

SENATE BILL 945

R3, R4

6lr1936
CF 6lr1749

By: **Senators Raskin, Feldman, Guzzone, King, Lee, Madaleno, Manno, Rosapepe, Young, and Zucker**

Introduced and read first time: February 5, 2016

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Drunk Driving Reduction Act of 2016**
3 **(Noah's Law)**

4 FOR the purpose of increasing the suspension periods for the driver's license of a person
5 who is convicted of certain offenses relating to driving under the influence of alcohol
6 and driving while impaired; requiring the Motor Vehicle Administration to require
7 a person who is convicted of certain offenses relating to driving under the influence
8 of alcohol and driving while impaired to participate in the Ignition Interlock System
9 Program for certain periods of time; requiring that the Administration include
10 certain information about the Program in notifications regarding suspensions;
11 requiring the Administration to modify certain suspensions on the driver's license of
12 a person who is convicted of certain offenses relating to driving under the influence
13 of alcohol and driving while impaired; repealing the opportunity for a certain
14 restricted license after a conviction of driving under the influence of alcohol;
15 repealing a person's right to a hearing on financial hardship regarding the
16 installation of an ignition interlock on a motor vehicle owned by the person;
17 increasing the suspension periods for the driver's license of a person who has refused
18 or has certain results after a test for breath alcohol concentration; adding
19 advisements a police officer must give to certain detainees; altering the length of
20 time a certain person must participate in the Program; requiring a certain person
21 whose license is suspended by the Administration after the person refuses or has
22 certain results from a test for breath alcohol concentration to participate in the
23 Program; authorizing the Administration to extend a certain person's participation
24 period in the Program under certain circumstances; altering the period of time a
25 certain person must participate in the Program; requiring the Administration to
26 modify the suspension of a certain Program participant's license and issue the
27 participant a restricted license; providing that a certain person who participates in
28 the Program must receive credit for future participation; establishing certain
29 completion requirements; requiring a certain person convicted of reckless or
30 negligent driving to participate in the Program; altering the employer-based

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 exception for a person who has a restricted license that requires an ignition interlock;
2 making conforming changes; and generally relating to required participation in the
3 Ignition Interlock System Program.

4 BY repealing and reenacting, with amendments,
5 Article – Transportation
6 Section 16–205, 16–205.1, 16–404.1, and 27–107
7 Annotated Code of Maryland
8 (2012 Replacement Volume and 2015 Supplement)

9 BY repealing and reenacting, without amendments,
10 Article – Transportation
11 Section 21–901.1 and 27–101(a), (b), and (g)
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2015 Supplement)

14 BY adding to
15 Article – Transportation
16 Section 27–101(gg)
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2015 Supplement)

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

21 **Article – Transportation**

22 16–205.

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

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

27 (2) Within a 3–year period, is convicted under § 21–902(b) or (c) of this
28 article of driving or attempting to drive a motor vehicle while impaired by alcohol or while
29 so far impaired by any drug, any combination of drugs, or a combination of one or more
30 drugs and alcohol that the person cannot drive a vehicle safely and who was previously
31 convicted of any combination of two or more violations under:

32 (i) § 21–902(a) of this article of driving or attempting to drive a
33 motor vehicle while under the influence of alcohol or while under the influence of alcohol
34 per se;

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

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

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

6 (b) The Administration:

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

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

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

18 (I) **90 DAYS IF THE PERSON** is convicted under § 21–902(b) or (c) of
19 this article of driving or attempting to drive a motor vehicle while impaired by alcohol or
20 while so far impaired by any drug, any combination of drugs, or a combination of one or
21 more drugs and alcohol that the person cannot drive a vehicle safely;

22 (II) **6 MONTHS IF THE PERSON IS CONVICTED UNDER §**
23 **21–902(A) OF THIS ARTICLE; OR**

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

27 (2) **A SUSPENSION UNDER THIS SUBSECTION SHALL BE CONCURRENT**
28 **WITH ANY OTHER SUSPENSION OR REVOCATION IMPOSED BY THE ADMINISTRATION**
29 **THAT ARISES OUT OF THE CIRCUMSTANCES OF THE CONVICTION FOR A VIOLATION**
30 **OF § 21–902 OF THIS ARTICLE DESCRIBED IN THIS SUBSECTION.**

31 (d) (1) [Subject to subsection (d–1) and subsection (e) of this section, the
32 Administration may suspend for not more than 1 year the license of any person who, within
33 a 5–year period, is convicted of any violation of § 21–902 of this article after the person was
34 previously convicted of any violation under § 21–902 of this article.

1 (2) If requested by the person, the Administration may issue a restricted
2 license for the period of a suspension to a person who participates in the Ignition Interlock
3 System Program under § 16–404.1 of this title.

4 (3) A suspension under this subsection shall be concurrent with any other
5 suspension or revocation imposed by the Administration that arises out of the
6 circumstances of the conviction for the violation of § 21–902 of this article described in this
7 subsection.

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

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

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

15 (2) A suspension imposed under this subsection shall:

16 (i) Be concurrent with any other suspension or revocation imposed
17 by the Administration that arises out of the circumstances of the conviction for a violation
18 of § 21–902 of this article described in this subsection; and

19 (ii) Receive credit for any suspension period imposed under §
20 16–113(f) of this title or § 16–205.1 of this subtitle that arises out of the circumstances of
21 the conviction for a violation of § 21–902 of this article described in this subsection.

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

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

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

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

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

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

8 (i) A violation of § 21–902(a) of this article more than once within a
9 5–year period;

10 (ii) A violation of § 21–902(a) of this article within a 5–year period
11 after the person was previously convicted of a violation of § 21–902(d) of this article; or

12 (iii) A violation of § 21–902(d) of this article within a 5–year period
13 after the person was previously convicted of a violation of § 21–902(a) of this article.

14 (3) On receiving a record of a conviction of a person for a violation described
15 in [paragraph (2)] **SUBSECTION (C)** of this [subsection] **SECTION**, the Administration
16 shall issue to the person a notice of suspension of the person’s license that:

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

19 (ii) [States that a restricted license may be issued during the 1–year
20 period of suspension if:

21 1. The person maintains an ignition interlock system on a
22 motor vehicle owned or operated by the person for 1 year;

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

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

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

1 A. A violation of § 21–902(a) of this article within a 5–year
2 period after the person was previously convicted of a violation of § 21–902(d) of this article;
3 or

4 B. A violation of § 21–902(d) of this article within a 5–year
5 period after the person was previously convicted of a violation of § 21–902(a) of this article;

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

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

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

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

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

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

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

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

29 [(4)] (3) After notice under paragraph [(3)] (2) of this subsection, the
30 Administration shall suspend a person’s license under this subsection if:

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

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

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

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

5 [2. A violation of § 21-902(a) of this article within a 5-year
6 period after the person was previously convicted of a violation of § 21-902(d) of this article;
7 or

8 3. A violation of § 21-902(d) of this article within a 5-year
9 period after the person was previously convicted of a violation of § 21-902(a) of this article;
10 or]

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

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

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

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

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

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

25 A. A violation of § 21-902(a) of this article within a 5-year
26 period after the person was previously convicted of a violation of § 21-902(d) of this article;
27 or

28 B. A violation of § 21-902(d) of this article within a 5-year
29 period after the person was previously convicted of a violation of § 21-902(a) of this article.

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

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

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

7 (ii) States that the Administration shall impose a restriction on the
8 person’s license that prohibits the person from driving a motor vehicle that is not equipped
9 with an ignition interlock system for a period of not less than 3 months and not more than
10 1 year, dating from the expiration of the 1–year period of suspension; and

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

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

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

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

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

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

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

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

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

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

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

4 (11) If a person requests a hearing and the Administration finds that the
5 person does not own a motor vehicle at the expiration of the 1-year period of suspension,
6 the Administration shall impose a restriction on the license of the person for not less than
7 3 months and not more than 1 year, dating from the expiration of the 1-year period of
8 suspension, that prohibits the person from driving any motor vehicle that is not equipped
9 with an ignition interlock system.]

10 [(12)] (4) Each notice and hearing under this subsection shall meet the
11 requirements of Title 12, Subtitle 2 of this article.

12 [(13)] (5) This subsection does not limit any provision of this article that
13 allows or requires the Administration to:

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

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

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

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

25 (f) (1) Subject to paragraph (2) of this subsection, the Administration may
26 modify any suspension under this section or any suspension under § 16-205.1 of this
27 subtitle and issue a restrictive license to a licensee who participates in the Ignition
28 Interlock System Program established under § 16-404.1 of this title.

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

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

1 16–205.1.

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

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

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

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

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

10 3. Both:

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

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

15 (iv) “Under the influence of alcohol” includes under the influence of
16 alcohol per se as defined by § 11–174.1 of this article.

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

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

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

32 1. Except as provided in items 2, 3, and 4 of this item, for a
33 test result indicating an alcohol concentration of 0.08 or more at the time of testing:

- 1 A. For a first offense, suspend the driver's license for ~~[45]~~ **90**
2 days; or
- 3 B. For a second or subsequent offense, suspend the driver's
4 license for ~~[90]~~ **180** days;
- 5 2. Except as provided in item 4 of this item, for a test result
6 indicating an alcohol concentration of 0.15 or more at the time of testing:
- 7 A. For a first offense, suspend the person's driving privilege
8 for ~~[90]~~ **180** days; or
- 9 B. For a second or subsequent offense, suspend the person's
10 driving privilege for ~~[180]~~ **270** days;
- 11 3. Except as provided in item 4 of this item, for a test result
12 indicating an alcohol concentration of 0.08 or more at the time of testing, if the person was
13 involved in a motor vehicle accident that resulted in the death of another person:
- 14 A. For a first offense, suspend the person's driving privilege
15 for 6 months; or
- 16 B. For a second or subsequent offense, suspend the person's
17 driving privilege for 1 year;
- 18 4. For a test result indicating an alcohol concentration of 0.15
19 or more at the time of testing, if the person was involved in a motor vehicle accident that
20 resulted in the death of another person:
- 21 A. For a first offense, suspend the person's driving privilege
22 for 1 year; or
- 23 B. For a second or subsequent offense, revoke the person's
24 driving privilege; or
- 25 5. For a test refusal:
- 26 A. For a first offense, suspend the driver's license for ~~[120]~~
27 **270** days; or
- 28 B. For a second or subsequent offense, suspend the driver's
29 license for ~~[1 year]~~ **2 YEARS**;
- 30 (ii) In the case of a nonresident or unlicensed person:

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

3 A. For a first offense, suspend the person's driving privilege
4 for **[45] 90** days; or

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

7 2. Except as provided in item 4 of this item, for a test result
8 indicating an alcohol concentration of 0.15 or more at the time of testing:

9 A. For a first offense, suspend the person's driving privilege
10 for **[90] 180** days; or

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

13 3. Except as provided in item 4 of this item, for a test result
14 indicating an alcohol concentration of 0.08 or more at the time of testing, if the person was
15 involved in a motor vehicle accident that resulted in the death of another person:

16 A. For a first offense, suspend the person's driving privilege
17 for 6 months; or

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

20 4. For a test result indicating an alcohol concentration of 0.15
21 or more at the time of testing, if the person was involved in a motor vehicle accident that
22 resulted in the death of another person:

23 A. For a first offense, suspend the person's driving privilege
24 for 1 year; or

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

27 5. For a test refusal:

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

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

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

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

10 A. § 16-812(a) or (b) of this title;

11 B. A federal law; or

12 C. Any other state's law; or

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

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

26 (i) Detain the person;

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

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

33 (iv) [Advise the person of the administrative sanctions, including
34 ineligibility for modification of a suspension or issuance of a restrictive license unless the
35 person participates in the Ignition Interlock System Program under § 16-404.1 of this title,

1 that shall be imposed for refusal to take the test and for test results indicating an alcohol
2 concentration of 0.15 or more at the time of testing; and

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

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

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

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

12 (iii) Issue a temporary license to drive;

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

15 (v) Inform the person that:

16 1. The person has a right to request, at that time or within
17 10 days, a hearing to show cause why the driver’s license should not be suspended
18 concerning the refusal to take the test or for test results indicating an alcohol concentration
19 of 0.08 or more at the time of testing, and the hearing will be scheduled within 45 days; and

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

26 (vi) Advise the person of the administrative sanctions that shall be
27 imposed in the event of failure to request a hearing, failure to attend a requested hearing,
28 or upon an adverse finding by the hearing officer, **INCLUDING A REQUIREMENT THAT**
29 **THE PERSON PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER**
30 **§ 16–404.1 OF THIS TITLE;**

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

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

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

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

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

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

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

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

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

26 2. The person refused to take a test when requested by the
27 police officer, the person submitted to the test which indicated an alcohol concentration of
28 0.08 or more at the time of testing, or the person submitted to the test which indicated an
29 alcohol concentration of 0.15 or more at the time of testing; and

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

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

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

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

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

15 (2) If a police officer directs that a person be tested, then the provisions of
16 § 10–304 of the Courts and Judicial Proceedings Article shall apply.

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

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

27 (i) Obtain prompt medical attention for the person;

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

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

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

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

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

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

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

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

18 2. The person refused to take a test.

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

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

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

25 (i) Make the order effective and shall:

26 1. Except as provided in items 2, 3, and 4 of this item, for a
27 test result indicating an alcohol concentration of 0.08 or more at the time of testing:

28 A. For a first offense, suspend the driver's license for **[45] 90**
29 days; or

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

32 2. Except as provided in item 4 of this item, for a test result
33 indicating an alcohol concentration of 0.15 or more at the time of testing:

1 A. For a first offense, suspend the driver's license for [90]
2 **180** days; or

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

5 3. Except as provided in item 4 of this item, for a test result
6 indicating an alcohol concentration of 0.08 or more at the time of testing, if the person was
7 involved in a motor vehicle accident that resulted in the death of another person:

8 A. For a first offense, suspend the driver's license for 6
9 months; or

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

12 4. For a test result indicating an alcohol concentration of 0.15
13 or more at the time of testing, if the person was involved in a motor vehicle accident that
14 resulted in the death of another person:

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

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

19 5. For a test refusal:

20 A. For a first offense, suspend the driver's license for [120]
21 **270** days; or

22 B. For a second offense or subsequent offense, suspend the
23 driver's license for [1 year] **2 YEARS**; 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 (5) (i) If the person requests a hearing at the time of or within 10 days
4 after the issuance of the order of suspension and surrenders the driver's license or, if
5 applicable, the person's commercial instructional permit or commercial driver's license, the
6 Administration shall set a hearing for a date within 30 days of the receipt of the request.

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

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

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

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

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

21 A. The subpoena was not issued by the Administration;

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

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

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

33 (v) If a hearing is postponed beyond the 45-day period after the
34 issuance of the order of suspension under the circumstances described in subparagraph (iii)
35 of this paragraph, the Administration shall stay the suspension and issue a temporary

1 license that authorizes the person to drive only until the date of the rescheduled hearing
2 described under this paragraph.

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

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

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

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

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

20 (ii) A request for a hearing scheduled under this paragraph does not
21 extend the period for which the person is authorized to drive, and the suspension and, if
22 applicable, the disqualification shall become effective on the expiration of the 45-day period
23 that begins on the date of the issuance of the order of suspension.

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

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

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

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

34 A. The subpoena was not issued by the Administration;

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

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

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

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

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

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

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

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

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

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

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

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

3 7. If the hearing involves disqualification of a commercial
4 instructional permit or a commercial driver's license, whether the person was operating a
5 commercial motor vehicle or held a commercial instructional permit or a commercial
6 driver's license; or

7 8. Whether the person was involved in a motor vehicle
8 accident that resulted in the death of another person.

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

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

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

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

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

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

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

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

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

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

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

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

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

15 5. The person refused to take the test.

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

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

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

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

30 4. The driver refused to take a test.

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

35 1. Suspend the driver's license or privilege to drive; and

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

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

4 (vi) A disqualification imposed under subparagraph (ii) or (iii) of this
5 paragraph shall be for a period of 1 year for a first offense, 3 years for a first offense which
6 occurs while transporting hazardous material required to be placarded, and life for a second
7 or subsequent offense which occurs while operating or attempting to operate any
8 commercial motor vehicle.

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

13 (viii) A disqualification for life may be reduced if permitted by §
14 16-812(d) of this title.

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

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

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

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

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

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

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

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

3 (i) Is unequivocal;

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

6 (iii) Is given by the person:

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

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

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

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

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

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

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

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

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

27 (iv) Whether the delay in testing would have interfered with the
28 attention to other duties of the arresting officer or a qualified person, as defined in §
29 10–304 of the Courts Article;

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

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

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

7 **[(h)] (I)** Notwithstanding any other provision of this section, if a driver's license
8 is suspended based on multiple administrative offenses of refusal to take a test, or a test to
9 determine alcohol concentration taken that indicated an alcohol concentration of 0.08 or
10 more at the time of testing, or any combination of these administrative offenses committed
11 at the same time, or arising out of circumstances simultaneous in time and place, or arising
12 out of the same incident, the Administration:

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

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

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

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

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

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

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

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

34 2. As a program of training of police officers as drug
35 recognition experts that contains requirements for successful completion of the training

1 program that are the substantial equivalent of the requirements of the Drug Recognition
2 Training Program developed by the National Highway Traffic Safety Administration; and

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

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

- 10 1. The Department of State Police;
- 11 2. The Baltimore City Police Department;
- 12 3. A police department, bureau, or force of a county;
- 13 4. A police department, bureau, or force of an incorporated
14 city or town;
- 15 5. The Maryland Transit Administration Police Force;
- 16 6. The Maryland Port Administration Police Force of the
17 Department of Transportation;
- 18 7. The Maryland Transportation Authority Police Force;
- 19 8. The Police Force of the University of Maryland or Morgan
20 State University;
- 21 9. The police force for a State university or college under the
22 direction and control of the University System of Maryland;
- 23 10. A sheriff's department of any county or Baltimore City;
- 24 11. The Natural Resources Police Force or the Forest and Park
25 Service Police Force of the Department of Natural Resources; or
- 26 12. The Maryland Capitol Police of the Department of General
27 Services; or

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

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

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

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

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

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

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

18 **[(n)] (1)** This subsection applies only to a licensee:

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

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

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

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

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

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

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

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

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

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

9 (i) Refused to take a test;

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

12 (iii) Took a test that indicated an alcohol concentration of at least
13 0.08 but less than 0.15 at the time of testing and who is ineligible for a modification of a
14 suspension or issuance of a restrictive license under subsection (n) of this section.

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

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

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

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

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

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

31 (1) September 30, 2005; or

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

1 16-404.1.

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

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

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

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

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

11 (4) "Participant" means a participant in the Ignition Interlock System
12 Program.

13 (5) "Program" means the Ignition Interlock System Program.

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

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

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

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

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

32 (iv) Any service of notice upon an approved service provider, who has
33 violated any laws or regulations or whose ignition interlock system has violated any laws

1 or regulations, be deemed as service upon the manufacturer who certified the approved
2 service provider.

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

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

7 (2) The individual's license has an alcohol restriction imposed under §
8 16–113(g)(1) of this title; [or]

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

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

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

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

20 1. § 21–902(a)(1) or (2) of this article and had an alcohol
21 concentration at the time of testing of 0.15 or more; or

22 2. § 21–902(a)(3) or (b)(2) of this article and the minor who
23 was transported was under the age of 16 years.]

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

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

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

1 1. Is required to be a participant by a court order under §
2 27–107 of this article;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (i) Shall be monitored by the Administration; and

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

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

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

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

30 **(2) IF AN INDIVIDUAL PARTICIPATES IN THE PROGRAM UNDER §**
31 **16–205.1 OF THIS TITLE, THE INDIVIDUAL SHALL RECEIVE CREDIT TOWARD THE**
32 **LENGTH OF PARTICIPATION IN THE PROGRAM ARISING OUT OF THE SAME INCIDENT**
33 **AS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.**

1 **(N) THE ADMINISTRATION SHALL CONSIDER A PARTICIPANT TO HAVE**
2 **SUCCESSFULLY COMPLETED THE PROGRAM IF THE ADMINISTRATION RECEIVES**
3 **FROM THE PARTICIPANT'S APPROVED SERVICE PROVIDER A CERTIFICATION THAT**
4 **IN THE 4 CONSECUTIVE MONTHS BEFORE A PARTICIPANT'S DATE OF RELEASE FROM**
5 **THE PROGRAM THERE WAS NOT:**

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

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

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

18 **[(n)] (O)** If an individual successfully completes the Program and the
19 individual's license is not refused, revoked, suspended, or canceled under another provision
20 of this article, the Administration shall immediately issue a license to the licensee.

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

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

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

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

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

6 (2) At the time that the Administration issues a license to a person who is
7 under the age of 21 years, the Administration shall provide to the person a written warning
8 in bold conspicuous type that the person shall participate in the Program if the
9 Administration finds the person violated the alcohol restriction on a driver under the age
10 of 21 years or the person violated any provision of § 21–902 of this article.

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

15 21–901.1.

16 (a) A person is guilty of reckless driving if he drives a motor vehicle:

17 (1) In wanton or willful disregard for the safety of persons or property; or

18 (2) In a manner that indicates a wanton or willful disregard for the safety
19 of persons or property.

20 (b) A person is guilty of negligent driving if he drives a motor vehicle in a careless
21 or imprudent manner that endangers any property or the life or person of any individual.

22 27–101.

23 (a) It is a misdemeanor for any person to violate any of the provisions of the
24 Maryland Vehicle Law unless the violation:

25 (1) Is declared to be a felony by the Maryland Vehicle Law or by any other
26 law of this State; or

27 (2) Is punishable by a civil penalty under the applicable provision of the
28 Maryland Vehicle Law.

29 (b) Except as otherwise provided in this section, any person convicted of a
30 misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is
31 subject to a fine of not more than \$500.

32 (g) Any person who is convicted of a violation of any of the following sections of
33 this article is subject to a fine of not more than \$1,000:

- 1 (1) § 13-704 (“Fraud in application”);
- 2 (2) § 21-706 (“Overtaking and passing school vehicle”); or
- 3 (3) § 21-901.1(a) (“Reckless driving”).

4 **(GG) IN ADDITION TO THE PENALTIES PROVIDED IN SUBSECTIONS (B) AND**
5 **(G) OF THIS SECTION, ANY PERSON WHO IS CONVICTED OF A VIOLATION OF §**
6 **21-901.1(A) OF THIS ARTICLE (“RECKLESS DRIVING”) OR § 21-901.1(B) OF THIS**
7 **ARTICLE (“NEGLIGENT DRIVING”) AND WHO WAS ORIGINALLY CHARGED WITH A**
8 **VIOLATION OF § 21-902 OF THIS ARTICLE SHALL PARTICIPATE IN THE IGNITION**
9 **INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1 OF THIS ARTICLE FOR A PERIOD**
10 **OF AT LEAST 6 MONTHS.**

11 27-107.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (ii) May establish a payment schedule.

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

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

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

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

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

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

1 1. The person has not been convicted of:

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

4 B. A violation of § 21-902(a) of this article within a 5-year
5 period after the person was previously convicted of a violation of § 21-902(d) of this article;
6 or

7 C. A violation of § 21-902(d) of this article within a 5-year
8 period after the person was previously convicted of a violation of § 21-902(a) of this article;
9 and

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

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

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

20 2. The person has not been convicted of:

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

23 B. A violation of § 21-902(a) of this article within a 5-year
24 period after the person was previously convicted of a violation of § 21-902(d) of this article;
25 or

26 C. A violation of § 21-902(d) of this article within a 5-year
27 period after the person was previously convicted of a violation of § 21-902(a) of this article.]

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

31 **(2) SUBJECT TO THE REQUIREMENTS IN PARAGRAPH (3) OF THIS**
32 **SUBSECTION, IF A PERSON IS REQUIRED TO OPERATE AN EMPLOYER'S MOTOR**
33 **VEHICLE IN THE COURSE AND SCOPE OF EMPLOYMENT AND THE BUSINESS ENTITY**

1 THAT OWNS THE VEHICLE IS NOT OWNED OR CONTROLLED BY THE PERSON, THE
2 EMPLOYER MAY PROVIDE AND THE PERSON MAY OPERATE A MOTOR VEHICLE
3 WITHOUT AN IGNITION INTERLOCK SYSTEM TO BE USED IN THE COURSE OF THE
4 PERSON'S EMPLOYMENT.

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

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

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

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

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

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

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

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

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

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

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2016.