

HOUSE BILL 360

R3
HB 630/10 – JUD

11r1419

By: **Delegates Simmons and McDermott**
Introduced and read first time: February 3, 2011
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Ignition Interlock System Program – Mandatory**
3 **Participation**

4 FOR the purpose of altering the Motor Vehicle Administration’s authority to establish
5 an Ignition Interlock System Program by requiring the Administration to
6 establish the Program; requiring rather than authorizing the Administration to
7 establish a protocol for the Program by certain regulations; altering the
8 circumstances under which individuals may participate in the Program;
9 requiring an individual to participate in the Program if the individual is
10 required to do so by a court under a certain provision of law; requiring a court to
11 order participation in the Program for an individual convicted of, or granted
12 probation for, certain alcohol-related driving offenses under certain
13 circumstances; authorizing a court to choose not to require an individual who is
14 a first time offender or who meets certain other criteria to participate in the
15 Program if the court makes and states on the record a certain finding; requiring
16 a court to consider certain factors in making a certain finding; making certain
17 technical and stylistic changes; defining certain terms; and generally relating to
18 participation in the Ignition Interlock System Program.

19 BY repealing and reenacting, without amendments,
20 Article – Transportation
21 Section 16–205.1(a)(1)(iv)
22 Annotated Code of Maryland
23 (2009 Replacement Volume and 2010 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Transportation
26 Section 16–404.1(b) and 27–107(a) through (c)
27 Annotated Code of Maryland
28 (2009 Replacement Volume and 2010 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



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

3 **Article – Transportation**

4 16–205.1.

5 (a) (1) (iv) “Test” means, unless the context requires otherwise:

6 1. A test of a person’s breath or of 1 specimen of a
7 person’s blood to determine alcohol concentration;

8 2. A test or tests of 1 specimen of a person’s blood to
9 determine the drug or controlled dangerous substance content of the person’s blood; or

10 3. Both:

11 A. A test of a person’s breath or a test of 1 specimen of a
12 person’s blood, to determine alcohol concentration; and

13 B. A test or tests of 1 specimen of a person’s blood to
14 determine the drug or controlled dangerous substance content of the person’s blood.

15 16–404.1.

16 (b) (1) The Administration [may] **SHALL** establish an Ignition Interlock
17 System Program.

18 (2) The Administration [may] **SHALL** establish a protocol for the
19 Program by regulations that require certain minimum standards for all service
20 providers who service, install, monitor, calibrate, and provide information on ignition
21 interlock systems and include requirements that:

22 (i) A service provider who applies to the Administration for
23 certification as an approved service provider shall demonstrate that the service
24 provider is able to competently service, install, monitor, calibrate, and provide
25 information on ignition interlock systems;

26 (ii) A service provider who applies to the Administration for
27 certification as an approved service provider shall be certified by a signed affidavit
28 from the manufacturer that the service provider has been trained by an authorized
29 manufacturer and that the service provider is competent to service, install, monitor,
30 calibrate, and provide information on ignition interlock systems;

31 (iii) Approved service providers be deemed to be authorized
32 representatives of a manufacturer; and

1 (iv) Any service of notice upon an approved service provider, who
2 has violated any laws or regulations or whose ignition interlock system has violated
3 any laws or regulations, be deemed as service upon the manufacturer who certified the
4 approved service provider.

5 (3) An individual may be a participant if:

6 (i) The individual's license is suspended or revoked for a
7 violation of [§ 21-902(a), (b), or (c)] **§ 21-902(C)** of this article or an accumulation of
8 points under § 16-402(a)(25) or (34) of this subtitle;

9 (ii) [The individual is ordered to participate in the Program by a
10 court under § 27-107 of this article;

11 (iii)] The individual's license has an alcohol restriction imposed
12 under § 16-113(b) or (g) of this title; or

13 [(iv)] **(III)** The Administration modifies a suspension or issues a
14 restrictive license to the individual under § 16-205.1(b)(3)(vii) or (n)(2) or (4) of this
15 title.

16 **(4) AN INDIVIDUAL SHALL BE A PARTICIPANT IF THE INDIVIDUAL**
17 **IS ORDERED TO PARTICIPATE IN THE PROGRAM BY A COURT UNDER § 27-107**
18 **OF THIS ARTICLE.**

19 [(4)] **(5)** The Administration may:

20 (i) Issue a restrictive license to an individual who is a
21 participant in the Program during the suspension period as provided under §
22 16-404(c)(3) of this subtitle;

23 (ii) Reinstate the driver's license of a participant whose license
24 has been revoked for a violation of § 21-902(a), (b), or (c) of this article or revoked for
25 an accumulation of points under § 16-402(a)(34) of this subtitle for a violation of §
26 21-902(a) of this article; and

27 (iii) Notwithstanding any other provision of law, impose on a
28 participant a period of suspension in accordance with § 16-404(c)(2) and (3) of this
29 subtitle in lieu of a license revocation for:

30 1. A violation of § 21-902(a), (b), or (c) of this article; or

31 2. An accumulation of points under § 16-402(a)(34) of
32 this subtitle for a violation of § 21-902(a) of this article.

1 **[(5)] (6)** A notice of suspension or revocation sent to an individual
2 under this title shall include information about the Program and how the individual
3 can qualify for admission to the Program.

4 **[(6)] (7)** The Administration may establish a fee for the Program.

5 27–107.

6 (a) **(1)** In this section[, “ignition] **THE FOLLOWING WORDS HAVE THE**
7 **MEANINGS INDICATED.**

8 **(2)** “**IGNITION** interlock system” means a device that:

9 **[(1)] (I)** Connects a motor vehicle ignition system to a breath
10 analyzer that measures a driver’s blood alcohol level; and

11 **[(2)] (II)** Prevents a motor vehicle ignition from starting if a driver’s
12 blood alcohol level exceeds the calibrated setting on the device.

13 **(3)** “**PROGRAM**” MEANS THE IGNITION INTERLOCK SYSTEM
14 **PROGRAM ESTABLISHED UNDER § 16–404.1 OF THIS ARTICLE.**

15 **(4)** “**TEST**” HAS THE MEANING STATED IN § 16–205.1 OF THIS
16 **ARTICLE.**

17 (b) **(1)** [In] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
18 **SUBSECTION AND IN** addition to any other penalties provided in this title for a
19 violation of any of the provisions of § 21–902(a) of this article (“Driving while under
20 the influence of alcohol or under the influence of alcohol per se”)[,] or § 21–902(b) of
21 this article (“Driving while impaired by alcohol”), or in addition to any other condition
22 of probation, a court [may prohibit] **SHALL ORDER** a person who is convicted of, or
23 granted probation under § 6–220 of the Criminal Procedure Article for, a violation of §
24 21–902(a) or § 21–902(b) of this article [from operating] **TO PARTICIPATE IN THE**
25 **PROGRAM** for not more than 3 years [a motor vehicle that is not equipped with an
26 ignition interlock system].

27 **(2)** **FOR A FIRST VIOLATION OF § 21–902(A) OR (B) OF THIS**
28 **ARTICLE, OR FOR A SUBSEQUENT VIOLATION OCCURRING AT LEAST 10 YEARS**
29 **AFTER THE MOST RECENT PRIOR VIOLATION, A COURT MAY CHOOSE NOT TO**
30 **ORDER PARTICIPATION IN THE PROGRAM UNDER PARAGRAPH (1) OF THIS**
31 **SUBSECTION IF THE COURT FINDS AND STATES ON THE RECORD THAT THE**
32 **INTERESTS OF THE DEFENDANT AND THE PUBLIC DO NOT REQUIRE THAT THE**
33 **DEFENDANT PARTICIPATE IN THE PROGRAM.**

1 **(3) IN MAKING A FINDING UNDER PARAGRAPH (2) OF THIS**
2 **SUBSECTION, THE COURT SHALL CONSIDER THE FOLLOWING FACTORS:**

3 **(I) WHETHER THE VIOLATION INVOLVED PERSONAL**
4 **INJURY OR PROPERTY DAMAGE;**

5 **(II) WHETHER THE DEFENDANT REFUSED TO SUBMIT TO A**
6 **TEST AT THE TIME OF THE VIOLATION;**

7 **(III) IF THE DEFENDANT SUBMITTED TO A TEST AT THE TIME**
8 **OF THE VIOLATION, THE RESULTS OF THE TEST;**

9 **(IV) ANY HARDSHIP TO THE DEFENDANT OR MEMBERS OF**
10 **THE DEFENDANT'S FAMILY THAT MAY RESULT FROM PARTICIPATION IN THE**
11 **PROGRAM;**

12 **(V) WHETHER THE DEFENDANT HAS COMPLETED OR IS**
13 **PARTICIPATING IN AN APPROPRIATE COURSE OF TREATMENT;**

14 **(VI) THE LIKELIHOOD THAT THE DEFENDANT WILL COMMIT**
15 **ANOTHER VIOLATION OF § 21-902(A) OR (B) OF THIS ARTICLE;**

16 **(VII) THE DANGER TO THE COMMUNITY PRESENTED BY THE**
17 **DEFENDANT; AND**

18 **(VIII) ANY OTHER FACTORS BEARING ON THE INTERESTS OF**
19 **THE DEFENDANT AND THE PUBLIC.**

20 (c) If the court imposes [the use of an ignition interlock system]
21 **PARTICIPATION IN THE PROGRAM** as a sentence, part of a sentence, or a condition
22 of probation, the court:

23 (1) Shall state on the record the requirement for, and the period of, the
24 [use of the system] **PARTICIPATION IN THE PROGRAM**, and so notify the
25 Administration;

26 (2) Shall direct that the records of the Administration reflect:

27 (i) That the person may not operate a motor vehicle that is not
28 equipped with an ignition interlock system; and

29 (ii) Whether the court has expressly permitted the person to
30 operate a motor vehicle without an ignition interlock system under subsection (g)(2) of
31 this section;

1 (3) Shall direct the Administration to note in an appropriate manner a
2 restriction on the person's license imposed under [paragraph] ITEM (2)(i) or (ii) of this
3 subsection;

4 (4) Shall require proof of the installation of the system and periodic
5 reporting by the person for verification of the proper operation of the system;

6 (5) Shall require the person to have the system monitored for proper
7 use and accuracy by an entity approved by the Administration at least semiannually,
8 or more frequently as the circumstances may require; and

9 (6) (i) Shall require the person to pay the reasonable cost of leasing
10 or buying, monitoring, and maintaining the system; and

11 (ii) May establish a payment schedule.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2011.