

(2) A person who is convicted of a ~~SECOND~~ violation of § 21-902~~(a)~~ of this article within ~~[3]~~ 5 years after a prior conviction under that ~~[subsection]~~ ~~SECTION~~ is subject to a mandatory minimum penalty of:

(i) Imprisonment for not less than ~~[48 consecutive]~~ ~~120 hours~~ 5 DAYS; or

(ii) Community service for not less than ~~[80 hours]~~ ~~30 DAYS AS A MANDATORY CONDITION OF PROBATION OR A SUSPENDED SENTENCE OF NOT LESS THAN 5 DAYS.~~

(3) A PERSON WHO IS CONVICTED OF A THIRD OR SUBSEQUENT OFFENSE UNDER ~~§ 21-902~~ § 21-902(A) OF THIS ARTICLE WITHIN 5 YEARS AFTER A PRIOR CONVICTION OF ANY OFFENSE UNDER THAT SECTION IS SUBJECT TO A MANDATORY MINIMUM PENALTY OF:

(I) IMPRISONMENT FOR NOT LESS THAN 10 DAYS; OR

(II) COMMUNITY SERVICE FOR NOT LESS THAN 60 DAYS AS A MANDATORY CONDITION OF PROBATION OR A SUSPENDED SENTENCE OF NOT LESS THAN 10 DAYS.

(4) A PERSON WHO IS CONVICTED OF A ~~SECOND OR SUBSEQUENT AN~~ OFFENSE UNDER ~~§ 21-902~~ § 21-902(A) OF THIS ARTICLE WITHIN 5 YEARS OF A PRIOR CONVICTION OF ANY OFFENSE UNDER THAT SECTION SUBSECTION SHALL BE REQUIRED BY THE COURT TO:

(I) UNDERGO A COMPREHENSIVE ~~DRUG AND~~ ALCOHOL ABUSE ASSESSMENT; AND

(II) IF RECOMMENDED AT THE CONCLUSION OF THE ASSESSMENT, PARTICIPATE IN A ~~DRUG OR AN~~ ALCOHOL PROGRAM CERTIFIED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE AS ORDERED BY THE COURT.

~~[(3)](5)~~ The penalties provided by this subsection are mandatory and are not subject to suspension or probation ~~BEFORE JUDGMENT UNDER § 6-220 OF THE CRIMINAL PROCEDURE ARTICLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of § 16-205(e) of the Transportation Article, the Motor Vehicle Administration may modify a suspension imposed under that subsection and issue a restrictive license or modify any ignition interlock system maintenance requirement or both to the extent that enactment of any amendments to 23 U.S.C. § 154, § 164, or enactment of any other federal statute or adoption of any federal regulation, allows a state statute to include that authority to modify a suspension and issue a restrictive license or modify any ignition interlock maintenance requirement or both.

SECTION 3. AND BE IT FURTHER ENACTED, That the Motor Vehicle Administration shall certify to the General Assembly and the Office of Administrative Hearings whether any federal statute enacted or regulation adopted on or after April 1, 2002, satisfies the contingency described in Section 2 of this Act.