

Department of Legislative Services
 Maryland General Assembly
 2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 939
 Judiciary

(Delegate McComas, *et al.*)

**Alcohol- or Drug-Related Driving Offenses - Tests for Alcohol, Drugs, or
 Controlled Dangerous Substances - Contributing Cause of Accident**

This bill provides that a person must submit to a test of blood or breath, or both, if a police officer detains the person due to reasonable grounds to believe that the actions of the person contributed to the cause of an accident that results in death or life-threatening injury to another person.

The bill repeals the requirement that the police officer must have reasonable grounds to believe that the person committed an alcohol- and/or drug-related driving offense if the person was involved in an accident that results in life-threatening injury or death before directing that the person submit to a test of blood and/or breath.

Fiscal Summary

State Effect: General fund expenditures increase by \$430,200 for the Department of State Police (DSP) in FY 2006 for one-time equipment expenditures and additional positions to process blood samples for alcohol and drug content. Out-years include annualization and inflation.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	430,200	164,100	172,200	181,000	190,300
Net Effect	(\$430,200)	(\$164,100)	(\$172,200)	(\$181,000)	(\$190,300)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Minimal increase in expenditures to process additional blood tests for alcohol and drug content.

Small Business Effect: None.

Analysis

Current Law: A person must submit to a test of blood or breath, or both, as directed by a police officer if the person is involved in a motor vehicle accident that results in death or life-threatening injury to another person and the police officer detains the person due to a reasonable belief that the person was driving or attempting to drive while:

- under the influence of alcohol or under the influence of alcohol per se;
- impaired by alcohol;
- impaired by drugs or drugs and alcohol; or
- impaired by a controlled dangerous substance;

If a police officer directs that a person be tested, then the test must be administered by qualified personnel who comply with the testing procedures specified in statute. Medical personnel who perform the required tests are not liable for civil damages from administering the tests, unless gross negligence is proved.

A person who is stopped by a police officer with reasonable grounds to believe that a violation of alcohol- and/or drug-related driving provisions has taken place must detain the person and request that the person permit a test to be taken. Refusal to take a test is an “administrative per se” offense. An offender’s license or driving privilege must be suspended by the Motor Vehicle Administration (MVA) for 120 days for a first offense and one year for a second or subsequent offense.

Currently, if a person takes a breath or blood test that indicates an alcohol concentration of 0.08 or more at the time of testing, the MVA must suspend the driver’s license or privilege for 45 days for a first offense, and 90 days for a second or subsequent offense. If a person refuses to take a test, the MVA must suspend the driver’s license or privilege for 120 days for a first offense and one year for subsequent offenses.

State Fiscal Effect: General fund expenditures could increase \$430,158 in fiscal 2006 in DSP due to the substantial increase in testing that could be required by the bill. The expenditure increase is for two additional forensic chemists, blood analysis equipment, and related expenses.

DSP advises that in calendar 2003, there were 998 drivers involved in fatal motor crashes in Maryland. Of those drivers, 420 were tested for alcohol and/or drugs. Under this bill,

all drivers involved in fatal crashes would likely be tested, since the bill requires the testing of any person who the officer believes contributed to the cause of a life-threatening or fatal accident, regardless of any indication of alcohol or drug use. This would result in 578 additional tests for accidents with fatalities.

DSP advises that in 2003, there were 38,869 personal injury crashes in Maryland. Of those crashes, 8,500 were presumed to be life-threatening because a driver and/or passengers were transported to a trauma center. This estimate assumes that half of the 8,500 injured were passengers and half (4,250) would be drivers that an officer might reasonably believe contributed to the cause of an accident. DSP historical experience indicates that a significant portion, possibly 66%, of these drivers would likely be tested under current law, due to reasonable grounds to believe that alcohol and/or drug violations occurred. Under these assumptions, about 1,275 new tests of drivers involved in accidents with severe injuries could be required under the bill. The total number of new tests of alcohol and/or drug content that could be required and analyzed for fatal and life-threatening accidents under this bill is 1,853.

Currently, one full-time equivalent Forensic Chemist II can analyze 700 to 800 blood samples annually to determine blood alcohol content and about 700 samples to determine drug content. Two additional forensic chemists would be needed to complete the additional tests required by this bill.

Under current law, DSP takes relatively few blood samples to test for drug content. The samples that are taken are sent to lab in Virginia for analysis. Because of the additional number of drug tests that would be required under this bill, the contractual arrangement would be terminated and testing of all samples would be completed in the DSP lab. This would result in a savings of \$1,125 in fiscal 2006 and a savings of \$1,500 annually in the out-years.

Because all testing would be completed by DSP under this bill's provisions, DSP would need to purchase one gas chromatograph at \$150,000 for drug testing, an automated sampler at \$50,000 for barcoding of samples and a Fourier Transform Infrared to break down molecules for analysis at a cost of \$100,000. To store samples, one commercial refrigerator (\$5,000) and one smaller refrigerator (\$1,000) would be needed. A pipetter/diluter at a cost of \$1,000 would also be needed to dilute samples for testing.

Hospital medical personnel draw the blood from a person when directed to do so by a police officer. Hospital personnel withdraw samples from about 800 to 900 people annually, at a cost of \$10 per person. To provide 1,853 additional samples for blood alcohol and/or drug content analysis would cost about \$18,530 annually and \$13,898 in fiscal 2006, accounting for the bill's October 1 effective date.

Salaries and Fringe Benefits	\$99,860
Blood Withdrawal Services	13,898
Specialized Equipment	309,320
Contract Termination Savings	(1,125)
Other Operating Expenditures	<u>8,205</u>
Total FY 2006 State Expenditures	\$430,158

Future year expenditures reflect (1) annualization; (2) full salaries with 4.6% annual increases and 3% turnover; and (3) 1% increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Department of Public Safety and Correctional Services, Department of Legislative Services

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Analysis by: Karen D. Morgan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510