

# HOUSE BILL 293

R3

9lr0236  
CF SB 262

---

By: **The Speaker (By Request - Administration) (Task Force to Combat Driving Under the Influence of Drugs and Alcohol) and Delegates Dumais, Bronrott, Ali, Lafferty, ~~and Waldstreicher~~ Waldstreicher, Anderson, Aumann, Barkley, Beidle, Bohanan, Boteler, Costa, DeBoy, Dwyer, Eckardt, Elliott, Elmore, Feldman, Frank, Frush, Haddaway, Heller, Holmes, Jameson, Jennings, Kaiser, Kramer, Krebs, Lee, Levy, McComas, Manno, Mathias, Morhaim, Murphy, Myers, Niemann, Norman, O'Donnell, Reznik, Riley, Robinson, Ross, Serafini, Shank, Shewell, Sophocleus, Sossi, Stocksdale, Stull, Walkup, Weldon, and Wood**

Introduced and read first time: January 29, 2009  
Assigned to: Judiciary

---

Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: April 6, 2009

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Vehicle Laws - Repeated Drunk and Drugged Driving Offenses - Suspension**  
3 **of License**

4 FOR the purpose of ~~requiring~~ authorizing the Motor Vehicle Administration to  
5 suspend for a certain period the ~~driver's~~ license of a person who has been  
6 convicted of certain drunk and drugged driving offenses within a certain time  
7 period after the person was previously convicted of certain drunk and drugged  
8 driving offenses; authorizing a person whose license is suspended under certain  
9 circumstances to participate in the Administration's Ignition Interlock System  
10 Program under certain circumstances; requiring the Administration to suspend  
11 for a certain period the license of a person who has been convicted of a certain  
12 drunk driving offense within a certain time after the person was convicted of a  
13 certain drugged driving offense; requiring the Administration to suspend for a  
14 certain period the license of a person who has been convicted of a certain  
15 drugged driving offense within a certain time after the person was convicted of  
16 a certain drunk driving offense; requiring a person whose license is suspended  
17 under certain circumstances to participate in the Administration's Ignition

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Interlock System Program under certain circumstances; altering certain  
 2 provisions of the Maryland Vehicle Law concerning administrative penalties for  
 3 certain subsequent drunk driving offenses to conform to certain changes in  
 4 federal law incorporated in State law; providing for certain procedures; and  
 5 generally relating to penalties for drunk and drugged driving.

6 BY repealing and reenacting, with amendments,  
 7 Article – Transportation  
 8 Section ~~16-205(e)(2), (3), and (4)~~ 16-205(d) and (e)(2) through (12)  
 9 Annotated Code of Maryland  
 10 (2006 Replacement Volume and 2008 Supplement)

11 BY adding to  
 12 Article – Transportation  
 13 Section 16-205(e)(5) and (6)  
 14 Annotated Code of Maryland  
 15 (2006 Replacement Volume and 2008 Supplement)

16 BY repealing and reenacting, without amendments,  
 17 Article – Transportation  
 18 Section 21-902(a) through (d)  
 19 Annotated Code of Maryland  
 20 (2006 Replacement Volume and 2008 Supplement)

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

23 **Article – Transportation**

24 16-205.

25 (d) (1) Subject to subsection (d-1) AND SUBSECTION (E) of this section,  
 26 the Administration may suspend for not more than [120 days] 1 YEAR the license of  
 27 any person who, within a [3-year] 5-YEAR period, is convicted OF ANY VIOLATION  
 28 OF § 21-902 OF THIS ARTICLE AFTER THE PERSON WAS PREVIOUSLY  
 29 CONVICTED OF ANY VIOLATION UNDER § 21-902 OF THIS ARTICLE [under  
 30 21-902(b) or (c) of this article of driving or attempting to drive a motor vehicle while  
 31 impaired by alcohol or while so far impaired by any drug, any combination of drugs, or  
 32 a combination of one or more drugs and alcohol that the person cannot drive a motor  
 33 vehicle safely and who was previously convicted of a violation under:

34 (1) § 21-902(a) of this article of driving or attempting to drive a motor  
 35 vehicle while under the influence of alcohol or while under the influence of alcohol per  
 36 se;

37 (2) § 21-902(b) of this article of driving or attempting to drive a motor  
 38 vehicle while impaired by alcohol;

1           (3) § 21-902(c) of this article of driving or attempting to drive a motor  
2 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 motor vehicle safely;  
4 or

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

7           **(2) IF REQUESTED BY THE PERSON, THE ADMINISTRATION MAY**  
8 **ISSUE A RESTRICTED LICENSE FOR THE PERIOD OF A SUSPENSION TO A PERSON**  
9 **WHO PARTICIPATES IN THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER §**  
10 **16-404.1 OF THIS TITLE.**

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

16           ~~(e) (2) Subject to the provisions of this subsection, the Administration~~  
17 ~~shall suspend for 1 year the license of a person who is convicted of [a] ANY violation of~~  
18 ~~§ 21-902(a), (B), (C), OR (D) of this article [more than once] AND, within a 5 year~~  
19 ~~period, WAS PREVIOUSLY CONVICTED OF ANY VIOLATION UNDER § 21-902(A),~~  
20 ~~(B), (C), OR (D) OF THIS ARTICLE.~~

21           ~~(3) On receiving a record of a conviction of a person for [a] ANY~~  
22 ~~violation of § 21-902(a), (B), (C), OR (D) of this article [more than once] within a~~  
23 ~~5-year period AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF ANY~~  
24 ~~VIOLATION UNDER § 21-902(A), (B), (C), OR (D) OF THIS ARTICLE, the~~  
25 ~~Administration shall issue to the person a notice of suspension of the person's license~~  
26 ~~that:~~

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

29                     ~~(ii) Advises the person of the right to request a hearing under~~  
30 ~~this paragraph.~~

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

33                     ~~(i) The person does not request a hearing;~~

34                     ~~(ii) After a hearing, the Administration finds that the person~~  
35 ~~was convicted of [more than one] A violation of § 21-902(a), (B), (C), OR (D) of this~~

1 ~~article within a 5-year period AFTER THE PERSON WAS PREVIOUSLY CONVICTED~~  
2 ~~OF ANY VIOLATION OF § 21-902(A), (B), (C), OR (D) OF THIS ARTICLE; or~~

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

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

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

9 (II) A VIOLATION OF § 21-902(A) OF THIS ARTICLE WITHIN  
10 A 5-YEAR PERIOD AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF A  
11 VIOLATION OF § 21-902(D) OF THIS ARTICLE; OR

12 (III) A VIOLATION OF § 21-902(D) OF THIS ARTICLE WITHIN  
13 A 5-YEAR PERIOD AFTER THE PERSON WAS PREVIOUSLY CONVICTED OF A  
14 VIOLATION OF § 21-902(A) OF THIS ARTICLE.

15 (3) On receiving a record of a conviction of a person for a violation  
16 DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION [of § 21-902(a) of this article  
17 more than once within a 5-year period], the Administration shall issue to the person a  
18 notice of suspension of the person's license that:

19 (i) States that the person's license shall be suspended for 1  
20 year; [and]

21 (ii) [Advises the person of the right to request a hearing under  
22 this paragraph] STATES THAT THE PERIOD OF THE FIRST 45 DAYS OF THE  
23 1-YEAR PERIOD OF SUSPENSION IS NOT SUBJECT TO MODIFICATION BY THE  
24 ADMINISTRATION;

25 (III) STATES A RESTRICTED LICENSE MAY BE ISSUED FOR  
26 THE REMAINDER OF THE 1-YEAR PERIOD OF SUSPENSION IF:

27 1. THE PERSON MAINTAINS AN IGNITION INTERLOCK  
28 SYSTEM ON A MOTOR VEHICLE OWNED OR OPERATED BY THE PERSON FOR THE  
29 REMAINDER OF THE 1-YEAR PERIOD OF SUSPENSION;

30 2. THE LICENSE IS RESTRICTED TO PROHIBIT THE  
31 PERSON FROM DRIVING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN  
32 IGNITION INTERLOCK SYSTEM;

1                   **3. THE LICENSE IS RESTRICTED TO PERMIT THE**  
2 **PERSON TO DRIVE ONLY TO AND FROM WORK, SCHOOL, AN ALCOHOL**  
3 **TREATMENT PROGRAM, OR AN IGNITION INTERLOCK SYSTEM SERVICE**  
4 **FACILITY, IF THE PERSON WAS CONVICTED OF A VIOLATION OF § 21-902(A) OF**  
5 **THIS ARTICLE MORE THAN ONCE WITHIN A 5-YEAR PERIOD; AND**

6                   **4. THE LICENSE IS RESTRICTED TO PERMIT THE**  
7 **PERSON TO DRIVE ONLY TO AND FROM WORK, SCHOOL, AN ALCOHOL**  
8 **TREATMENT PROGRAM, A DRUG TREATMENT PROGRAM, OR AN IGNITION**  
9 **INTERLOCK SYSTEM SERVICE FACILITY, IF THE PERSON WAS CONVICTED OF:**

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

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

16                   **(IV) ADVISES THE PERSON OF THE REQUIREMENTS UNDER**  
17 **PARAGRAPH (7) OF THIS SUBSECTION FOR A PERSON WHO DOES NOT**  
18 **PARTICIPATE IN THE IGNITION INTERLOCK SYSTEM PROGRAM IN ACCORDANCE**  
19 **WITH THIS PARAGRAPH DURING THE 1-YEAR PERIOD OF SUSPENSION;**

20                   **(V) ADVISES THE PERSON OF THE RIGHT TO REQUEST A**  
21 **HEARING ON A SUSPENSION UNDER THIS PARAGRAPH; AND**

22                   **(VI) ADVISES THE PERSON OF THE RIGHT, INSTEAD OF**  
23 **REQUESTING A HEARING ON A SUSPENSION UNDER THIS PARAGRAPH, TO BE**  
24 **SUBJECT TO A 1-YEAR PERIOD OF SUSPENSION, WITH THE PERIOD OF THE**  
25 **FIRST 45 DAYS OF THE SUSPENSION NOT SUBJECT TO MODIFICATION BY THE**  
26 **ADMINISTRATION, AND FOR THE REMAINDER OF THE 1-YEAR PERIOD OF**  
27 **SUSPENSION TO BE ISSUED A RESTRICTED LICENSE UNDER THIS PARAGRAPH IF**  
28 **THE FOLLOWING CONDITIONS ARE MET:**

29                   **1. THE PERSON'S DRIVER'S LICENSE IS NOT**  
30 **CURRENTLY SUSPENDED, REVOKED, CANCELED, OR REFUSED;**

31                   **2. THE VIOLATION DID NOT ARISE OUT OF**  
32 **CIRCUMSTANCES THAT INVOLVED A DEATH OF, OR SERIOUS PHYSICAL INJURY**  
33 **TO, ANOTHER PERSON;**

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

1                   **4. THE PERSON ELECTS IN WRITING, WITHIN THE**  
 2 **SAME TIME LIMIT FOR REQUESTING A HEARING, TO MEET THE IGNITION**  
 3 **INTERLOCK SYSTEM REQUIREMENTS UNDER THIS PARAGRAPH FOR THE**  
 4 **REMAINDER OF THE 1-YEAR PERIOD OF SUSPENSION.**

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

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

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

10                   1. [more] MORE than one violation of § 21-902(a) of this  
 11 article within a 5-year period;[or]

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

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

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

20                   **(5) THE ADMINISTRATION MAY MODIFY A SUSPENSION UNDER**  
 21 **PARAGRAPH (4) OF THIS SUBSECTION TO:**

22                   **(I) IMPOSE A SUSPENSION OF 45 DAYS;**

23                   **(II) ORDER THE PERSON TO MAINTAIN, FOR THE**  
 24 **REMAINDER OF THE 1-YEAR PERIOD OF SUSPENSION, AN IGNITION INTERLOCK**  
 25 **SYSTEM ON A MOTOR VEHICLE OWNED OR OPERATED BY THE PERSON; AND**

26                   **(III) IMPOSE A RESTRICTION ON THE PERSON'S LICENSE FOR**  
 27 **THE REMAINDER OF THE 1-YEAR PERIOD OF SUSPENSION THAT PROHIBITS THE**  
 28 **PERSON FROM DRIVING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN**  
 29 **IGNITION INTERLOCK SYSTEM AND PERMITS THE PERSON TO DRIVE ONLY TO**  
 30 **AND FROM:**

31                   **1. WORK, SCHOOL, AN ALCOHOL TREATMENT**  
 32 **PROGRAM, OR AN IGNITION INTERLOCK SYSTEM SERVICE FACILITY, IF THE**

1 PERSON WAS CONVICTED OF A VIOLATION OF § 21-902(A) OF THIS ARTICLE  
2 MORE THAN ONCE WITHIN A 5-YEAR PERIOD; OR

3 2. WORK, SCHOOL, AN ALCOHOL TREATMENT  
4 PROGRAM, A DRUG TREATMENT PROGRAM, OR AN IGNITION INTERLOCK SYSTEM  
5 SERVICE FACILITY, IF THE PERSON WAS CONVICTED OF:

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

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

12 (6) A PERSON WHO PARTICIPATES IN THE IGNITION INTERLOCK  
13 SYSTEM PROGRAM FOR AT LEAST 3 MONTHS UNDER PARAGRAPH (5) OF THIS  
14 SUBSECTION IS EXEMPT FROM THE REQUIREMENTS OF PARAGRAPHS (7)  
15 THROUGH (11) OF THIS SUBSECTION.

16 [(5)] (7) The Administration shall, within 90 days of the expiration of  
17 the 1-year period of suspension, issue to the person a notice, unless this notice  
18 requirement was waived at a hearing described in paragraph (4) of this subsection,  
19 that:

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

23 (ii) States that the Administration shall impose a restriction on  
24 the person's license that prohibits the person from driving a motor vehicle that is not  
25 equipped with an ignition interlock system for a period of not less than 3 months and  
26 not more than 1 year, dating from the expiration of the 1-year period of suspension;  
27 and

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

30 [(6)] (8) After notice under paragraph [(5)] (7) of this subsection, or  
31 a waiver of notice, the Administration shall order a person to maintain for not less  
32 than 3 months and not more than 1 year, dating from the expiration of the 1-year  
33 period of suspension, an ignition interlock system on each motor vehicle owned by the  
34 person and impose a license restriction that prohibits the person from driving a motor  
35 vehicle that is not equipped with an ignition interlock system if:

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

1                   (ii) The Administration finds at a hearing that the person owns  
2 one or more motor vehicles and that no financial hardship, as described in paragraphs  
3 [(7) and (8)] (9) AND (10) of this subsection, will be created by requiring the person to  
4 maintain an ignition interlock system on each motor vehicle owned by the person; or

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

7                   [(7)] (9) If the Administration finds at a hearing that maintenance of  
8 an ignition interlock system on a motor vehicle owned by the person creates a financial  
9 hardship on the person, the family of the person, or a co-owner of the motor vehicle,  
10 the Administration:

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

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

17                   [(8)] (10) An exemption under paragraph [(7)(ii)] (9)(II) of this  
18 subsection applies only under circumstances that:

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

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

22                   [(9)] (11) If a person requests a hearing and the Administration finds  
23 that the person does not own a motor vehicle at the expiration of the 1-year period of  
24 suspension, the Administration shall impose a restriction on the license of the person  
25 for not less than 3 months and not more than 1 year, dating from the expiration of the  
26 1-year period of suspension, that prohibits the person from driving any motor vehicle  
27 that is not equipped with an ignition interlock system.

28                   [(10)] (12) Each notice and hearing under this subsection shall meet  
29 the requirements of Title 12, Subtitle 2 of this article.

30                   [(11)] (13) This subsection does not limit any provision of this article  
31 that allows or requires the Administration to:

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

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



1            ~~[(12)] (14)~~ A suspension imposed under this subsection shall be  
2 concurrent with any other suspension or revocation imposed by the Administration  
3 that arises out of the circumstances of the conviction for a violation of § 21-902(a) OR  
4 (D) of this article described in this subsection.

5 21-902.

6            (a) (1) A person may not drive or attempt to drive any vehicle while under  
7 the influence of alcohol.

8            (2) A person may not drive or attempt to drive any vehicle while the  
9 person is under the influence of alcohol per se.

10           (3) A person may not violate paragraph (1) or (2) of this subsection  
11 while transporting a minor.

12           (b) (1) A person may not drive or attempt to drive any vehicle while  
13 impaired by alcohol.

14           (2) A person may not violate paragraph (1) of this subsection while  
15 transporting a minor.

16           (c) (1) A person may not drive or attempt to drive any vehicle while he is  
17 so far impaired by any drug, any combination of drugs, or a combination of one or more  
18 drugs and alcohol that he cannot drive a vehicle safely.

19           (2) It is not a defense to any charge of violating this subsection that  
20 the person charged is or was entitled under the laws of this State to use the drug,  
21 combination of drugs, or combination of one or more drugs and alcohol, unless the  
22 person was unaware that the drug or combination would make the person incapable of  
23 safely driving a vehicle.

24           (3) A person may not violate paragraph (1) or (2) of this subsection  
25 while transporting a minor.

26           (d) (1) A person may not drive or attempt to drive any vehicle while the  
27 person is impaired by any controlled dangerous substance, as that term is defined in §  
28 5-101 of the Criminal Law Article, if the person is not entitled to use the controlled  
29 dangerous substance under the laws of this State.

30           (2) A person may not violate paragraph (1) of this subsection while  
31 transporting a minor.

32           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 October 1, 2009.

Approved:

---

Governor.

---

Speaker of the House of Delegates.

---

President of the Senate.