

ENROLLED BILL*-- Judiciary/Judicial Proceedings --*

Introduced by ~~Delegates Zirkin, Cardin, and Morhaim~~ Morhaim, Simmons, Smigiel, Conway, Dumais, Bronrott, Aumann, Barkley, Bartlett, Bozman, Cadden, Cane, Cluster, Cryor, Dwyer, Eckardt, Elmore, Frank, Goldwater, Gutierrez, Haddaway, Hogan, Kaiser, King, Kohl, Krebs, Lee, Levy, McComas, McConkey, McKee, McMillan, Malone, Mandel, Mayer, Menes, Mevers Myers, O'Donnell, Petzold, Quinter, Rudolph, Shank, Shewell, Sophocleus, Sossi, Stern, and Walkup

Read and Examined by Proofreaders:

Proofreader._____
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
 ____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER 461

1 AN ACT concerning

2 **Vehicle Laws - ~~Drunk Driving Penalties~~ Administrative Per Se Offenses -**
 3 **High Alcohol Concentration or Test Refusal - ~~Mandatory~~ Ignition Interlock**
 4 **System - Suspension Modifications and Restrictive Licenses**

5 FOR the purpose of ~~requiring the Motor Vehicle Administration to require a person to~~
 6 ~~participate in the Ignition Interlock System Program for a certain period of time~~
 7 ~~following a certain period of suspension if a certain test result indicates a~~
 8 ~~certain alcohol concentration; prohibiting the Administration from modifying a~~
 9 ~~certain suspension of a driver's license or a driving privilege or issuing a~~
 10 ~~restrictive license to a person if a certain test result indicates a certain alcohol~~
 11 ~~concentration unless the person participates in the Ignition Interlock System~~

Program for a certain period of time; altering the requirements for participation in the Ignition Interlock System Program; requiring a police officer to advise a person of certain facts concerning a certain alcohol concentration under certain circumstances; providing that certain facts concerning a certain alcohol concentration may be issues at a certain administrative hearing under certain circumstances; making a stylistic change; and generally relating to mandatory penalties if a certain test result indicates a certain alcohol concentration under certain circumstances increasing the period of a suspension of a driver's license required for certain administrative per se offenses if the driver took a certain test that indicates a certain alcohol concentration; requiring participation in the Ignition Interlock System Program if a person refused to take a certain test or if a certain test indicates a certain alcohol concentration under certain circumstances; requiring a police officer to advise a person of certain facts and include certain facts in a certain sworn statement under certain circumstances; providing that a person has the right to elect to participate in the Ignition Interlock System Program under certain circumstances; providing that a certain alcohol concentration may be an issue at a certain administrative hearing under certain circumstances; establishing that the sworn statement of a police officer regarding a certain alcohol concentration is prima facie evidence for a certain purpose; authorizing the Administration to modify a license suspension or issue a restrictive license for a licensee who has committed certain alcohol-related driving offenses under certain circumstances; providing that if a licensee refused to take a certain test or took a test indicating a certain alcohol concentration the Administration may not modify a license suspension or issue a restrictive license unless the licensee participates in the Ignition Interlock System Program for a certain period; providing that if a licensee does not successfully complete the Ignition Interlock System Program under certain circumstances that the Administration shall *summarily* suspend the driver's license or driving privilege for a certain period under certain circumstances; providing that a licensee may request a certain hearing; requiring the Administration to adopt certain regulations; making clarifying and technical changes; providing for a delayed effective date; and generally relating to certain administrative per se offenses involving refusing to take a certain test or certain test results indicating certain alcohol concentrations.

BY repealing and reenacting, with amendments,
Article - Transportation
Section 16-205.1(b)(2) and (3)(vii)3. and (f)(7)(i) and (8)(i) and 16-404.1(b)(3)(iv)
Section 16-205.1(b)(1)(i) and (ii), (2), and (3), (f)(4)(i), (7), and (8)(i) and ~~(iv)~~ (v),
and (n) and 16-404.1(b)(3)(iv)
Annotated Code of Maryland
(2002 Replacement Volume and 2005 Supplement)

BY adding to
Article — Transportation
Section 16-205.1(f)(8)(ix) and (n)(5)
Annotated Code of Maryland

(2002 Replacement Volume and 2005 Supplement)

BY repealing and reenacting, without amendments,

Article - Transportation

Section 16-205.1(f)(1)

Annotated Code of Maryland

(2002 Replacement Volume and 2005 Supplement)

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

Article - Transportation

16-205.1.

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

(i) Detain the person;

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

(iii) Advise the person of the administrative sanctions that shall be imposed for refusal to take the test, including ineligibility for modification of a suspension or issuance of a restrictive license under subsection (n)(1) or (2) of this section, and for test results indicating an alcohol concentration of 0.08 or more at the time of testing; [and]

(iv) FOR A TEST RESULT INDICATING AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING, ADVISE THE PERSON OF:

1. THE PERSON'S MANDATORY PARTICIPATION IN THE IGNITION INTERLOCK SYSTEM PROGRAM FOR NOT LESS THAN 3 YEARS FOLLOWING THE PERIOD OF SUSPENSION REQUIRED UNDER THIS SECTION; AND

2. THE PERSON'S INELIGIBILITY FOR MODIFICATION OF A SUSPENSION OR ISSUANCE OF A RESTRICTIVE LICENSE UNDER THIS SECTION UNLESS THE PERSON PARTICIPATES IN THE IGNITION INTERLOCK SYSTEM PROGRAM FOR THE PERIOD OF SUSPENSION REQUIRED UNDER THIS SECTION; AND

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

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

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

10 3. The person was fully advised of the administrative
11 sanctions that shall be imposed, including:

12 A. [the] THE fact that a person who refuses to take the test is
13 ineligible for modification of a suspension or issuance of a restrictive license under
14 subsection (n)(1) or (2) of this section;

15 B. THE FACT THAT A PERSON WHOSE TEST RESULT
16 INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF
17 TESTING IS REQUIRED TO PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM
18 PROGRAM FOR NOT LESS THAN 3 YEARS FOLLOWING THE PERIOD OF SUSPENSION
19 REQUIRED UNDER THIS SECTION; AND

20 C. THE FACT THAT A PERSON WHOSE TEST RESULT
21 INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF
22 TESTING IS INELIGIBLE FOR MODIFICATION OF A SUSPENSION OR ISSUANCE OF A
23 RESTRICTIVE LICENSE UNDER THIS SECTION UNLESS THE PERSON PARTICIPATES IN
24 THE IGNITION INTERLOCK SYSTEM PROGRAM FOR THE PERIOD OF SUSPENSION
25 REQUIRED UNDER THIS SECTION.

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

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

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

38 3. Whether the police officer requested a test after the
39 person was fully advised of the administrative sanctions that shall be imposed,
40 including:

1 A. ~~[the] THE fact that a person who refuses to take the test is~~
2 ~~ineligible for modification of a suspension or issuance of a restrictive license under~~
3 ~~subsection (n)(1) and (2) of this section;~~

4 B. ~~THE FACT THAT A PERSON WHOSE TEST RESULT~~
5 ~~INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF~~
6 ~~TESTING IS REQUIRED TO PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM~~
7 ~~PROGRAM FOR NOT LESS THAN 3 YEARS FOLLOWING THE PERIOD OF SUSPENSION~~
8 ~~REQUIRED UNDER THIS SECTION; AND~~

9 C. ~~THE FACT THAT A PERSON WHOSE TEST RESULT~~
10 ~~INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF~~
11 ~~TESTING IS INELIGIBLE FOR MODIFICATION OF A SUSPENSION OR ISSUANCE OF A~~
12 ~~RESTRICTIVE LICENSE UNDER THIS SECTION UNLESS THE PERSON PARTICIPATES IN~~
13 ~~THE IGNITION INTERLOCK SYSTEM PROGRAM FOR THE PERIOD OF SUSPENSION~~
14 ~~REQUIRED UNDER THIS SECTION;~~

15 4. ~~Whether the person refused to take the test;~~

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

18 6. ~~WHETHER THE PERSON DROVE OR ATTEMPTED TO DRIVE~~
19 ~~A MOTOR VEHICLE WHILE HAVING AN ALCOHOL CONCENTRATION OF 0.15 OR MORE~~
20 ~~AT THE TIME OF TESTING; or~~

21 ~~[6.]~~ 7. ~~If the hearing involves disqualification of a~~
22 ~~commercial driver's license, whether the person was operating a commercial motor~~
23 ~~vehicle or held a commercial driver's license.~~

24 (8) (i) ~~After a hearing, the Administration shall suspend the driver's~~
25 ~~license or privilege to drive of the person charged under subsection (b) or (c) of this~~
26 ~~section if:~~

27 1. ~~The police officer who stopped or detained the person had~~
28 ~~reasonable grounds to believe the person was driving or attempting to drive while~~
29 ~~under the influence of alcohol, while impaired by alcohol, while so far impaired by any~~
30 ~~drug, any combination of drugs, or a combination of one or more drugs and alcohol~~
31 ~~that the person could not drive a vehicle safely, while impaired by a controlled~~
32 ~~dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813~~
33 ~~of this title;~~

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

37 3. ~~The police officer requested a test after the person was~~
38 ~~fully advised of the administrative sanctions that shall be imposed, including;~~

1 A. ~~[the] THE fact that a person who refuses to take the test~~
2 ~~is ineligible for modification of a suspension or issuance of a restrictive license under~~
3 ~~subsection (n)(1) and (2) of this section;~~

4 B. ~~THE FACT THAT A PERSON WHOSE TEST RESULT~~
5 ~~INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF~~
6 ~~TESTING IS REQUIRED TO PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM~~
7 ~~PROGRAM FOR NOT LESS THAN 3 YEARS FOLLOWING THE PERIOD OF SUSPENSION~~
8 ~~REQUIRED UNDER THIS SECTION; AND~~

9 C. ~~THE FACT THAT A PERSON WHOSE TEST RESULT~~
10 ~~INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF~~
11 ~~TESTING IS INELIGIBLE FOR MODIFICATION OF A SUSPENSION OR ISSUANCE OF A~~
12 ~~RESTRICTIVE LICENSE UNDER THIS SECTION UNLESS THE PERSON PARTICIPATES IN~~
13 ~~THE IGNITION INTERLOCK SYSTEM PROGRAM FOR THE PERIOD OF SUSPENSION~~
14 ~~REQUIRED UNDER THIS SECTION; and~~

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

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

19 (IX) ~~FOR A TEST RESULT INDICATING AN ALCOHOL~~
20 ~~CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING, THE ADMINISTRATION~~
21 ~~SHALL REQUIRE A PERSON CHARGED UNDER SUBSECTION (B) OR (C) OF THIS~~
22 ~~SECTION TO PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM FOR NOT~~
23 ~~LESS THAN 3 YEARS FOLLOWING THE PERIOD OF SUSPENSION REQUIRED UNDER~~
24 ~~THIS SECTION.~~

25 (n) (5) ~~NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE~~
26 ~~ADMINISTRATION MAY NOT MODIFY A SUSPENSION OR ISSUE A RESTRICTIVE~~
27 ~~LICENSE TO A PERSON WHOSE TEST RESULT INDICATED AN ALCOHOL~~
28 ~~CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING UNLESS THE PERSON~~
29 ~~PARTICIPATES IN THE IGNITION INTERLOCK SYSTEM PROGRAM FOR THE PERIOD OF~~
30 ~~SUSPENSION REQUIRED UNDER THIS SECTION.~~

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

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

37 1. ~~[For] EXCEPT AS PROVIDED IN ITEM 2 OF THIS ITEM, FOR~~
38 ~~a test result indicating an alcohol concentration of 0.08 or more at the time of testing;~~

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

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

3 2. FOR A TEST RESULT INDICATING AN ALCOHOL
4 CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING:

5 A. FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S LICENSE
6 FOR 90 DAYS; OR

7 B. FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND THE
8 DRIVER'S LICENSE FOR 180 DAYS; OR

9 [2.] 3. For a test refusal:

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

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

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

15 1. [For] EXCEPT AS PROVIDED IN ITEM 2 OF THIS ITEM, FOR
16 a test result indicating an alcohol concentration of 0.08 or more at the time of testing:

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

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

21 2. FOR A TEST RESULT INDICATING AN ALCOHOL
22 CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING:

23 A. FOR A FIRST OFFENSE, SUSPEND THE PERSON'S DRIVING
24 PRIVILEGE FOR 90 DAYS; OR

25 B. FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND THE
26 PERSON'S DRIVING PRIVILEGE FOR 180 DAYS; OR

27 [2.] 3. For a test refusal:

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

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

32 (2) Except as provided in subsection (c) of this section, if a police officer
33 stops or detains any person who the police officer has reasonable grounds to believe is
34 or has been driving or attempting to drive a motor vehicle while under the influence

1 of alcohol, while impaired by alcohol, while so far impaired by any drug, any
2 combination of drugs, or a combination of one or more drugs and alcohol that the
3 person could not drive a vehicle safely, while impaired by a controlled dangerous
4 substance, in violation of an alcohol restriction, or in violation of § 16-813 of this title,
5 and who is not unconscious or otherwise incapable of refusing to take a test, the police
6 officer shall:

7 (i) Detain the person;

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

9 (III) ADVISE THE PERSON OF THE ADMINISTRATIVE SANCTIONS
10 THAT SHALL BE IMPOSED FOR TEST RESULTS INDICATING AN ALCOHOL
11 CONCENTRATION OF AT LEAST 0.08 BUT LESS THAN 0.15 AT THE TIME OF TESTING;

12 [(iii)] (IV) Advise the person of the administrative sanctions,
13 INCLUDING INELIGIBILITY FOR MODIFICATION OF A SUSPENSION OR ISSUANCE OF A
14 RESTRICTIVE LICENSE UNLESS THE PERSON PARTICIPATES IN THE IGNITION
15 INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1 OF THIS TITLE, that shall be
16 imposed for refusal to take the test[, including ineligibility for modification of a
17 suspension or issuance of a restrictive license under subsection (n)(1) or (2) of this
18 section,] and for test results indicating an alcohol concentration of [0.08] 0.15 or
19 more at the time of testing; and

20 [(iv)] (V) Advise the person of the additional criminal penalties that
21 may be imposed under § 27-101(x) of this article on conviction of a violation of §
22 21-902 of this article if the person knowingly refused to take a test arising out of the
23 same circumstances as the violation.

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

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

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

29 (iii) Issue a temporary license to drive;

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

32 (v) Inform the person that:

33 1. The person has a right to request, at that time or within
34 10 days, a hearing to show cause why the driver's license should not be suspended
35 concerning the refusal to take the test or, for test results indicating an alcohol
36 concentration of 0.08 or more at the time of testing, and the hearing will be scheduled
37 within 45 days; and

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

8 (vi) Advise the person of the administrative sanctions that shall be
9 imposed in the event of failure to request a hearing, failure to attend a requested
10 hearing, or upon an adverse finding by the hearing officer; [and]

11 ~~(vii) INFORM THE PERSON THAT, SUBJECT TO THE SAME TIME~~
12 ~~LIMITS SET FORTH IN ITEM (V) OF THIS PARAGRAPH, THE PERSON HAS THE RIGHT TO~~
13 ~~ELECT TO PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER §~~
14 ~~16-404.1 OF THIS TITLE FOR 1 YEAR INSTEAD OF REQUESTING A HEARING UNDER~~
15 ~~THIS PARAGRAPH, IF THE PERSON REFUSED A TEST OR TAKES A TEST THAT~~
16 ~~INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF~~
17 ~~TESTING; AND~~

18 (VII) INFORM THE PERSON THAT, IF THE PERSON REFUSES A TEST
19 OR TAKES A TEST THAT INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR MORE
20 AT THE TIME OF TESTING, THE PERSON MAY PARTICIPATE IN THE IGNITION
21 INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1 OF THIS TITLE INSTEAD OF
22 REQUESTING A HEARING UNDER THIS PARAGRAPH, IF THE FOLLOWING CONDITIONS
23 ARE MET:

24 1. THE PERSON'S DRIVER'S LICENSE IS NOT CURRENTLY
25 SUSPENDED, REVOKED, CANCELED, OR REFUSED;

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

30 3. WITHIN THE SAME TIME LIMITS SET FORTH IN ITEM (V)
31 OF THIS PARAGRAPH, THE PERSON:

32 A. SURRENDERS A VALID MARYLAND DRIVER'S LICENSE OR
33 SIGNS A STATEMENT CERTIFYING THAT THE DRIVER'S LICENSE IS NO LONGER IN
34 THE PERSON'S POSSESSION; AND

35 B. ELECTS IN WRITING TO PARTICIPATE IN THE IGNITION
36 INTERLOCK SYSTEM PROGRAM FOR 1 YEAR; AND

37 [(vii)] (VIII) Within 72 hours after the issuance of the order of
38 suspension, send any confiscated driver's license, copy of the suspension order, and a
39 sworn statement to the Administration, that states:

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

8 2. The person refused to take a test when requested by the
9 police officer [or], the person submitted to the test which indicated an alcohol
10 concentration of 0.08 or more at the time of testing, OR THE PERSON SUBMITTED TO
11 THE TEST WHICH INDICATED AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT
12 THE TIME OF TESTING; and

13 3. The person was fully advised of the administrative
14 sanctions that shall be imposed, including the fact that a person who refuses to take
15 the test OR TAKES A TEST THAT INDICATES AN ALCOHOL CONCENTRATION OF 0.15 OR
16 MORE AT THE TIME OF TESTING is ineligible for modification of a suspension or
17 issuance of a restrictive license under subsection (n)(1) or (2) of this section.

18 (f) (1) Subject to the provisions of this subsection, at the time of, or within
19 30 days from the date of, the issuance of an order of suspension, a person may submit
20 a written request for a hearing before an officer of the Administration if:

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

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

29 2. The person refused to take a test.

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

32 (i) Make the suspension order effective suspending the license:

33 1. [For] EXCEPT AS PROVIDED IN ITEM 2 OF THIS ITEM, FOR
34 a test result indicating an alcohol concentration of 0.08 or more at the time of testing;

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

36 B. For a second or subsequent offense, for 90 days; [or]

37 2. FOR A TEST RESULT INDICATING AN ALCOHOL
38 CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING;

- 1 A. FOR A FIRST OFFENSE, FOR 90 DAYS; OR
- 2 B. FOR A SECOND OR SUBSEQUENT OFFENSE, FOR 180 DAYS;
- 3 OR
- 4 [2.] 3. For a test refusal:
- 5 A. For a first offense, for 120 days; or
- 6 B. For a second offense or subsequent offense, for 1 year; and
- 7 (7) (i) At a hearing under this section, the person has the rights
- 8 described in § 12-206 of this article, but at the hearing the only issues shall be:
- 9 1. Whether the police officer who stops or detains a person
- 10 had reasonable grounds to believe the person was driving or attempting to drive while
- 11 under the influence of alcohol, while impaired by alcohol, while so far impaired by any
- 12 drug, any combination of drugs, or a combination of one or more drugs and alcohol
- 13 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
- 15 of this title;
- 16 2. Whether there was evidence of the use by the person of
- 17 alcohol, any drug, any combination of drugs, a combination of one or more drugs and
- 18 alcohol, or a controlled dangerous substance;
- 19 3. Whether the police officer requested a test after the
- 20 person was fully advised, AS REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION,
- 21 of the administrative sanctions that shall be imposed[, including the fact that a
- 22 person who refuses to take the test is ineligible for modification of a suspension or
- 23 issuance of a restrictive license under subsection (n)(1) and (2) of this section] AS
- 24 REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION;
- 25 4. Whether the person refused to take the test;
- 26 5. Whether the person drove or attempted to drive a motor
- 27 vehicle while having an alcohol concentration of 0.08 or more at the time of testing;
- 28 [or]
- 29 6. WHETHER THE PERSON DROVE OR ATTEMPTED TO DRIVE
- 30 A MOTOR VEHICLE WHILE HAVING AN ALCOHOL CONCENTRATION OF 0.15 OR MORE
- 31 AT THE TIME OF TESTING; OR
- 32 [6.] 7. If the hearing involves disqualification of a
- 33 commercial driver's license, whether the person was operating a commercial motor
- 34 vehicle or held a commercial driver's license.
- 35 (ii) The sworn statement of the police officer and of the test
- 36 technician or analyst shall be prima facie evidence of a test refusal [or], a test
- 37 [resulting in] RESULT INDICATING an alcohol concentration of 0.08 or more at the

1 time of testing, OR A TEST RESULT INDICATING AN ALCOHOL CONCENTRATION OF
2 0.15 OR MORE AT THE TIME OF TESTING.

3 (8) (i) After a hearing, the Administration shall suspend the driver's
4 license or privilege to drive of the person charged under subsection (b) or (c) of this
5 section if:

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

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

16 3. The police officer requested a test after the person was
17 fully advised, AS REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION, of the
18 administrative sanctions that shall be imposed[, including the fact that a person who
19 refuses to take the test is ineligible for modification of a suspension or issuance of a
20 restrictive license under subsection (n)(1) and (2) of this section] AS REQUIRED
21 UNDER SUBSECTION (B)(2) OF THIS SECTION; and

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

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

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

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

31 ~~2. If the driver is detained in a commercial motor vehicle or~~
32 ~~holds a commercial driver's license, disqualify the person from operating a~~
33 ~~commercial motor vehicle.~~

34 (v) The suspension imposed shall be:

35 1. [For] EXCEPT AS PROVIDED IN ITEM 2 OF THIS
36 SUBPARAGRAPH, FOR a test result indicating an alcohol concentration of 0.08 or more
37 at the time of testing;

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

1 B. For a second or subsequent offense, a suspension for 90
2 days; [or]

3 2. FOR A TEST RESULT INDICATING AN ALCOHOL
4 CONCENTRATION OF 0.15 OR MORE AT THE TIME OF TESTING:

5 A. FOR A FIRST OFFENSE, A SUSPENSION OF 90 DAYS; OR

6 B. FOR A SECOND OR SUBSEQUENT OFFENSE, A SUSPENSION
7 OF 180 DAYS; OR

8 [2.] 3. For a test refusal:

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

10 B. For a second or subsequent offense, a suspension for 1
11 year.

12 (n) (1) The Administration may modify a suspension under this section or
13 issue a restrictive license if:

14 (i) The licensee did not refuse to take a test;

15 (ii) The licensee has not had a license suspended under this section
16 during the past 5 years;

17 (iii) The licensee has not been convicted under § 21-902 of this
18 article during the past 5 years; [and]

19 (IV) THE LICENSEE HAS A TEST RESULT INDICATING AN ALCOHOL
20 CONCENTRATION OF LESS THAN 0.15; AND

21 [(iv)] (V) 1. The licensee is required to drive a motor vehicle in
22 the course of employment;

23 2. The license is required for the purpose of attending an
24 alcoholic prevention or treatment program; [or]

25 3. [It] THE ADMINISTRATION finds that the licensee has no
26 alternative means of transportation available to or from the licensee's place of
27 employment and, without the license, the licensee's ability to earn a living would be
28 severely impaired; OR

29 4. THE ADMINISTRATION FINDS THAT THE LICENSE IS
30 REQUIRED FOR THE PURPOSE OF OBTAINING HEALTH CARE TREATMENT,
31 INCLUDING A PRESCRIPTION, THAT IS NECESSARY FOR THE LICENSEE OR A MEMBER
32 OF THE LICENSEE'S IMMEDIATE FAMILY AND THE LICENSEE AND THE LICENSEE'S
33 IMMEDIATE FAMILY HAVE NO ALTERNATIVE MEANS OF TRANSPORTATION
34 AVAILABLE TO OBTAIN THE HEALTH CARE TREATMENT.

1 (2) In addition to the authority to modify a suspension or issue a
2 restrictive license under paragraph (1) or (4) of this subsection, the Administration
3 may modify a suspension under this section or issue a restrictive license, including a
4 restriction that prohibits the licensee from driving or attempting to drive a motor
5 vehicle unless the licensee is a participant in the Ignition Interlock System Program
6 established under § 16-404.1 of this title, if:

7 (i) The licensee did not refuse to take a test;

8 (ii) The licensee has not been convicted under § 21-902 of this
9 article; [and]

10 (III) THE LICENSEE HAS A TEST RESULT INDICATING AN ALCOHOL
11 CONCENTRATION OF LESS THAN 0.15; AND

12 [(iii)] (IV) The license is required for the purpose of attending:

13 1. A noncollegiate educational institution as defined in §
14 2-206(a) of the Education Article; or

15 2. A regular program at an institution of postsecondary
16 education.

17 (3) If the licensee refused to take a test OR TOOK A TEST THAT
18 INDICATED AN ALCOHOL CONCENTRATION OF 0.15 OR MORE AT THE TIME OF
19 TESTING, the Administration may not modify a suspension under this section or issue
20 a restrictive license except as provided under paragraph (4) of this subsection.

21 (4) (I) In addition to the authority to modify a suspension or issue a
22 restrictive license under *SUBSECTION (B)(3)(VII) OF THIS SECTION OR* paragraph (1)
23 or (2) of this subsection, the Administration may modify a suspension under this
24 section or issue a restrictive license to a licensee AS PROVIDED IN THIS PARAGRAPH
25 [who participates in the Ignition Interlock System Program established under §
26 16-404.1 of this title for at least 1 year].

27 (II) IF THE LICENSEE REFUSED TO TAKE A TEST OR TOOK A TEST
28 THAT INDICATED AN ALCOHOL CONCENTRATION OF 0.15 OR MORE, THE
29 ADMINISTRATION MAY MODIFY A SUSPENSION UNDER THIS SECTION OR ISSUE A
30 RESTRICTIVE LICENSE IF THE LICENSEE PARTICIPATES IN THE IGNITION
31 INTERLOCK SYSTEM PROGRAM FOR 1 YEAR.

32 (5) (I) IF THE ADMINISTRATION MODIFIES A SUSPENSION OR ISSUES
33 A RESTRICTIVE LICENSE UNDER *SUBSECTION (B)(3)(VII) OF THIS SECTION OR*
34 PARAGRAPH (4) OF THIS SUBSECTION AND THE LICENSEE DOES NOT SUCCESSFULLY
35 COMPLETE THE LICENSEE'S REQUIRED PARTICIPATION IN THE IGNITION INTERLOCK
36 SYSTEM PROGRAM, THE ADMINISTRATION SHALL *SUMMARILY* SUSPEND THE
37 LICENSEE'S DRIVER'S LICENSE OR DRIVING PRIVILEGE FOR THE FULL PERIOD OF
38 SUSPENSION SPECIFIED IN THIS SECTION FOR THE APPLICABLE *ADMINISTRATIVE*
39 OFFENSE.

1 (II) THE ADMINISTRATION SHALL NOTIFY A LICENSEE OF A
2 ~~PROPOSED~~ SUSPENSION UNDER THIS PARAGRAPH.

3 (III) A LICENSEE MAY REQUEST AN ADMINISTRATIVE HEARING ON
4 A ~~PROPOSED~~ SUSPENSION *IMPOSED* UNDER THIS PARAGRAPH.

5 16-404.1.

6 (b) (3) An individual may be a participant if:

7 (iv) The Administration modifies a suspension or issues a
8 [restricted] RESTRICTIVE license to the individual under § ~~16-205.1(n)(2)~~ §
9 *16-205.1(B)(3)(VII) OR (N)(2)* [or], ~~(4), OR (5)~~ *OR (4)* of this title.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Motor Vehicle
11 Administration shall adopt regulations to implement the provisions of this Act.

12 SECTION ~~2, 3~~. AND BE IT FURTHER ENACTED, That this Act shall take
13 effect ~~October 1, 2006~~ *January 1, 2007*.