

An Act Concerning
Driving Under the Influence – Penalties

FOR the purpose of instituting harsher penalties against drunken and otherwise impaired drivers to better protect the citizens of the State of Maryland.

BY repealing and reenacting, with amendments.

Article – Transportation

Title 16. Vehicle Laws – Drivers' Licenses

Subtitle 2. Suspension of Revocation on conviction of certain alcohol or drug related offenses.

Annotated Code of Maryland

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

Article – Transportation

§ 16-205. Suspension or revocation on conviction of certain alcohol- or drug-related offenses.

(a) *Revocation for violation of § 21-902 of the article.* The Administration may revoke the license of any person who:

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

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

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

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

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

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

(b) *Revocation for violation of Title 2, Subtitle 5 of the Criminal Law Article.* - The Administration:

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

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

(c) ~~60~~ *180-day suspension.* - Subject to subsection (d-1) of this section, the Administration may suspend for

not LESS ~~more~~ than 60 days AND NOT MORE THAN 180 DAYS the license of any person who is convicted under § 21-902(b) or (c) of this article of driving or attempting to drive a motor vehicle while impaired by alcohol or while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a vehicle safely.

(d) ~~2~~-year suspension.-

(1) Subject to subsection (d-1) and subsection (e) of this section, the Administration may suspend for not ~~more~~ LESS than 1 year AND NOT MORE THAN 2 YEARS AND 6 MONTHS the license of any person who, within a ~~5~~ 10-year period, is convicted of any violation of § 21-902 article after the person was previously convicted of any violation under § 21-902 article.

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

(3) A suspension under this subsection shall be concurrent with any other suspension or revocation imposed by the Administration that arises out of the circumstances of the conviction for the violation of § 21-902 of 550 this article described in this subsection.

(E) 5-YEAR SUSPENSION.-

(1) SUBJECT TO SUBSECTION (D-1) AND SUBSECTION (E) OF THIS SECTION, THE ADMINISTRATION MAY SUSPEND FOR NOT LESS THAN 3 YEARS AND NOT MORE THAN 5 YEARS THE LICENSE OF ANY PERSON WHO, WITHIN A 10 YEAR PERIOD, IS CONVICTED OF ANY VIOLATIONS OF § 21-902 ARTICLE AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF ANY TWO VIOLATIONS UNDER § 21-902.

(2) IF REQUESTED BY THE PERSON, THE ADMINISTRATION MAY ISSUE A RESTRICTED LICENSE FOR THE PERIOD OF A SUSPENSION TO A PERSON WHO PARTICIPATES IN THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1 OF THIS TITLE PROVIDED THAT THEY HAVE NOT HAD A RESTRICTED LICENSE FOLLOWING PREVIOUS VIOLATIONS.

(3) A SUSPENSION UNDER THIS SUBSECTION SHALL BE CONCURRENT WITH ANY OTHER SUSPENSION OR REVOCATION IMPOSED BY THE ADMINISTRATION THAT ARISES OUT OF THE CIRCUMSTANCES OF THE CONVICTION FOR THE VIOLATION OF § 21-902 OF THE ARTICLE DESCRIBED IN THIS SUBSECTION.

(F) PERMANENT REVOCATION OF LICENSE

(1) SUBJECT TO SUBSECTION (D-1) AND SUBSECTION (E) OF THIS SECTION, THE ADMINISTRATION MAY PERMANENTLY REVOKE THE LICENSE OF ANY PERSON WHO, WITHIN A 5 YEAR PERIOD, IS CONVICTED OF ANY VIOLATIONS OF § 21-902 AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF ANY THREE VIOLATIONS UNDER § 21-902.

(2) THE ADMINISTRATION MAY NOT ISSUE A RESTRICTED LICENSE TO THE PERSON.

(3) THE ADMINISTRATION MAY CONSIDER RE-ISSUING THE PERSON'S LICENSE AFTER 7 YEARS OF THE REVOCATION.

~~(d-4)~~ *(G) Violations by person under 21 years of age.-*

(1) Notwithstanding subsections (c) and (d) of this section, for a person who is under the age of 21 years on the date of a violation of § 21-902 of this article, and who is subsequently convicted

of the violation under § 21-902 of this article, the Administration shall suspend the person's license to drive for:

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

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

(2) A suspension imposed under this subsection shall:

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

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

(3) (i) Subject to the provisions of this paragraph, a person may request on the record that a hearing on a suspension under this subsection and any other hearing on another suspension or revocation under this section, § 16-206(c)(3) or § 16-213 of this subtitle, or § 16-404 of this title that arises out of the circumstances of the conviction for a violation of § 21-920 of this article described in this subsection be consolidated.

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

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

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

~~(eH) 2 AND 5-year suspension; hearing; notice.-~~

(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 AT LEAST 1 year OR 3 YEARS (IN THE CASE OF SECTION E) 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 10-year period;

(ii) A violation of § 21-902(a) of this article within a 5 10-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 10-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 AT LEAST 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 a restricted license may be issued for the remainder of 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;
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~~ 10-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~~ 10-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~~ 10-year period after the person was previously convicted of a violation of § 21-902(a) of this article;

(IV) STATES THAT A RESTRICTED LICENSE MAY NOT BE ISSUED UNDER TO CONDITIONS OUTLINED IN SECTION E SUBSECTION 3.

~~(V)~~ 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;

~~(VI)~~ Advises the person of the right to request a hearing on a suspension under this paragraph; and

~~(VII)~~ 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 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.

5. THE PERSON WAS NOT GRANTED A RESTRICTED LICENSE ON A SECOND CONVICTION IF CONVICTED OF A THIRD OFFENSE.

(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~~ 10-year period;

2. A violation of § 21-902(a) of this article within a ~~5~~ 10-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~~ 10-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, an ignition interlock system on a motor vehicle owned or operated by the person; and

(iii) Impose a restriction on the person's license for the remainder of the ~~1-year~~ period of suspension 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~~ 10-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~~ 10-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~~ 10-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 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 ~~4~~ 5 ~~year~~-YEARS, 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;

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

(10) 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.

(F) *Modification upon participation in Ignition Interlock System Program.-*

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect on June 1, 2010.

SPONSOR:

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