

**HB1342/618975/1**

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL 1342  
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, after “of” insert “increasing the suspension periods for the driver’s license of a person who is convicted of certain offenses relating to driving under the influence of alcohol and driving while impaired;”; in line 8, after “alcohol” insert “and driving while impaired”; strike beginning with “certain” in line 10 down through “and” in line 11; in line 11, after “certain” insert “suspensions on”; in line 12, strike “revocations of”; and in line 13, after “alcohol” insert “and driving while impaired; repealing the opportunity for a certain restricted license after a conviction of driving under the influence of alcohol; repealing a person’s right to a hearing on financial hardship regarding the installation of an ignition interlock on a motor vehicle owned by the person;”.

On page 2, strike beginning with “under” in line 6 down through “circumstances” in line 7; in line 8, after “person” insert “refuses or”; in the same line, strike “certain”; in the same line, after “test” insert “for breath alcohol concentration”; in line 9, after “Program,” insert “authorizing the Administration to extend a certain person’s participation period in the Program under certain circumstances”; strike beginning with “repealing” in line 11 down through “Program” in line 12; in line 16, strike “certain participation toward certain”; in the same line, after “participation,” insert “establishing certain completion requirements; altering the employer-based exception for a person who has a restricted license that requires an ignition interlock;”; strike beginning with “requiring” in line 16 down through “circumstances;” in line 17; in line 21, after “to” insert “required”; in line 25, strike “and”; in the same line, after “16-404.1” insert “, and 27-107”; and strike in their entirety lines 28 through 32, inclusive.

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On pages 3 through 46, strike in their entirety the lines beginning with line 4 on page 3 through line 16 on page 46, inclusive, and substitute:

“16–205.

(a) The Administration may revoke the license of any person who:

(1) Is convicted under § 21–902(a) or (d) of this article of driving or attempting to drive a motor vehicle while under the influence of alcohol, while under the influence of alcohol per se, or while impaired by a controlled dangerous substance;  
or

(2) Within a 3–year period, is convicted 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 vehicle safely and who was previously convicted of any combination of two or more violations under:

(i) § 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;

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

(iii) § 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 vehicle safely; or

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

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(b) The Administration:

(1) Shall revoke the license of any person who has been convicted, under Title 2, Subtitle 5 of the Criminal Law Article, of homicide by a motor vehicle while under the influence of alcohol, impaired by alcohol, or impaired by any drug, any combination of drugs, a combination of one or more drugs and alcohol, or a controlled dangerous substance; and

(2) May not issue a temporary license to drive for any person whose license has been revoked under item (1) of this subsection during an administrative appeal of the revocation.

(c) **(1)** Subject to [subsection (d-1)] SUBSECTIONS (D) AND (E) of this section, the Administration [may] SHALL suspend [for not more than 60 days the license of any person who] A PERSON'S LICENSE TO DRIVE FOR:

**(I)** 90 DAYS IF THE PERSON is convicted 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 vehicle safely;

**(II)** 6 MONTHS IF THE PERSON IS CONVICTED UNDER § 21-902(A) OF THIS ARTICLE; OR

**(III)** 1 YEAR IF WITHIN A 5-YEAR PERIOD THE PERSON IS CONVICTED OF A VIOLATION OF § 21-902 OF THIS ARTICLE AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF A VIOLATION OF § 21-902 OF THIS ARTICLE.

**(2)** A SUSPENSION UNDER THIS SUBSECTION SHALL BE CONCURRENT WITH ANY OTHER SUSPENSION OR REVOCATION IMPOSED BY THE

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ADMINISTRATION THAT ARISES OUT OF THE CIRCUMSTANCES OF THE CONVICTION FOR A VIOLATION OF § 21-902 OF THIS ARTICLE DESCRIBED IN THIS SUBSECTION.

(d) (1) [Subject to subsection (d-1) and subsection (e) of this section, the Administration may suspend for not more than 1 year the license of any person who, within a 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.

(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.

(d-1) (1) Notwithstanding [subsections] SUBSECTION (c) [and (d)] of this section, for a person who is under the age of 21 years on the date of a violation of § 21-902 of this article, and who is subsequently convicted of the violation under § 21-902 of this article, the Administration shall suspend the person's license to drive for:

(i) 1 year for a first conviction of § 21-902 of this article; and

(ii) 2 years for a second or subsequent conviction of § 21-902 of this article.

(2) A suspension imposed under this subsection shall:

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(i) 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 of this article described in this subsection; and

(ii) Receive credit for any suspension period imposed under § 16–113(f) of this title or § 16–205.1 of this subtitle that arises out of the circumstances of the conviction for a violation of § 21–902 of this article described in this subsection.

(3) (i) Subject to the provisions of this paragraph, a person may request on the record that a hearing on a suspension under this subsection and any other hearing on another suspension or revocation under this section, § 16–206(c)(3) or § 16–213 of this subtitle, or § 16–404 of this title that arises out of the circumstances of the conviction for a violation of § 21–902 of this article described in this subsection be consolidated.

(ii) A person who requests consolidation of hearings under this paragraph shall waive on the record each applicable notice of right to request a hearing required under Title 12, Subtitle 1 or 2 of this article or Title 10, Subtitle 2 of the State Government Article that applies to the other suspensions or revocations arising out of the same circumstances.

(iii) A hearing under this paragraph may not be postponed at the request of the person who requests consolidation of hearings under subparagraph (i) of this paragraph due to a consolidation of the hearings.

(iv) Subject to the provisions of this paragraph, the Administration shall consolidate the hearings described in this paragraph unless the administrative law judge finds in writing that good cause exists not to consolidate the hearings.

(e) (1) In this subsection, “motor vehicle” does not include a commercial motor vehicle.

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

(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)] **SUBSECTION (C)** of this [subsection] **SECTION**, the Administration shall issue to the person a notice of suspension of the person's license that:

(i) States that the person's license shall be suspended for [1 year] **THE PERIOD PROVIDED IN SUBSECTION (C) OF THIS SECTION;**

(ii) [States that a restricted license may be issued during 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 1 year;

2. The license is restricted to prohibit the person from driving a motor vehicle that is not equipped with an ignition interlock system;

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3. The license is restricted to permit the person to drive only to and from work, school, an alcohol treatment program, or an ignition interlock system service facility, if the person was convicted of a violation of § 21–902(a) of this article more than once within a 5–year period; and

4. The license is restricted to permit the person to drive only to and from work, school, an alcohol treatment program, a drug treatment program, or an ignition interlock system service facility, if the person was convicted of:

A. 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

B. 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;

(iii) Advises the person of the requirements under paragraph (7) of this subsection for a person who does not participate in the Ignition Interlock System Program in accordance with this paragraph during the 1–year period of suspension;

(iv)] Advises the person of the right to request a hearing on a suspension under this paragraph; [and]

[(v)] (III) Advises the person of the right, instead of requesting a hearing on a suspension under this paragraph, to [be subject to a 1–year period of suspension, during which, the person may be issued a restricted license under this paragraph if the following conditions are met:

1. The person’s driver’s license is not currently suspended, revoked, canceled, or refused;

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2. The violation did not arise out of circumstances that involved a death of, or serious physical injury to, another person;

3. The person surrenders a valid Maryland driver's license or signs a statement certifying that the driver's license is no longer in the person's possession; and

4. The person elects in writing, within the same time limit for requesting a hearing, to meet the ignition interlock system requirements under this paragraph for 1 year]**PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1 OF THIS TITLE; AND**

**(IV) PROVIDES INFORMATION ABOUT THE IGNITION INTERLOCK SYSTEM PROGRAM AND HOW A PERSON PARTICIPATES IN THE PROGRAM AS REQUIRED UNDER § 16-404.1 OF THIS TITLE.**

[(4)] (3) After notice under paragraph [(3)] (2) of this subsection, the Administration shall suspend a person's license under this subsection if:

(i) The person does not request a hearing;

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

1. A VIOLATION OF § 21-902(A), (B), OR (C) OF THIS ARTICLE; OR

2. More than one violation of [§ 21-902(a)] § 21-902 of this article within a 5-year period; OR



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[2. 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

3. 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; or]

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

[(5) The Administration may modify a suspension under paragraph (4) of this subsection to:

(i) Order the person to maintain for 1 year an ignition interlock system on a motor vehicle owned or operated by the person; and

(ii) Impose a restriction on the person's license for 1 year that prohibits the person from driving a motor vehicle that is not equipped with an ignition interlock system and permits the person to drive only to and from:

1. Work, school, an alcohol treatment program, or an ignition interlock system service facility, if the person was convicted of a violation of § 21-902(a) of this article more than once within a 5-year period;

2. Work, school, an alcohol treatment program, a drug treatment program, or an ignition interlock system service facility, if the person was convicted of:

A. 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

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B. 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.

(6) A person who participates in the Ignition Interlock System Program for at least 1 year under paragraph (5) of this subsection is exempt from the requirements of paragraphs (7) through (11) of this subsection.

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

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

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

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

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

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(i) The person does not request a hearing;

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

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

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

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

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

(10) An exemption under paragraph (9)(ii) of this subsection applies only under circumstances that:

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

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

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

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

[(13)] (5) This subsection does not limit any provision of this article 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.

[(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.

(15) Notwithstanding any other provision of this subsection, a person who is subject to suspension under paragraph (2) of this subsection may not operate a motor vehicle owned or provided by the person's employer that is not equipped with an ignition interlock device, as set forth in § 27-107(g) of this article.

(f) (1) Subject to paragraph (2) of this subsection, 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.

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(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.]

[(g)] (F) When a suspension imposed under [subsection (c), (d), (d-1), or (e) of this section or] § 16-206(b) of this subtitle expires, the Administration immediately shall return the license or reinstate the privilege of the driver, unless the license or privilege has been refused, revoked, suspended, or canceled under any other provisions of the Maryland Vehicle Law.

16-205.1.

(a) (1) (i) In this section the following words have the meanings indicated.

(ii) “Specimen of blood” and “1 specimen of blood” means 1 sample of blood that is taken, in a single procedure, in 2 or more portions in 2 or more separate vials.

(iii) “Test” means, unless the context requires otherwise:

1. A test of a person’s breath or of 1 specimen of a person’s blood to determine alcohol concentration;

2. A test or tests of 1 specimen of a person’s blood to determine the drug or controlled dangerous substance content of the person’s blood; or

3. Both:

A. A test of a person’s breath or a test of 1 specimen of a person’s blood, to determine alcohol concentration; and

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B. A test or tests of 1 specimen of a person's blood to determine the drug or controlled dangerous substance content of the person's blood.

(iv) "Under the influence of alcohol" includes under the influence of alcohol per se as defined by § 11-174.1 of this article.

(2) Any person who drives or attempts to drive a motor vehicle on a highway or on any private property that is used by the public in general in this State is deemed to have consented, subject to the provisions of §§ 10-302 through 10-309, inclusive, of the Courts and Judicial Proceedings Article, to take a test if the person should be detained on suspicion of driving or attempting to drive while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, while impaired by a controlled dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813 of this title.

(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 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] 90 days; or

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B. For a second or subsequent offense, suspend the driver's license for ~~[90]~~ **180** days;

2. 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]~~ **180** days; or

B. For a second or subsequent offense, suspend the person's driving privilege for ~~[180]~~ **270** days;

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 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 1 year; or

B. For a second or subsequent offense, revoke the person's driving privilege; or

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5. For a test refusal:

A. For a first offense, suspend the driver's license for [120] 270 days; or

B. For a second or subsequent offense, suspend the driver's license for [1 year] 2 YEARS;

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

1. Except as provided in 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 person's driving privilege for [45] 90 days; or

B. For a second or subsequent offense, suspend the person's driving privilege for [90] 180 days;

2. 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] 180 days; or

B. For a second or subsequent offense, suspend the person's driving privilege for [180] 270 days;

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



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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 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 1 year; or

B. For a second or subsequent offense, revoke the person's driving privilege; or

5. For a test refusal:

A. For a first offense, suspend the person's driving privilege for [120] **270** days; or

B. For a second or subsequent offense, suspend the person's driving privilege for [1 year] **2 YEARS**; and

(iii) In addition to any applicable driver's license suspensions authorized under this section, in the case of a person operating a commercial motor vehicle or who holds a commercial instructional permit or a commercial driver's license who refuses to take a test:

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1. Disqualify the person's commercial instructional permit or commercial driver's license for a period of 1 year for a first offense, 3 years for a first offense which occurs while transporting hazardous materials required to be placarded, and disqualify for life if the person's commercial instructional permit or commercial driver's license has been previously disqualified for at least 1 year under:

A. § 16-812(a) or (b) of this title;

B. A federal law; or

C. Any other state's law; or

2. If the person holds a commercial instructional permit or a commercial driver's license issued by another state, disqualify the person's privilege to operate a commercial motor vehicle and report the refusal and disqualification to the person's resident state which may result in further penalties imposed by the person's resident state.

(2) Except as provided in subsection (c) of this section, if a police officer stops or detains any person who the police officer has reasonable grounds to believe is or has been driving or attempting to drive a motor vehicle while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, while impaired by a controlled dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813 of this title, and who is not unconscious or otherwise incapable of refusing to take a test, the police officer shall:

(i) Detain the person;

(ii) Request that the person permit a test to be taken;

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(iii) Advise the person of the administrative sanctions, INCLUDING A REQUIREMENT THAT THE PERSON PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1 OF THIS TITLE, that shall be imposed for A REFUSAL TO TAKE THE TEST AND FOR test results indicating an alcohol concentration of at least 0.08 [but less than 0.15] at the time of testing; AND

(iv) [Advise the person of the administrative sanctions, including ineligibility for modification of a suspension or issuance of a restrictive license unless the person participates in the Ignition Interlock System Program under § 16-404.1 of this title, that shall be imposed for refusal to take the test and for test results indicating an alcohol concentration of 0.15 or more at the time of testing; and

(v) Advise the person of the additional criminal penalties that may be imposed under § 27-101(x) of this article on conviction of a violation of § 21-902 of this article if the person knowingly refused to take a test arising out of the same circumstances as the violation.

(3) If the person refuses to take the test or takes a test which results in an alcohol concentration of 0.08 or more at the time of testing, the police officer shall:

(i) Confiscate the person's driver's license issued by this State;

(ii) Acting on behalf of the Administration, personally serve an order of suspension on the person;

(iii) Issue a temporary license to drive;

(iv) Inform the person that the temporary license allows the person to continue driving for 45 days if the person is licensed under this title;

(v) Inform the person that:

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1. The person has a right to request, at that time or within 10 days, a hearing to show cause why the driver's license should not be suspended concerning the refusal to take the test or for test results indicating an alcohol concentration of 0.08 or more at the time of testing, and the hearing will be scheduled within 45 days; and

2. If a hearing request is not made at that time or within 10 days, but within 30 days the person requests a hearing, a hearing to show cause why the driver's license should not be suspended concerning the refusal to take the test or for test results indicating an alcohol concentration of 0.08 or more at the time of testing will be scheduled, but a request made after 10 days does not extend a temporary license issued by the police officer that allows the person to continue driving for 45 days;

(vi) Advise the person of the administrative sanctions that shall be imposed in the event of failure to request a hearing, failure to attend a requested hearing, or upon an adverse finding by the hearing officer, INCLUDING A REQUIREMENT THAT THE PERSON PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1 OF THIS TITLE;

(vii) Inform the person that, if the person refuses a test or takes a test that indicates an alcohol concentration of [0.15] 0.08 or more at the time of testing, the person may participate in the Ignition Interlock System Program under § 16-404.1 of this title instead of requesting a hearing under this paragraph, if the following conditions are met:

1. The person's driver's license is not currently suspended, revoked, canceled, or refused;

2. The person was not charged with a moving violation arising out of the same circumstances as an administrative offense under this section that involved a death of, or serious physical injury to, another person; and

3. Within the same time limits set forth in item (v) of this paragraph, the person:

A. Surrenders a valid Maryland driver's license or signs a statement certifying that the driver's license is no longer in the person's possession; and

B. Elects in writing to participate in the Ignition Interlock System Program for [1 year] A PERIOD EQUAL TO THE ENTIRE LENGTH OF A SUSPENSION UNDER PARAGRAPH (1) OF THIS SUBSECTION; [and]

(viii) PROVIDE INFORMATION ABOUT THE IGNITION INTERLOCK SYSTEM PROGRAM AND HOW A PERSON PARTICIPATES IN THE PROGRAM AS REQUIRED UNDER § 16-404.1 OF THIS TITLE; AND

(IX) Within 72 hours after the issuance of the order of suspension, send any confiscated driver's license, copy of the suspension order, and a sworn statement to the Administration, that states:

1. The officer had reasonable grounds to believe that the person had been driving or attempting to drive a motor vehicle on a highway or on any private property that is used by the public in general in this State while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, while impaired by a controlled dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813 of this title;

2. The person refused to take a test when requested by the police officer, the person submitted to the test which indicated an alcohol concentration of 0.08 or more at the time of testing, or the person submitted to the test which indicated an alcohol concentration of 0.15 or more at the time of testing; and

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3. The person was fully advised of the administrative sanctions that shall be imposed, including the fact that a person who refuses to take the test or takes a test that indicates an alcohol concentration of [0.15] **0.08** or more at the time of testing is [ineligible] **ELIGIBLE** for modification of a suspension or issuance of a [restrictive] **RESTRICTED** license under [subsection (n) of this section] **§ 16-404.1 OF THIS TITLE.**

(c) (1) If a person is involved in a motor vehicle accident that results in the death of, or a life threatening injury to, another person and the person is detained by a police officer who has reasonable grounds to believe that the person has been driving or attempting to drive while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, while impaired by a controlled dangerous substance, or in violation of § 16-813 of this title, the person shall be required to submit, as directed by the officer, to a test of:

(i) The person's breath to determine alcohol concentration;

(ii) One specimen of the person's blood, to determine alcohol concentration or to determine the drug or controlled dangerous substance content of the person's blood; or

(iii) Both the person's breath under item (i) of this paragraph and one specimen of the person's blood under item (ii) of this paragraph.

(2) If a police officer directs that a person be tested, then the provisions of § 10-304 of the Courts and Judicial Proceedings Article shall apply.

(3) Any medical personnel who perform any test required by this section are not liable for any civil damages as the result of any act or omission related to such test, not amounting to gross negligence.

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(d) (1) If a police officer has reasonable grounds to believe that a person has been driving or attempting to drive a motor vehicle while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, while impaired by a controlled dangerous substance, or in violation of § 16–813 of this title, and if the police officer determines that the person is unconscious or otherwise incapable of refusing to take a test, the police officer shall:

(i) Obtain prompt medical attention for the person;

(ii) If necessary, arrange for removal of the person to a nearby medical facility; and

(iii) If a test would not jeopardize the health or well-being of the person, direct a qualified medical person to withdraw blood for a test.

(2) If a person regains consciousness or otherwise becomes capable of refusing before the taking of a test, the police officer shall follow the procedure set forth in subsection (b) or (c) of this section.

(e) (1) The tests to determine alcohol concentration may be administered by an individual who has been examined and is certified by the Department of State Police as sufficiently equipped and trained to administer the tests.

(2) The Department of State Police may adopt regulations for the examination and certification of individuals trained to administer tests to determine alcohol concentration.

(f) (1) Subject to the provisions of this subsection, at the time of, or within 30 days from the date of, the issuance of an order of suspension, a person may submit a written request for a hearing before an officer of the Administration if:

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(i) The person is arrested for driving or attempting to drive a motor vehicle while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, while impaired by a controlled dangerous substance, in violation of an alcohol restriction, or in violation of § 16–813 of this title; and

(ii) 1. There is an alcohol concentration of 0.08 or more at the time of testing; or

2. The person refused to take a test.

(2) A request for a hearing made by mail shall be deemed to have been made on the date of the United States Postal Service postmark on the mail.

(3) If the driver's license has not been previously surrendered, the license must be surrendered at the time the request for a hearing is made.

(4) If a hearing request is not made at the time of or within 10 days after the issuance of the order of suspension or revocation, the Administration shall:

(i) Make the order effective and shall:

1. Except as provided in 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] 90 days; or

B. For a second or subsequent offense, suspend the driver's license for [90] 180 days;



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2. 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 driver's license for [90] 180 days; or

B. For a second or subsequent offense, suspend the driver's license for [180] 270 days;

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 driver's license for 6 months; or

B. For a second or subsequent offense, suspend the driver's license 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 involved in a motor vehicle accident that resulted in the death of another person:

A. For a first offense, suspend the driver's license for 1 year; or

B. For a second or subsequent offense, revoke the driver's license; or

5. For a test refusal:

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A. For a first offense, suspend the driver's license for [120] 270 days; or

B. For a second offense or subsequent offense, suspend the driver's license for [1 year] 2 YEARS; and

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

2. In the case of a person operating a commercial motor vehicle who refuses to take a test, and who holds a commercial instructional permit or a commercial driver's license issued by another state, disqualify the person's privilege to operate a commercial motor vehicle in this State and report the refusal and disqualification to the person's resident state which may result in further penalties imposed by the person's resident state.

(5) (i) If the person requests a hearing at the time of or within 10 days after the issuance of the order of suspension and surrenders the driver's license or, if applicable, the person's commercial instructional permit or commercial driver's license, the Administration shall set a hearing for a date within 30 days of the receipt of the request.

(ii) Subject to the provisions of this paragraph, a postponement of a hearing under this paragraph does not extend the period for which the person is authorized to drive and the suspension and, if applicable, the disqualification shall become effective on the expiration of the 45-day period after the issuance of the order of suspension.

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(iii) A postponement of a hearing described under this paragraph shall extend the period for which the person is authorized to drive if:

1. Both the person and the Administration agree to the postponement;

2. The Administration cannot provide a hearing within the period required under this paragraph; or

3. Under circumstances in which the person made a request, within 10 days of the date that the order of suspension was served under this section, for the issuance of a subpoena under § 12–108 of this article except as time limits are changed by this paragraph:

A. The subpoena was not issued by the Administration;

B. An adverse witness for whom the subpoena was requested, and on whom the subpoena was served not less than 5 days before the hearing described under this paragraph, fails to comply with the subpoena at an initial or subsequent hearing described under this paragraph held within the 45–day period; or

C. A witness for whom the subpoena was requested fails to comply with the subpoena, for good cause shown, at an initial or subsequent hearing described under this paragraph held within the 45–day period after the issuance of the order of suspension.

(iv) If a witness is served with a subpoena for a hearing under this paragraph, the witness shall comply with the subpoena within 20 days from the date that the subpoena is served.

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(v) If a hearing is postponed beyond the 45-day period after the issuance of the order of suspension under the circumstances described in subparagraph (iii) of this paragraph, the Administration shall stay the suspension and issue a temporary license that authorizes the person to drive only until the date of the rescheduled hearing described under this paragraph.

(vi) To the extent possible, the Administration shall expeditiously reschedule a hearing that is postponed under this paragraph.

(6) (i) If a hearing request is not made at the time of, or within 10 days from the date of the issuance of an order of suspension, but within 30 days of the date of the issuance of an order of suspension, the person requests a hearing and surrenders the driver's license or, if applicable, the person's commercial instructional permit or commercial driver's license, the Administration shall:

1. A. Make a suspension order effective suspending the license for the applicable period of time described under paragraph (4)(i) of this subsection; and

B. In the case of a person operating a commercial motor vehicle or who holds a commercial instructional permit or a commercial driver's license who refuses to take a test, disqualify the person's commercial instructional permit or commercial driver's license, or privilege to operate a commercial motor vehicle in this State, for the applicable period of time described under paragraph (4)(ii) of this subsection; and

2. Set a hearing for a date within 45 days of the receipt of a request for a hearing under this paragraph.

(ii) A request for a hearing scheduled under this paragraph does not extend the period for which the person is authorized to drive, and the suspension

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and, if applicable, the disqualification shall become effective on the expiration of the 45-day period that begins on the date of the issuance of the order of suspension.

(iii) A postponement of a hearing described under this paragraph shall stay the suspension only if:

1. Both the person and the Administration agree to the postponement;

2. The Administration cannot provide a hearing under this paragraph within the period required under this paragraph; or

3. Under circumstances in which the person made a request, within 10 days of the date that the person requested a hearing under this paragraph, for the issuance of a subpoena under § 12-108 of this article except as time limits are changed by this paragraph:

A. The subpoena was not issued by the Administration;

B. An adverse witness for whom the subpoena was requested, and on whom the subpoena was served not less than 5 days before the hearing, fails to comply with the subpoena at an initial or subsequent hearing under this paragraph held within the 45-day period that begins on the date of the request for a hearing under this paragraph; or

C. A witness for whom the subpoena was requested fails to comply with the subpoena, for good cause shown, at an initial or subsequent hearing under this paragraph held within the 45-day period that begins on the date of the request for a hearing under this paragraph.

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(iv) If a witness is served with a subpoena for a hearing under this paragraph, the witness shall comply with the subpoena within 20 days from the date that the subpoena is served.

(v) If a hearing is postponed beyond the 45-day period that begins on the date of the request for a hearing under this paragraph under circumstances described in subparagraph (iii) of this paragraph, the Administration shall stay the suspension and issue a temporary license that authorizes the person to drive only until the date of the rescheduled hearing.

(vi) To the extent possible, the Administration shall expeditiously reschedule a hearing that is postponed under this paragraph.

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

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

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

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

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4. Whether the person refused to take the test;
5. Whether the person drove or attempted to drive a motor vehicle while having an alcohol concentration of 0.08 or more at the time of testing;
6. Whether the person drove or attempted to drive a motor vehicle while having an alcohol concentration of 0.15 or more at the time of testing;
7. If the hearing involves disqualification of a commercial instructional permit or a commercial driver's license, whether the person was operating a commercial motor vehicle or held a commercial instructional permit or a commercial driver's license; or
8. Whether the person was involved in a motor vehicle accident that resulted in the death of another person.

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

(8) (i) After a hearing, the Administration shall suspend or revoke the [driver's] PERSON'S license or privilege to drive [of the person charged under subsection (b) or (c) of this section] if:

1. The police officer who stopped or detained the person had reasonable grounds to believe the person was driving or attempting to drive while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that

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the person could not drive a vehicle safely, while impaired by a controlled dangerous substance, in violation of an alcohol restriction, or in violation of § 16–813 of this title;

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

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

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

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

5. When applicable, the person was involved in a motor vehicle accident that resulted in the death of another person.

(ii) After a hearing, the Administration shall disqualify the person from driving a commercial motor vehicle if:

1. The person was detained while operating a commercial motor vehicle or while holding a commercial instructional permit or a commercial driver's license;

2. The police officer who stopped or detained the person had reasonable grounds to believe that the person was driving or attempting to drive while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, while impaired by a controlled



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dangerous substance, in violation of an alcohol restriction, or in violation of § 16–813 of this title;

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

4. The police officer requested a test after the person was fully advised of the administrative sanctions that shall be imposed; and

5. The person refused to take the test.

(iii) If the person is licensed to drive a commercial motor vehicle or holds a commercial instructional permit, the Administration shall disqualify the person in accordance with subparagraph (ii) of this paragraph, but may not impose a suspension under subparagraph (i) of this paragraph, if:

1. The person was detained while operating a commercial motor vehicle or while holding a commercial instructional permit or a commercial driver's license;

2. The police officer had reasonable grounds to believe the person was in violation of an alcohol restriction or in violation of § 16–813 of this title;

3. The police officer did not have reasonable grounds to believe the driver was driving while under the influence of alcohol, driving while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, or while impaired by a controlled dangerous substance; and

4. The driver refused to take a test.

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(iv) In the absence of a compelling reason for failure to attend a hearing, failure of a person to attend a hearing is prima facie evidence of the person's inability to answer the sworn statement of the police officer or the test technician or analyst, and the Administration summarily shall:

1. Suspend the driver's license or privilege to drive; and
2. If the driver is detained in a commercial motor vehicle or holds a commercial instructional permit or a commercial driver's license, disqualify the person from operating a commercial motor vehicle.

(v) The suspension imposed UNDER SUBPARAGRAPHS (I) AND (IV) OF THIS PARAGRAPH shall be:

1. Except as provided in items 2 and 3 of this subparagraph, for a test result indicating an alcohol concentration of 0.08 or more at the time of testing:

- A. For a first offense, a suspension for [45] 90 days; or
- B. For a second or subsequent offense, a suspension for [90] 180 days;

2. Except as provided in item 3 of this subparagraph, for a test result indicating an alcohol concentration of 0.15 or more at the time of testing:

- A. For a first offense, a suspension of [90] 180 days; or
- B. For a second or subsequent offense, a suspension of [180] 270 days;

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3. Except as provided in item 4 of this subparagraph, 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 driver's license for 6 months; or

B. For a second or subsequent offense, suspend the driver's license 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 involved in a motor vehicle accident that resulted in the death of another person:

A. For a first offense, suspend the driver's license for 1 year; or

B. For a second or subsequent offense, revoke the driver's license; or

5. For a test refusal:

A. For a first offense, a suspension for [120] **270** days; or

B. For a second or subsequent offense, a suspension for [1 year] **2 YEARS.**

(vi) A disqualification imposed under subparagraph (ii) or (iii) of this paragraph shall be for a period of 1 year for a first offense, 3 years for a first offense which occurs while transporting hazardous material required to be placarded, and life

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for a second or subsequent offense which occurs while operating or attempting to operate any commercial motor vehicle.

(vii) A disqualification of a commercial instructional permit or a commercial driver's license is not subject to any modifications, nor may a restricted commercial instructional permit or commercial driver's license be issued in lieu of a disqualification.

(viii) A disqualification for life may be reduced if permitted by § 16-812(d) of this title.

(g) **INSTEAD OF REQUESTING A HEARING UNDER SUBSECTION (F) OF THIS SECTION, A PERSON MAY REQUEST TO PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1 OF THIS TITLE IF:**

**(1) THE PERSON'S DRIVER'S LICENSE IS NOT CURRENTLY SUSPENDED, REVOKED, CANCELED, OR REFUSED;**

**(2) THE PERSON WAS NOT CHARGED WITH A MOVING VIOLATION ARISING OUT OF THE SAME CIRCUMSTANCES AS AN ADMINISTRATIVE OFFENSE UNDER THIS SECTION THAT INVOLVED A DEATH OF, OR SERIOUS PHYSICAL INJURY TO, ANOTHER PERSON; AND**

**(3) WITHIN THE SAME TIME LIMITS SET FORTH IN SUBSECTION (F) OF THIS SECTION, THE PERSON:**

**(i) SURRENDERS A VALID MARYLAND DRIVER'S LICENSE OR SIGNS A STATEMENT CERTIFYING THAT THE DRIVER'S LICENSE IS NO LONGER IN THE PERSON'S POSSESSION; AND**

(II) ELECTS IN WRITING TO PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM FOR THE PERIOD EQUAL TO THE ENTIRE SUSPENSION PERIOD SPECIFIED IN THIS SECTION FOR THE APPLICABLE VIOLATION.

(H) (1) An initial refusal to take a test that is withdrawn as provided in this subsection is not a refusal to take a test.

(2) A person who initially refuses to take a test may withdraw the initial refusal and subsequently consent to take the test if the subsequent consent:

(i) Is unequivocal;

(ii) Does not substantially interfere with the timely and efficacious administration of the test; and

(iii) Is given by the person:

1. Before the delay in testing would materially affect the outcome of the test; and

2. A. For the purpose of a test for determining alcohol concentration, within 2 hours of the person's apprehension; or

B. For the purpose of a test for determining the drug or controlled dangerous substance content of the person's blood, within 4 hours of the person's apprehension.

(3) In determining whether a person has withdrawn an initial refusal for the purposes of paragraph (1) of this subsection, among the factors that the Administration shall consider are the following:

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(i) Whether the test would have been administered properly:

1. For the purpose of a test for determining alcohol concentration, within 2 hours of the person's apprehension; or

2. For the purpose of a test for determining the drug or controlled dangerous substance content of the person's blood, within 4 hours of the person's apprehension;

(ii) Whether a qualified person, as defined in § 10-304 of the Courts Article, to administer the test and testing equipment were readily available;

(iii) Whether the delay in testing would have interfered with the administration of a test to another person;

(iv) Whether the delay in testing would have interfered with the attention to other duties of the arresting officer or a qualified person, as defined in § 10-304 of the Courts Article;

(v) Whether the person's subsequent consent to take the test was made in good faith; and

(vi) Whether the consent after the initial refusal was while the person was still in police custody.

(4) In determining whether a person has withdrawn an initial refusal for the purposes of paragraph (1) of this subsection, the burden of proof rests with the person to establish by a preponderance of the evidence the requirements of paragraph (2) of this subsection.

**[(h)] (I)** Notwithstanding any other provision of this section, if a driver's license is suspended based on multiple administrative offenses of refusal to take a test,

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or a test to determine alcohol concentration taken that indicated an alcohol concentration of 0.08 or more at the time of testing, or any combination of these administrative offenses committed at the same time, or arising out of circumstances simultaneous in time and place, or arising out of the same incident, the Administration:

(1) Shall suspend the driver's license for the administrative offense that results in the lengthiest period of suspension; and

(2) May not impose any additional periods of suspension for the remainder of the administrative offenses.

~~[(i)]~~ **(J)** Notwithstanding any other provision of this section, a test for drug or controlled dangerous substance content under this section:

(1) May not be requested as described under subsection (b) of this section, required as described under subsection (c) of this section, or directed as described under subsection (d) of this section, by a police officer unless the law enforcement agency of which the officer is a member has the capacity to have such tests conducted;

(2) May only be requested as described under subsection (b) of this section, required as described under subsection (c) of this section, or directed as described under subsection (d) of this section, by a police officer who is a trainee, has been trained, or is participating directly or indirectly in a program of training that is:

(i) Designed to train and certify police officers as drug recognition experts; and

(ii) Conducted by a law enforcement agency of the State, or any county, municipal, or other law enforcement agency in the State described in [items] ITEM (3)(i)1 through 12 of this subsection:

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1. In conjunction with the National Highway Traffic Safety Administration; or

2. As a program of training of police officers as drug recognition experts that contains requirements for successful completion of the training program that are the substantial equivalent of the requirements of the Drug Recognition Training Program developed by the National Highway Traffic Safety Administration; and

(3) May only be requested as described under subsection (b) of this section, required as described under subsection (c) of this section, or directed as described under subsection (d) of this section:

(i) In the case of a police officer who is a trainee, or who is participating directly or indirectly in a program of training described in [paragraph] ITEM (2) of this subsection, if the police officer is a member of, and is designated as a trainee or a participant by the head of:

1. The Department of State Police;
2. The Baltimore City Police Department;
3. A police department, bureau, or force of a county;
4. A police department, bureau, or force of an incorporated city or town;
5. The Maryland Transit Administration Police Force;
6. The Maryland Port Administration Police Force of the Department of Transportation;



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7. The Maryland Transportation Authority Police Force;
8. The Police Force of the University of Maryland or Morgan State University;
9. The police force for a State university or college under the direction and control of the University System of Maryland;
10. A sheriff's department of any county or Baltimore City;
11. The Natural Resources Police Force or the Forest and Park Service Police Force of the Department of Natural Resources; or
12. The Maryland Capitol Police of the Department of General Services; or

(ii) In the case of a police officer who has been trained as a drug recognition expert, if the police officer is a member of, and certified as a drug recognition expert by the head of one of the law enforcement agencies described in [items (3)(i)1] ITEM (I)1 through 12 of this [subsection] ITEM.

[(j)] (K) If the Administration imposes a suspension, revocation, or disqualification after a hearing, the person whose license or privilege to drive has been suspended, revoked, or disqualified may appeal the final order of suspension or revocation as provided in Title 12, Subtitle 2 of this article.

[(k)] (L) Subject to § 16-812(p) of this title, this section does not prohibit the imposition of further administrative sanctions if the person is convicted for any violation of the Maryland Vehicle Law arising out of the same occurrence.

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~~[(1)] (M)~~ (1) The determination of any facts by the Administration is independent of the determination of the same or similar facts in the adjudication of any criminal charges arising out of the same occurrence.

(2) The disposition of those criminal charges may not affect any suspension imposed under this section.

~~[(m)] (N)~~ (1) Except as otherwise provided in this subsection, a suspension imposed under this section may not be stayed by the Administration pending appeal.

(2) If the person files an appeal and requests in writing a stay of a suspension imposed under this section, the Director of the Division of Administrative Adjudication of the Administration may stay a suspension imposed under this section.

~~[(n)~~ (1) This subsection applies only to a licensee:

(i) Who takes a test that indicates an alcohol concentration of at least 0.08 but less than 0.15;

(ii) Whose license has not been suspended under this section during the past 5 years; and

(iii) Who has not been convicted under § 21-902 of this article during the past 5 years.

(2) The Administration may modify a suspension under this section or issue a restrictive license if the Administration finds that:

(i) The licensee is required to drive a motor vehicle in the course of employment;

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(ii) The license is required for the purpose of attending an alcohol prevention or treatment program;

(iii) The licensee has no alternative means of transportation available to or from the licensee's place of employment and, without the license, the licensee's ability to earn a living would be severely impaired;

(iv) The license is required for the purpose of obtaining health care treatment, including a prescription, that is necessary for the licensee or a member of the licensee's immediate family and the licensee and the licensee's immediate family have no alternative means of transportation available to obtain the health care treatment; or

(v) The license is required for the purpose of attending a noncollegiate educational institution as defined in § 2-206(a) of the Education Article or a regular program at an institution of postsecondary education.

(o) (1) This subsection applies only to a licensee who:

(i) Refused to take a test;

(ii) Took a test that indicated an alcohol concentration of 0.15 or more at the time of testing; or

(iii) Took a test that indicated an alcohol concentration of at least 0.08 but less than 0.15 at the time of testing and who is ineligible for a modification of a suspension or issuance of a restrictive license under subsection (n) of this section.

(2) The Administration may modify a suspension under this section or issue a restrictive license only if the licensee participates in the Ignition Interlock System Program for 1 year.

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(p) (1) If the Administration modifies a suspension under this section or issues a restrictive license on condition that the licensee participate in the Ignition Interlock System Program and the licensee does not successfully complete the Program, the Administration shall suspend the licensee's driver's license or driving privilege for the full period of suspension specified in this section for the applicable violation.

(2) The Administration shall notify a licensee of a suspension under this subsection.

(3) A licensee may request an administrative hearing on a suspension imposed under this subsection.

(4) If a licensee requests a hearing under this subsection, the suspension shall be stayed pending the decision at the administrative hearing.]

[(q)] (O) The provisions of this section relating to disqualification do not apply to offenses committed by an individual in a noncommercial motor vehicle before:

(1) September 30, 2005; or

(2) The initial issuance to the individual of a commercial instructional permit by any state.

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(a) (1) In this section the following words have the meanings indicated.

(2) "Approved service provider" means a person who is certified by:

(i) The Administration to service, install, monitor, calibrate, and provide information on ignition interlock systems; and

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(ii) A manufacturer to be qualified to service, install, monitor, calibrate, and provide information on ignition interlock systems.

(3) “Manufacturer” means a person who manufactures ignition interlock systems and who certifies that approved service providers are qualified to service, install, monitor, calibrate, and provide information on ignition interlock systems.

(4) “Participant” means a participant in the Ignition Interlock System Program.

(5) “Program” means the Ignition Interlock System Program.

(b) (1) The Administration shall establish an Ignition Interlock System Program in accordance with this section.

(2) The Administration shall establish a protocol for the Program by regulations that require certain minimum standards for all service providers who service, install, monitor, calibrate, and provide information on ignition interlock systems and include requirements that:

(i) A service provider who applies to the Administration for certification as an approved service provider shall demonstrate that the service provider is able to competently service, install, monitor, calibrate, and provide information to the Administration at least every 30 days on individuals required to use ignition interlock systems;

(ii) A service provider who applies to the Administration for certification as an approved service provider shall be certified by a signed affidavit from the manufacturer that the service provider has been trained by an authorized manufacturer and that the service provider is competent to service, install, monitor, calibrate, and provide information on ignition interlock systems;

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(iii) Approved service providers be deemed to be authorized representatives of a manufacturer; and

(iv) Any service of notice upon an approved service provider, who has violated any laws or regulations or whose ignition interlock system has violated any laws or regulations, be deemed as service upon the manufacturer who certified the approved service provider.

(c) An individual [may] **SHALL** be a participant if:

(1) The individual's license is suspended or revoked under § 16–205 of this title for a violation of § 21–902(a), (b), or (c) of this article or § 16–404 of this subtitle for an accumulation of points under § 16–402(a)(28) or (37) of this subtitle;

(2) The individual's license has an alcohol restriction imposed under § 16–113(g)(1) of this title; [or]

(3) The [Administration modifies a suspension or issues a restrictive license to the individual] **INDIVIDUAL'S LICENSE IS SUSPENDED** under § 16–205.1 of this title;

(4) **THE INDIVIDUAL'S LICENSE IS REVOKED UNDER § 16–205(B) OF THIS TITLE FOR HOMICIDE BY MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL, IMPAIRED BY ALCOHOL, OR IMPAIRED BY A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL; OR**

(5) **THE INDIVIDUAL IS REQUIRED TO PARTICIPATE BY A COURT ORDER UNDER § 27–107 OF THIS ARTICLE.**

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(d) (1) [(i) Notwithstanding subsection (c) of this section, an individual shall be a participant if the individual is convicted of a violation of:

1. § 21-902(a)(1) or (2) of this article and had an alcohol concentration at the time of testing of 0.15 or more; or

2. § 21-902(a)(3) or (b)(2) of this article and the minor who was transported was under the age of 16 years.]

[(ii) (I) If an individual is subject to [this paragraph] SUBSECTION (C) OF THIS SECTION and fails to participate in the Program or successfully complete the Program, the Administration shall suspend, notwithstanding § 16-208 of this title, the individual's license until the individual successfully completes the Program.

[(iii) (II) Nothing contained in this paragraph limits the authority of the Administration to modify a suspension imposed under this paragraph to allow an individual to be a participant in accordance with subsection (e) or [(o) (P) of this section.

(2) [(i) Notwithstanding subsection (c) of this section, an individual shall be a participant as a condition of modification of a suspension or revocation of a license or issuance of a restrictive license if the individual:

1. Is required to be a participant by a court order under § 27-107 of this article;

2. Is convicted of a violation of § 21-902(a) or (b) of this article and within the preceding 5 years the individual has been convicted of any violation of § 21-902 of this article; or

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3. Was under the age of 21 years on the date of a violation  
by the individual of:

A. An alcohol restriction imposed under § 16–113(b)(1) of  
this title; or

B. § 21–902(a), (b), or (c) of this article.

(ii) If an individual is subject to this paragraph and the  
individual fails to participate in the Program or does not successfully complete the  
Program, the Administration shall suspend the individual’s license for 1 year.

(iii) Nothing contained in this paragraph limits the authority of  
the Administration to modify a suspension imposed under this paragraph to allow an  
individual to be a participant in accordance with subsection (e) or (o) of this section]  
**THE ADMINISTRATION SHALL ISSUE A RESTRICTED LICENSE TO AN INDIVIDUAL**  
**WHO IS REQUIRED TO PARTICIPATE IN THE PROGRAM UNDER THIS SECTION.**

(3) An individual who is subject to this subsection shall participate in  
the Program for THE LENGTH OF THE SUSPENSION IMPOSED ON THE INDIVIDUAL’S  
**LICENSE OR IF NO SUSPENSION LENGTH IS SPECIFIED:**

(i) 6 months the first time the individual is required under this  
[subsection] SECTION to participate in the Program;

(ii) 1 year the second time the individual is required under this  
[subsection] SECTION to participate in the Program; and

(iii) 3 years the third or any subsequent time the individual is  
required under this [subsection] SECTION to participate in the Program.



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(4) Paragraph (3) of this subsection does not limit a longer period of Program participation that is required by:

(i) A court order under § 27–107 of this article; or

(ii) The Administration in accordance with another provision of this title.

(e) If an individual subject to subsection (c) [or (d)] of this section does not initially become a participant:

(1) The individual may apply later to the Administration to be a participant; and

(2) The Administration may reconsider any suspension or revocation of the driver's license of the individual arising out of the same circumstances and allow the individual to participate in the Program.

(f) (1) The Administration [may] SHALL:

(i) [Issue] **MODIFY A SUSPENSION AND ISSUE** a [restrictive] **RESTRICTED** license to an individual who is a participant in the Program during the suspension period as provided under § 16–205 or § 16–205.1 of this title or § 16–404 of this subtitle;

(ii) Reinstate the driver's license of a participant whose license has been revoked:

1. For a violation of § 21–902(a), (b), or (c) of this article;

2. For an accumulation of points under § 16–402(a)(37) of this subtitle for a violation of § 21–902(a) of this article; or

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3. Under § 16–205.1(b) or (f) of this title; and

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

1. For a violation of § 21–902(a), (b), or (c) of this article;

2. For an accumulation of points under § 16–402(a)(37) of this subtitle for a violation of § 21–902(a) of this article; or

3. Under § 16–205.1(b) or (f) of this title.

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

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

(g) Subject to [§ 27–107(g)(2)] § 27–107(H) of this article, the Administration shall impose a restriction on the individual’s license that prohibits the individual from driving a motor vehicle that is not equipped with an ignition interlock system for the period of time that the individual is required to participate in the Program under this section.

(h) A participant is considered to begin participation in the Program when the participant provides evidence of the installation of an ignition interlock system by an approved service provider in a manner required by the Administration.

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(i) An individual whose license is suspended under § 16–404(c)(2)(iv) of this subtitle is a habitual offender whose license may not be reinstated unless the individual participates in the Program for at least 24 months.

(j) (1) For purposes of an ignition interlock system used under [§ 16–205(f) of this title,] this section[,] or a court order under § 27–107 of this article, the Administration shall permit only the use of an ignition interlock system that meets or exceeds the technical standards for breath alcohol ignition interlock devices published in the Federal Register from time to time.

(2) For purposes of an ignition interlock system used under this section, the Administration shall require the Program protocol adopted by the Administration.

(k) (1) An individual required to use an ignition interlock system under a court order or this section:

(i) Shall be monitored by the Administration; and

(ii) Except as provided in paragraph (2) of this subsection, shall pay the fee required by the Administration under subsection (f)(3) of this section.

(2) The Administration shall waive the fee required under this subsection for an individual who is indigent.

(l) A court order that requires the use of an ignition interlock system is not affected by § 16–404(c)(3) of this subtitle.

(m) (1) If an individual participates in the Program under this section and participates in the Program in accordance with any other provision of law arising out of the same incident, the periods of participation in the Program shall be concurrent.

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(2) IF AN INDIVIDUAL PARTICIPATES IN THE PROGRAM UNDER § 16-205.1 OF THIS TITLE, THE INDIVIDUAL SHALL RECEIVE CREDIT TOWARD THE LENGTH OF PARTICIPATION IN THE PROGRAM ARISING OUT OF THE SAME INCIDENT AS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

(N) THE ADMINISTRATION SHALL CONSIDER A PARTICIPANT TO HAVE SUCCESSFULLY COMPLETED THE PROGRAM IF THE ADMINISTRATION RECEIVES FROM THE PARTICIPANT'S APPROVED SERVICE PROVIDER A CERTIFICATION THAT IN THE 3 CONSECUTIVE MONTHS BEFORE A PARTICIPANT'S DATE OF RELEASE FROM THE PROGRAM THERE WAS NOT:

(1) AN ATTEMPT TO START THE VEHICLE WITH A BREATH ALCOHOL CONCENTRATION OF 0.04 OR MORE UNLESS A SUBSEQUENT TEST PERFORMED WITHIN 10 MINUTES REGISTERED A BREATH ALCOHOL CONCENTRATION LOWER THAN 0.04;

(2) A FAILURE TO TAKE OR PASS A RANDOM TEST WITH A BREATH ALCOHOL CONCENTRATION OF 0.025 OR LOWER UNLESS A SUBSEQUENT TEST PERFORMED WITHIN 10 MINUTES REGISTERED A BREATH ALCOHOL CONCENTRATION LOWER THAN 0.025; OR

(3) A FAILURE OF THE PARTICIPANT TO APPEAR AT THE APPROVED SERVICE PROVIDER WHEN REQUIRED FOR MAINTENANCE, REPAIR, CALIBRATION, MONITORING, INSPECTION, OR REPLACEMENT OF THE DEVICE CAUSING THE DEVICE TO CEASE TO FUNCTION AS REQUIRED UNDER THIS SECTION.

[(n)] (O) If an individual successfully completes the Program and the individual's license is not refused, revoked, suspended, or canceled under another

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provision of this article, the Administration shall immediately issue a license to the licensee.

**[(o)] (P)** (1) Notwithstanding § 16–208 of this title, if the Administration removes an individual from the Program because the individual violated requirements of the Program, the Administration may allow the individual to reenter the Program after a period of 30 days from the date of removal.

(2) If an individual reenters the Program under this subsection, the individual shall participate in the Program for the entire period of time that was initially necessary for successful completion of the Program without any credit for the period of participation before the individual was removed from the Program.

(3) Nothing contained in paragraph (2) of this subsection limits a period of participation in the Program required under any other provision of this title or § 27–107 of this article.

**[(p)] (Q)** A suspension or revocation of a license of an individual subject to subsection (c) or (d) of this section that is imposed as a result of the failure of the individual to participate in the Program or successfully complete the Program shall be concurrent with any other suspension or revocation arising out of the same incident for which the individual is subject to subsection (c) or (d) of this section.

**[(q)] (R)** (1) If a person is convicted of any violation of § 21–902 of this article, the Administration shall include in the notice of proposed suspension or revocation a warning in bold conspicuous type that the person shall participate in the Program [if the person is subsequently convicted of a violation of § 21–902(a) or (b) of this article as described in this section].

(2) At the time that the Administration issues a license to a person who is under the age of 21 years, the Administration shall provide to the person a written warning in bold conspicuous type that the person shall participate in the Program if the

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Administration finds the person violated the alcohol restriction on a driver under the age of 21 years or the person violated any provision of § 21–902 of this article.

(3) A person may not raise the absence of the warning described under this subsection or the failure to receive that warning as a basis for limiting the authority of the Administration to require that the person participate in the Program in accordance with this section.

27–107.

(a) In this section, “ignition interlock system” means a device that:

(1) Connects a motor vehicle ignition system to a breath analyzer that measures a driver’s blood alcohol level; and

(2) Prevents a motor vehicle ignition from starting if a driver’s blood alcohol level exceeds the calibrated setting on the device.

(b) In addition to any other penalties provided in this title for a violation of any of the provisions of § 21–902(a) of this article (“Driving while under the influence of alcohol or under the influence of alcohol per se”), or § 21–902(b) of this article (“Driving while impaired by alcohol”), or in addition to any other condition of probation, a court may prohibit a person who is convicted of, or granted probation under § 6–220 of the Criminal Procedure Article for, a violation of § 21–902(a) or § 21–902(b) of this article from operating for not more than 3 years a motor vehicle that is not equipped with an ignition interlock system.

(c) If the court imposes the use of an ignition interlock system as a sentence, part of a sentence, or a condition of probation, the court:

(1) Shall state on the record the requirement for, and the period of the use of the system, and so notify the Administration;

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(2) Shall direct that the records of the Administration reflect:

(i) That the person may not operate a motor vehicle that is not equipped with an ignition interlock system; and

(ii) Whether the court has expressly permitted the person to operate a motor vehicle without an ignition interlock system under subsection [(g)(2)] (H) of this section;

(3) Shall direct the Administration to note in an appropriate manner a restriction on the person's license imposed under [paragraph] ITEM (2)(i) or (ii) of this subsection;

(4) Shall require proof of the installation of the system and periodic reporting by the person for verification of the proper operation of the system;

(5) Shall require the person to have the system monitored for proper use and accuracy by an entity approved by the Administration at least semiannually, or more frequently as the circumstances may require; and

(6) (i) Shall require the person to pay the reasonable cost of leasing or buying, monitoring, and maintaining the system; and

(ii) May establish a payment schedule.

(d) A person prohibited under this section or Title 16 of this article from operating a motor vehicle that is not equipped with an ignition interlock system may not solicit or have another person attempt to start or start a motor vehicle equipped with an ignition interlock system.

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(e) A person may not attempt to start or start a motor vehicle equipped with an ignition interlock system for the purpose of providing an operable motor vehicle to a person who is prohibited under this section or Title 16 of this article from operating a motor vehicle that is not equipped with an ignition interlock system.

(f) A person may not tamper with, or in any way attempt to circumvent, the operation of an ignition interlock system that has been installed in the motor vehicle of a person under this section or Title 16 of this article.

(g) [(1)] Subject to the provisions of [paragraph (2)] SUBSECTION (H) of this [subsection] SECTION, a person may not knowingly furnish a motor vehicle not equipped with a functioning ignition interlock system to another person who the person knows is prohibited under subsection (b) of this section or Title 16 of this article from operating a motor vehicle not equipped with an ignition interlock system.

[(2) (i) This paragraph does not limit or otherwise affect any provision of federal or State law relating to a holder of a commercial driver's license.

(ii) If a person is required, in the course of the person's employment, to operate a motor vehicle owned or provided by the person's employer, the person may operate that motor vehicle in the course of the person's employment without installation of an ignition interlock system if:

1. The person has not been convicted of:
  - A. A violation of § 21-902(a) of this article more than once within a 5-year period;
  - B. 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



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C. 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; and

2. The court or the Administration has expressly permitted the person to operate in the course of the person's employment a motor vehicle that is not equipped with an ignition interlock system.

(iii) The Administration may allow a participant in the Ignition Interlock System Program under § 16-404.1 of this article to operate, in the course of the person's employment, a motor vehicle owned or provided by the person's employer that is not equipped with an ignition interlock system if:

1. The person provides information acceptable to the Administration regarding the person's current employment and the need for the person to operate the motor vehicle in the course of employment; and

2. The person has not been convicted of:

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

B. 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

C. 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.]

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(H) (1) THIS SUBSECTION DOES NOT LIMIT OR OTHERWISE AFFECT ANY PROVISION OF FEDERAL OR STATE LAW RELATING TO A HOLDER OF A COMMERCIAL DRIVER'S LICENSE.

(2) SUBJECT TO THE REQUIREMENTS IN PARAGRAPH (3) OF THIS SUBSECTION, IF A PERSON IS REQUIRED TO OPERATE AN EMPLOYER'S MOTOR VEHICLE IN THE COURSE AND SCOPE OF EMPLOYMENT AND THE BUSINESS ENTITY THAT OWNS THE VEHICLE IS NOT OWNED OR CONTROLLED BY THE PERSON, THE EMPLOYER MAY PROVIDE AND THE PERSON MAY OPERATE A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK SYSTEM TO BE USED IN THE COURSE OF THE PERSON'S EMPLOYMENT.

(3) ANY TIME A PERSON OPERATES A MOTOR VEHICLE IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, THE PERSON SHALL HAVE IN THE PERSON'S POSSESSION AND PRESENT TO A LAW ENFORCEMENT OFFICER IF REQUESTED A FORM THAT INCLUDES:

(I) A DESCRIPTION OF THE PERSON'S LICENSE RESTRICTION REQUIRING THAT THE PERSON OPERATE ONLY VEHICLES EQUIPPED WITH AN IGNITION INTERLOCK SYSTEM;

(II) A STATEMENT THAT THE PERSON MAY OPERATE THE EMPLOYER'S VEHICLES ONLY IN THE COURSE AND SCOPE OF THE PERSON'S EMPLOYMENT;

(III) THE EMPLOYER'S NAME, TITLE, AND TELEPHONE NUMBER;

(IV) A NOTARIZED SIGNATURE OF THE EMPLOYER ACKNOWLEDGING THE CONTENTS OF THE FORM;

(V) THE PERSON'S SIGNATURE ACKNOWLEDGING THAT THE PERSON MUST KEEP THE FORM IN THE PERSON'S POSSESSION AT ALL TIMES WHILE OPERATING THE EMPLOYER'S VEHICLE; AND

(VI) A STAMP OR SIGNATURE FROM AN AUTHORIZED EMPLOYEE OF THE ADMINISTRATION.

(4) THE PERSON SHALL PROVIDE TO THE PERSON'S EMPLOYER AND THE ADMINISTRATION A COPY OF THE COMPLETED FORM.

(5) THE ADMINISTRATION SHALL CREATE A STANDARDIZED FORM THAT COMPLIES WITH THE REQUIREMENTS OF PARAGRAPH (3) OF THIS SUBSECTION.

(6) NOTHING IN THIS SUBSECTION AUTHORIZES A PERSON TO OPERATE AN EMPLOYER'S MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK SYSTEM TO COMMUTE TO OR FROM WORK OR FOR ANY OTHER PERSONAL USE NOT REQUIRED IN THE COURSE AND SCOPE OF THE PERSON'S EMPLOYMENT."