 120 days; or

14 B. For a second or subsequent offense, suspend the person's
 15 driving privilege for 1 year; and

16 (f) (4) If a hearing request is not made at the time of or within 10 days after
 17 the issuance of the order of suspension **OR REVOCATION**, the Administration shall:

18 (i) Make the [suspension] order effective [suspending the license]
 19 **AND SHALL:**

20 1. Except as provided in [item 2] **ITEMS 2, 3, AND 4** of this
 21 item, for a test result indicating an alcohol concentration of 0.08 or more at the time of
 22 testing:

23 A. For a first offense, **SUSPEND THE DRIVER'S LICENSE** for
 24 45 days; or

25 B. For a second or subsequent offense, **SUSPEND THE**
 26 **DRIVER'S LICENSE** for 90 days;

27 2. **[For] EXCEPT AS PROVIDED IN ITEM 4 OF THIS ITEM,**
 28 **FOR** a test result indicating an alcohol concentration of 0.15 or more at the time of testing:

29 A. For a first offense, **SUSPEND THE DRIVER'S LICENSE** for
 30 90 days; or

1 B. For a second or subsequent offense, **SUSPEND THE**
2 **DRIVER'S LICENSE** for 180 days; [or]

3 3. **EXCEPT AS PROVIDED IN ITEM 4 OF THIS ITEM, FOR A**
4 **TEST RESULT INDICATING AN ALCOHOL CONCENTRATION OF 0.08 OR MORE AT THE**
5 **TIME OF TESTING, IF THE PERSON WAS INVOLVED IN A MOTOR VEHICLE ACCIDENT**
6 **THAT RESULTED IN THE DEATH OF ANOTHER PERSON:**

7 A. **FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S**
8 **LICENSE FOR 6 MONTHS; OR**

9 B. **FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND**
10 **THE DRIVER'S LICENSE FOR 1 YEAR;**

11 4. **FOR A TEST RESULT INDICATING AN ALCOHOL**
12 **CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING, IF THE PERSON WAS**
13 **INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF**
14 **ANOTHER PERSON:**

15 A. **FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S**
16 **LICENSE FOR 1 YEAR; OR**

17 B. **FOR A SECOND OR SUBSEQUENT OFFENSE, REVOKE**
18 **THE DRIVER'S LICENSE; OR**

19 5. For a test refusal:

20 A. For a first offense, **SUSPEND THE DRIVER'S LICENSE** for
21 120 days; or

22 B. For a second offense or subsequent offense, **SUSPEND THE**
23 **DRIVER'S LICENSE** for 1 year; and

24 (ii) 1. In the case of a person operating a commercial motor
25 vehicle or who holds a commercial instructional permit or a commercial driver's license who
26 refuses to take a test, disqualify the person from operating a commercial motor vehicle for
27 a period of 1 year for a first offense, 3 years for a first offense which occurs while
28 transporting hazardous materials required to be placarded, and for life for a second or
29 subsequent offense which occurs while operating any commercial vehicle; or

30 2. In the case of a person operating a commercial motor
31 vehicle who refuses to take a test, and who holds a commercial instructional permit or a
32 commercial driver's license issued by another state, disqualify the person's privilege to
33 operate a commercial motor vehicle in this State and report the refusal and disqualification

1 to the person's resident state which may result in further penalties imposed by the person's
2 resident state.

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

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

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

14 3. Whether the police officer requested a test after the person
15 was fully advised, as required under subsection (b)(2) of this section, of the administrative
16 sanctions that shall be imposed;

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

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

20 6. Whether the person drove or attempted to drive a motor
21 vehicle while having an alcohol concentration of 0.15 or more at the time of testing; [or]

22 7. If the hearing involves disqualification of a commercial
23 instructional permit or a commercial driver's license, whether the person was operating a
24 commercial motor vehicle or held a commercial instructional permit or a commercial
25 driver's license; **OR**

26 **8. WHETHER THE PERSON WAS INVOLVED IN A MOTOR**
27 **VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF ANOTHER PERSON.**

28 (ii) The sworn statement of the police officer and of the test
29 technician or analyst shall be prima facie evidence of a test refusal, a test result indicating
30 an alcohol concentration of 0.08 or more at the time of testing, or a test result indicating an
31 alcohol concentration of 0.15 or more at the time of testing.

32 (8) (i) After a hearing, the Administration shall suspend **OR REVOKE**
33 the driver's license or privilege to drive of the person charged under subsection (b) or (c) of
34 this section if:

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

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

10 3. The police officer requested a test after the person was
11 fully advised, as required under subsection (b)(2) of this section, of the administrative
12 sanctions that shall be imposed; [and]

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

14 B. A test to determine alcohol concentration was taken and
15 the test result indicated an alcohol concentration of 0.08 or more at the time of testing; **AND**

16 **5. WHEN APPLICABLE, THE PERSON WAS INVOLVED IN A**
17 **MOTOR VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF ANOTHER PERSON.**

18 (v) The suspension imposed shall be:

19 1. Except as provided in [item 2] **ITEMS 2 AND 3** of this
20 subparagraph, for a test result indicating an alcohol concentration of 0.08 or more at the
21 time of testing:

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

23 B. For a second or subsequent offense, a suspension for 90
24 days;

25 2. [For] **EXCEPT AS PROVIDED IN ITEM 3 OF THIS**
26 **SUBPARAGRAPH, FOR** a test result indicating an alcohol concentration of 0.15 or more at
27 the time of testing:

28 A. For a first offense, a suspension of 90 days; or

29 B. For a second or subsequent offense, a suspension of 180
30 days; [or]

31 3. **EXCEPT AS PROVIDED IN ITEM 4 OF THIS**
32 **SUBPARAGRAPH, FOR A TEST RESULT INDICATING AN ALCOHOL CONCENTRATION**

1 **OF 0.08 OR MORE AT THE TIME OF TESTING, IF THE PERSON WAS INVOLVED IN A**
 2 **MOTOR VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF ANOTHER PERSON:**

3 **A. FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S**
 4 **LICENSE FOR 6 MONTHS; OR**

5 **B. FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND**
 6 **THE DRIVER'S LICENSE FOR 1 YEAR;**

7 **4. FOR A TEST RESULT INDICATING AN ALCOHOL**
 8 **CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING, IF THE PERSON WAS**
 9 **INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF**
 10 **ANOTHER PERSON:**

11 **A. FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S**
 12 **LICENSE FOR 1 YEAR; OR**

13 **B. FOR A SECOND OR SUBSEQUENT OFFENSE, REVOKE**
 14 **THE DRIVER'S LICENSE; OR**

15 **5.** For a test refusal:

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

17 B. For a second or subsequent offense, a suspension for 1
 18 year.

19 (j) If the Administration imposes a suspension, **REVOCA****TION**, or disqualification
 20 after a hearing, the person whose license or privilege to drive has been suspended,
 21 **REVO****KED**, or disqualified may appeal the final order of suspension **OR REVOCA****TION** as
 22 provided in Title 12, Subtitle 2 of this article.

23 16-404.1.

24 (f) (1) The Administration may:

25 (i) Issue a restrictive license to an individual who is a participant in
 26 the Program during the suspension period as provided under § 16-205 or § 16-205.1 of this
 27 title or § 16-404 of this subtitle;

28 (ii) Reinstate the driver's license of a participant whose license has
 29 been revoked **[for]**:

30 **1. FOR** a violation of § 21-902(a), (b), or (c) of this article **[or**
 31 **revoked for]**;

1 **2. FOR** an accumulation of points under § 16–402(a)(37) of
2 this subtitle for a violation of § 21–902(a) of this article; **OR**

3 **3. UNDER § 16–205.1(B) OR (F) OF THIS TITLE;** and

4 (iii) Notwithstanding any other provision of law, impose on a
5 participant a period of suspension in accordance with § 16–404(c)(2) and (3) of this subtitle
6 in lieu of a license revocation [for]:

7 1. **[A] FOR A** violation of § 21–902(a), (b), or (c) of this article;
8 **[or]**

9 2. **[An] FOR AN** accumulation of points under §
10 16–402(a)(37) of this subtitle for a violation of § 21–902(a) of this article; **OR**

11 **3. UNDER § 16–205.1(B) OR (F) OF THIS TITLE.**

12 (2) A notice of suspension or revocation sent to an individual under this
13 title shall include information about the Program and how individuals participate in the
14 Program.

15 (3) The Administration shall establish a fee for the Program that is
16 sufficient to cover the costs of the Program.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2015.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.