

# HOUSE BILL 1490

R3

EMERGENCY BILL

7lr0581  
CF 7lr2131

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By: **Delegate Dumais**

Introduced and read first time: February 10, 2017

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Drunk Driving – Administrative Per Se Offenses – Ignition Interlock System**  
3 **Program**

4 FOR the purpose of modifying the periods of time that persons who commit administrative  
5 per se offenses may be required to participate in the Ignition Interlock System  
6 Program; requiring a police officer to provide certain advice and information to  
7 persons who commit administrative per se offenses; making this Act an emergency  
8 measure; and generally relating to participation in the Ignition Interlock System  
9 Program by persons who commit certain administrative per se offenses.

10 BY repealing and reenacting, without amendments,  
11 Article – Transportation  
12 Section 16–205.1(b)(1)(i) and (f)(4)(i) and (8)(v)  
13 Annotated Code of Maryland  
14 (2012 Replacement Volume and 2016 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article – Transportation  
17 Section 16–205.1(b)(2)(iii) and (3)(vii), (g), and (p)  
18 Annotated Code of Maryland  
19 (2012 Replacement Volume and 2016 Supplement)

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

### Article – Transportation

22 16–205.1.

24 (b) (1) Except as provided in subsection (c) of this section, a person may not be  
25 compelled to take a test. However, the detaining officer shall advise the person that, on

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 receipt of a sworn statement from the officer that the person was so charged and refused to  
2 take a test, or was tested and the result indicated an alcohol concentration of 0.08 or more,  
3 the Administration shall:

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

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

7 A. For a first offense, suspend the driver's license for 180  
8 days; or

9 B. For a second or subsequent offense, suspend the driver's  
10 license for 180 days;

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

13 A. For a first offense, suspend the person's driving privilege  
14 for 180 days; or

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

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

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

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

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

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

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

31 5. For a test refusal:

1                   A.     For a first offense, suspend the driver's license for 270  
2 days; or

3                   B.     For a second or subsequent offense, suspend the driver's  
4 license for 2 years;

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

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

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

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

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

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

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

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

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

35                   (i)     Make the order effective and shall:

- 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 driver's license for 180  
4 days; or
  - 5                                   B.     For a second or subsequent offense, suspend the driver's  
6 license for 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 driver's license for 180  
10 days; or
  - 11                                  B.     For a second or subsequent offense, suspend the driver's  
12 license for 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 driver's license for 6  
17 months; or
  - 18                                  B.     For a second or subsequent offense, suspend the driver's  
19 license 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 driver's license for 1 year;  
24 or
  - 25                                  B.     For a second or subsequent offense, revoke the driver's  
26 license; or
- 27                                  5.     For a test refusal:
  - 28                                  A.     For a first offense, suspend the driver's license for 270  
29 days; or
  - 30                                  B.     For a second offense or subsequent offense, suspend the  
31 driver's license for 2 years; and

1           (8)   (v)   The suspension imposed shall be:

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

4                           A.   For a first offense, a suspension for 180 days; or

5                           B.   For a second or subsequent offense, a suspension for 180  
6 days;

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

9                           A.   For a first offense, a suspension of 180 days; or

10                          B.   For a second or subsequent offense, a suspension of 270  
11 days;

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

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

18                          B.   For a second or subsequent offense, suspend the driver's  
19 license 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 driver's license for 1 year;  
24 or

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

27                          5.    For a test refusal:

28                          A.   For a first offense, a suspension for 270 days; or

29                          B.   For a second or subsequent offense, a suspension for 2  
30 years.

1 (g) Instead of requesting a hearing or on a suspension or revocation under  
 2 subsection (f) of this section, a person may request to participate in the Ignition Interlock  
 3 System Program under § 16–404.1 of this title if:

4 (1) The person's driver's license is not currently suspended, revoked,  
 5 canceled, or refused; and

6 (2) Within the same time limits set forth in subsection (f) of this section,  
 7 the person:

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

10 (ii) Elects in writing to participate in the Ignition Interlock System  
 11 Program for[:

12 1. 180 days for an offense of a test result indicating an  
 13 alcohol concentration of at least 0.08 but not more than 0.14;

14 2. 1 year for an offense of a test result indicating an alcohol  
 15 concentration of 0.15 or more; or

16 3. 1 year for an offense of a test refusal] **THE PERIOD EQUAL**  
 17 **TO THE ENTIRE SUSPENSION PERIOD SPECIFIED IN THIS SECTION FOR THE**  
 18 **APPLICABLE VIOLATION.**

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

20 (i) Refused to take a test; or

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

23 (2) The Administration may modify a suspension under this section or  
 24 issue a restricted license only if the licensee participates in the Ignition Interlock System  
 25 Program for [1 year] **A PERIOD EQUAL TO THE ENTIRE LENGTH OF A SUSPENSION**  
 26 **REQUIRED UNDER THIS SECTION.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
 28 measure, is necessary for the immediate preservation of the public health or safety, has  
 29 been passed by a ye and nay vote supported by three-fifths of all the members elected to  
 30 each of the two Houses of the General Assembly, and shall take effect from the date it is  
 31 enacted.