

Department of Legislative Services
 Maryland General Assembly
 2006 Session

FISCAL AND POLICY NOTE

House Bill 661 (Delegate Simmons)
 Judiciary

Driving While Impaired and Refusal to Take a Blood or Breath Test - Points

This bill provides that if a driver was convicted of driving while impaired by alcohol, refused a test of blood or breath, and additional criminal penalties were imposed for test refusal, the Motor Vehicle Administration (MVA) must assess nine points on the driver’s license. The MVA must assess 12 points on a driver’s license if the driver was convicted of driving while impaired by alcohol or impaired by drugs and/or drugs and alcohol, refused a test of blood or breath, and additional criminal penalties were imposed for test refusal.

Fiscal Summary

State Effect: General fund expenditures increase \$225,000 in FY 2007 only for computer programming modifications in the District Court. Transportation Trust Fund (TTF) expenditures increase \$206,700 for additional personnel and related expenses to process driver records and implement computer programming modifications. Out-years assume a stable caseload and include annualization and inflation. Revenues are unaffected.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	225,000	0	0	0	0
SF Expenditure	206,700	101,700	107,900	114,500	121,500
Net Effect	(\$431,700)	(\$101,700)	(\$107,900)	(\$114,500)	(\$121,500)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A person may not drive or attempt to drive any vehicle 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.

A person who accumulates eight or more points on a driver's license is subject to license suspension. A driver who accumulates 12 or more points on a driver's license is subject to license revocation. A conviction for driving while impaired by alcohol, driving while impaired by drugs and/or drugs and alcohol or driving within 12 hours of arrest for a specified alcohol- and/or drug-related driving offense subjects the driver to 8 points on the driver's license.

A person who drives or attempts to drive a motor vehicle is deemed to have consented to take a test. This applies to a person who is detained by a police officer on suspicion of committing an alcohol- and/or drug-related driving offense. However, a person may not be compelled to submit to a test to determine the alcohol or drug concentration of a person's blood or breath unless there is a motor vehicle accident that results in death or a life-threatening injury to another person.

A police officer who stops a driver 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 the person to take a test. The police officer must advise the person of the administrative sanctions that must be imposed for refusal to take a test and notice and hearing procedures. An offender's license or driving privilege must be suspended by the MVA for 120 days for a first offense and 1 year for a second or subsequent offense. A person operating a commercial vehicle who refuses to take a test for alcohol or drug concentration is subject to more stringent administrative sanctions. No modification of the license suspension is permitted for a refusal unless the driver participates in the Ignition Interlock System Program for at least one year.

A police officer is required to advise a person detained on suspicion of an alcohol- and/or drug-related driving offense of the additional criminal penalties that may be imposed if the person is convicted of an alcohol- and/or drug-related driving offense and knowingly refused to take a test requested at the time of the suspected violation.

If a person is convicted of an alcohol- and/or drug-related driving offense and the trier of fact finds beyond a reasonable doubt that the person knowingly refused to take the requested test, the person is subject to a penalty in addition to any other penalty that may

be imposed for the alcohol- and/or drug-related driving conviction. A person who knowingly refuses to take a test of blood or breath under these circumstances is subject to a maximum fine of \$500, imprisonment for up to two months, or both. The court may not impose the additional penalty unless the State's Attorney serves notice of the alleged test refusal on the defendant or the defendant's counsel before acceptance of a plea of *nolo contendere* or guilty, or at least 15 days before a circuit court trial or 5 days before a District Court trial, whichever is earlier.

Background: According to the National Conference of State Legislatures, blood and breath test refusal rates vary by jurisdiction. Data from the Traffic Injury Research Foundation indicate that nationally, more than 20% of arrested drivers refuse a test. In Maryland, the State Police report a total of 22,597 people arrested for alcohol and/or drugged driving violations in calendar 2004. Of those arrests, 7,125 people, or 31.5%, refused to take a requested test.

To increase the number of drivers who will take a blood or breath test, 17 states have enacted stronger civil or criminal penalties for alcohol or drug test refusal. Fourteen of the 17 states have imposed criminal penalties for test refusal (Alaska, Arkansas, California, Delaware, Florida, Indiana, Minnesota, Nebraska, New Jersey, New York, Ohio, Rhode Island, Tennessee, and Vermont). In Minnesota, Nebraska, and Vermont, the penalties for test refusal are equal to or substantially similar to the penalties for a drunk driving conviction. Enhanced criminal penalties for test refusal in California and Vermont apply to those with prior drunk driving convictions. Criminal sanctions imposed by the states include fines, community service, alcohol or drug treatment, vehicle impoundment, and jail time.

State Expenditures:

Judiciary: General fund expenditures could increase by \$225,000 in fiscal 2007 only for the District Court to modify programming for traffic citations and electronic reporting of convictions to the MVA. Although the bill does not specifically mandate that the District Court notify the MVA of convictions that meet the bill's requirements, the MVA would need the information from the Judiciary to meet its requirements under the bill.

Motor Vehicle Administration: TTF expenditures could increase by \$206,652 in fiscal 2007, which accounts for the October 1 effective date of the bill. The MVA advises that there were 3,751 convictions for driving while impaired by alcohol and driving while impaired by drugs or drugs and/or alcohol. The estimate reflects the cost of hiring two customer service agents to review driver records and post the applicable convictions to driving records for the assessment of points. Similar processes for drivers with these convictions currently require two employees. Also included in this estimate is \$112,500 for fiscal 2007 only to create an automated database for the application of points. The

estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	\$73,552
Computer Program Modifications	112,500
Other Operating Expenses	20,600
Total FY 2007 TTF Expenditures	\$206,652

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

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mll/jr

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