

## Chapter 17

### (Senate Bill 87)

AN ACT concerning

#### **Drunk Driving – Ignition Interlock System Program – Repeat Offenders**

FOR the purpose of repealing the requirement that the Motor Vehicle Administration impose a certain period of suspension to be served before participation in the Ignition Interlock System Program by certain repeat drunk or drugged driving offenders; making conforming changes; altering the required statements contained in a certain notice of suspension; increasing the period of time that a person must participate in the Program in order for the person to qualify for certain exemptions; prohibiting certain repeat drunk or drugged driving offenders from operating a motor vehicle in the course of employment without installation of an ignition interlock system; and generally relating to participation in the Ignition Interlock System Program.

BY repealing and reenacting, with amendments,

Article – Transportation

Section 16–205(e) and 27–107(g)

Annotated Code of Maryland

(2012 Replacement Volume and 2013 Supplement)

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

#### **Article – Transportation**

16–205.

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

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

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

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

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

(3) On receiving a record of a conviction of a person for a violation described in paragraph (2) of this subsection, the Administration shall issue to the person a notice of suspension of the person's license that:

(i) States that the person's license shall be suspended for 1 year;

(ii) [States that the period of the first 45 days of the 1-year period of suspension is not subject to modification by the Administration;

(iii)] States **THAT** a restricted license may be issued [for the remainder of] **DURING** the 1-year period of suspension if:

1. The person maintains an ignition interlock system on a motor vehicle owned or operated by the person for [the remainder of the 1-year period of suspension] **1 YEAR**;

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

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

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

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

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

[(iv)] **(III)** Advises the person of the requirements under paragraph (7) of this subsection for a person who does not participate in the Ignition Interlock System Program in accordance with this paragraph during the 1-year period of suspension;

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

[(vi)] (V) Advises the person of the right, instead of requesting a hearing on a suspension under this paragraph, to be subject to a 1-year period of suspension, [with the period of the first 45 days of the suspension not subject to modification by the Administration, and for the remainder of the 1-year period of suspension to be] **DURING WHICH, THE PERSON MAY BE** issued a restricted license under this paragraph if the following conditions are met:

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

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

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

4. The person elects in writing, within the same time limit for requesting a hearing, to meet the ignition interlock system requirements under this paragraph for [the remainder of the 1-year period of suspension] **1 YEAR**.

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

(i) The person does not request a hearing;

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

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

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

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

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

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

(i) [Impose a suspension of 45 days;

(ii)] Order the person to maintain[, for the remainder of the 1-year period of suspension,] **FOR 1 YEAR** an ignition interlock system on a motor vehicle owned or operated by the person; and

[(iii)] **(II)** Impose a restriction on the person's license for [the remainder of the 1-year period of suspension] **1 YEAR** that prohibits the person from driving a motor vehicle that is not equipped with an ignition interlock system and permits the person to drive only to and from:

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

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

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

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

(6) A person who participates in the Ignition Interlock System Program for at least [3 months] **1 YEAR** under paragraph (5) of this subsection is exempt from the requirements of paragraphs (7) through (11) of this subsection.

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

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

(ii) States that the Administration shall impose a restriction on the person's license that prohibits the person from driving a motor vehicle that is not equipped with an ignition interlock system for a period of not less than 3 months and

not more than 1 year, dating from the expiration of the 1-year period of suspension; and

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

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

(i) The person does not request a hearing;

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

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

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

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

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

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

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

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

(11) If a person requests a hearing and the Administration finds that the person does not own a motor vehicle at the expiration of the 1-year period of

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

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

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

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

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

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

**(15) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, A PERSON WHO IS SUBJECT TO SUSPENSION UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY NOT OPERATE A MOTOR VEHICLE OWNED OR PROVIDED BY THE PERSON'S EMPLOYER THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, AS SET FORTH IN § 27-107(G) OF THIS ARTICLE.**

27-107.

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

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

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

**1. THE PERSON HAS NOT BEEN CONVICTED OF:**

**A. A VIOLATION OF § 21-902(A) OF THIS ARTICLE MORE THAN ONCE WITHIN A 5-YEAR PERIOD;**

**B. A VIOLATION OF § 21-902(A) OF THIS ARTICLE WITHIN A 5-YEAR PERIOD AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF A VIOLATION OF § 21-902(D) OF THIS ARTICLE; OR**

**C. A VIOLATION OF § 21-902(D) OF THIS ARTICLE WITHIN A 5-YEAR PERIOD AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF A VIOLATION OF § 21-902(A) OF THIS ARTICLE; AND**

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

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

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

**2. THE PERSON HAS NOT BEEN CONVICTED OF:**

**A. A VIOLATION OF § 21-902(A) OF THIS ARTICLE MORE THAN ONCE WITHIN A 5-YEAR PERIOD;**

**B. A VIOLATION OF § 21-902(A) OF THIS ARTICLE WITHIN A 5-YEAR PERIOD AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF A VIOLATION OF § 21-902(D) OF THIS ARTICLE; OR**

**C. A VIOLATION OF § 21-902(D) OF THIS ARTICLE WITHIN A 5-YEAR PERIOD AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF A VIOLATION OF § 21-902(A) OF THIS ARTICLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.

**Approved by the Governor, April 8, 2014.**