

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 633

(Delegate Simmons, *et al.*)

Judiciary

Judicial Proceedings

Criminal Procedure - Probation Before Judgment - Provisional Driver's License

This bill prohibits a court from entering a probation before judgment (PBJ) for specified moving violations if a defendant holds a provisional license and previously received a PBJ for another moving violation while the defendant held a provisional license. The bill also modifies the definition of “offense” to include the granting of a PBJ for a moving violation for the purpose of imposing specified administrative sanctions upon a holder of a provisional license.

Fiscal Summary

State Effect: Potential increase in Transportation Trust Fund (TTF) revenues in FY 2006 due to license reissuances. Potential increase in general fund revenues in FY 2006 due to fees remitted to the Office of Administrative Hearings (OAH). Potential significant increase in TTF expenditures in FY 2006 for salaries and reimbursement for additional administrative hearings.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A person may not be placed on PBJ for one of the following offenses, where the person has already been convicted of or placed on probation for one of these offenses within the preceding five years:

- driving or attempting to drive any vehicle while:
 - under the influence of alcohol or under the influence of alcohol per se;
 - impaired by alcohol;
 - so far impaired by any drug, combination of drugs, or combination of drugs and alcohol that the person cannot drive safely; or
 - impaired by any controlled dangerous substance.

- causing another's death as a result of negligently driving, operating, or controlling a motor vehicle or vessel while:
 - under the influence of alcohol or under the influence of alcohol per se;
 - impaired by alcohol;
 - so far impaired by a drug, a combination of drugs, or a combination of drugs and alcohol that the person cannot drive or boat safely; or
 - impaired by a controlled dangerous substance; and

- causing a life-threatening injury to another as a result of negligently driving, operating, or controlling a motor vehicle or vessel while:
 - under the influence of alcohol or under the influence of alcohol per se;
 - impaired by alcohol;
 - so far impaired by a drug, a combination of drugs, or a combination of drugs and alcohol that the person cannot drive or boat safely; or
 - impaired by a controlled dangerous substance.

Background: According to the Motor Vehicle Administration (MVA), there were 15,917 instances where an individual holding a provisional driver's license committed a moving violation and received a PBJ. It is unknown how many of those persons, if any, were previously granted PBJs for moving violations.

If convicted, a person is assessed the corresponding number of points on the person's license and must attend a Driver Improvement Program (DIP). Failure to attend DIP results in the suspension of the individual's driver's license. Individuals who have had their licenses suspended may request a hearing before OAH.

In fiscal 2004, 53% of OAH caseload came from cases referred by the MVA. These cases are of various types and generally involve the appropriateness of a suspension or revocation of an individual's driver's license.

State Fiscal Effect:*Motor Vehicle Administration*

TTF expenditures could increase significantly in fiscal 2006. The MVA advises that a significant increase in the number of DIPs may require an additional Customer Agent II, at a salary of \$31,618. TTF expenditures could further increase due to personnel costs for administrative hearings and associated expenses for additional administrative hearings.

Because OAH is primarily funded by reimbursable funds from other State agencies, the MVA is required to pay for additional personnel needed to process the hearings generated by MVA sanctions. Therefore, TTF expenditures could increase by \$64,931 in fiscal 2006 for the salary and associated expenses required to process additional MVA caseload.

The MVA also provides a reimbursement of \$92 per hearing to OAH. TTF expenditures would also increase for reimbursements to OAH.

Special fund revenues could increase due to fees from the issuance of new driver's licenses following a license suspension. The fee for issuance of a new driver's license is \$20.

Office of Administrative Hearings

General fund revenues could increase due to additional administrative hearing requests. Individuals requesting a hearing must pay a \$125 hearing fee to OAH.

OAH may require an additional administrative law judge to handle the additional cases at a total reimbursable fund expenditure, including fringe benefits and supplies and equipment, of \$64,931 in fiscal 2006.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of Administrative Hearings, Maryland Department of Transportation, Department of Legislative Services

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