

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE
 Revised

Senate Bill 262 (The President, *et al.*) (By Request - Administration)
 Judicial Proceedings

Judiciary

Vehicle Laws - Repeated Drunk and Drugged Driving Offenses - Suspension of License

This Administration bill clarifies that, unless otherwise specified, the Motor Vehicle Administration (MVA) is *authorized* to impose a one-year driver’s license suspension on a person who is convicted of *any* alcohol- and/or drug-related driving offense more than once within a five-year period. MVA is *required* to impose a one-year driver’s license suspension to any driver convicted of driving under the influence of alcohol, under the influence of alcohol *per se*, or while impaired by a controlled dangerous substance after a previous conviction of specified offenses within a five-year period. The mandatory suspension period may be modified under specified circumstances, but such a modification subjects the person to suspension and participation in the Ignition Interlock System Program for the mandatory one-year period.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) revenues increase \$6,500 in FY 2011 from fees for corrected licenses. Out-years assume a stable caseload and annualization. General fund revenues increase \$21,100 in FY 2010 from additional filing fees for hearings on driver license suspensions. TTF expenditures increase \$84,700 in FY 2010 for computer programming and additional hearing costs. Out-years reflect annualization and assume a stable caseload.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
GF Revenue	\$21,100	\$28,100	\$28,100	\$28,100	\$28,100
SF Revenue	\$0	\$6,500	\$8,700	\$8,700	\$8,700
SF Expenditure	\$84,700	\$40,000	\$40,400	\$40,800	\$41,200
Net Effect	(\$63,600)	(\$5,300)	(\$3,500)	(\$3,900)	(\$4,400)

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

Local Effect: None.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: For those drivers suspended as authorized by MVA for one year due to specified alcohol- and/or drug-related driving offenses, MVA may issue a restricted license for the suspension period if requested by the person and if the person participates in the Ignition Interlock System Program. A suspension issued under these circumstances must be concurrent with any other suspension or revocation imposed by MVA that arises out of the same circumstances as the conviction for the violation.

Upon receiving a notice of conviction for those drivers subject to the mandatory one-year suspension under this bill, MVA must issue a notice that contains the required elements specified in the bill. Included is notification that the person is subject to ignition interlock after the one-year period of suspension if the person does not participate in the program during the mandatory suspension period. The person must also be notified of the right to request a hearing on the suspension or to be subject to the one-year mandatory suspension instead of requesting a hearing if specified conditions are met. After notice and hearing requirements are met and MVA suspends the driver's license, MVA may modify the mandatory suspension by imposing a suspension period of at least 45 days and ordering the person to maintain, for the remainder of the one-year suspension period, an ignition interlock system on each motor vehicle owned or operated by the person. The person's driver's license must carry a restriction that prohibits the person from driving a motor vehicle that is not equipped with an ignition interlock system and allows the person to drive only to and from work, school, an alcohol or drug treatment program (as appropriate), or an ignition interlock service facility. Such a person who participates in the Ignition Interlock System Program for at least three months pursuant to this request is exempt from the existing law requirement of having to maintain an ignition interlock system on each motor vehicle owned or operated by the person after the expiration of the one-year mandatory suspension period.

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.

With a conviction for an alcohol- and/or drug-related driving offense, a violator is subject to a range of penalties involving fines and imprisonment, as well as suspension or revocation of the driver's license by MVA. A person convicted of driving under the influence or under the influence *per se* is subject to fines ranging from \$1,000 to \$3,000 and/or a maximum imprisonment term of one to three years. A repeat conviction within five years requires a mandatory minimum penalty of imprisonment from 5 to 10 days or community service from 30 to 60 days, as well as a mandatory alcohol abuse assessment. A conviction for lesser included offenses subjects the violator to a fine of \$500 and/or imprisonment for up to two months. However, for repeat offenders maximum prison terms increase to a year. If an offender is transporting a minor at the time of the alcohol- and/or drug-related driving offense, fines and sanctions increase beyond those already specified for lesser included offenses.

MVA must impose a one-year driver's license suspension on a person who is convicted of driving under the influence of alcohol or under the influence of alcohol *per se* more than once within a five-year period. After receiving a record of conviction of a person convicted of this offense more than once within a five-year period, MVA must issue a notice of suspension to the person. After notice, MVA must suspend the person's license if the person does not request a hearing, or if the person requests a hearing and MVA finds that the person was convicted of driving under the influence of alcohol or under the influence of alcohol *per se* more than once within five years. Within 90 days of the expiration of the one-year suspension, MVA must issue a notice to the person (unless such notice was waived) that states that the person must maintain an ignition interlock system on each motor vehicle owned for a period of at least three months and up to one year, dating from expiration of the one-year suspension period. MVA must also impose an alcohol restriction on the person's license. A person required to use an ignition interlock system under these circumstances may request a hearing and ask MVA for an exemption due to financial hardship under specified circumstances.

Background:

The Task Force to Combat Driving Under the Influence of Drugs and Alcohol: The bill contains provisions recommended by the Task Force to Combat Driving Under the Influence of Drugs and Alcohol. The task force advises that an increasing number of people arrested for driving under the influence of alcohol or while impaired by alcohol and/or drugs are repeat offenders and any alcohol-related driving event is a reliable predictor of future recidivism.

The task force was created by Chapters 533 and 534 of 2007 and was required to submit an interim report in December of 2007 and a final report by October 31, 2008. The task force was required to:

- review achievements in combating impaired driving within the past 20 years;
- identify and assess current efforts to address impaired driving;
- identify national best practices for combating impaired driving;
- determine if any gaps exist between current State efforts and the identified national best practices;
- recommend necessary actions to implement national best practices in Maryland;
- recommend new State initiatives to address populations that are disproportionately responsible for driving fatalities due to impaired driving;
- recommend actions to sustain and enhance public awareness and concern for the dangers imposed by impaired driving; and
- recommend strategies for the improved coordination of management, funding, and resources at State and local levels.

The task force issued 42 recommendations focusing on initiatives in the Maryland Department of Transportation, law enforcement, treatment of alcohol- or drug-impaired drivers, the courts, education, and the legislature. Seven recommendations specifically were targeted to the Maryland General Assembly:

- pass legislation to discourage and punish underage drinking by linking the privilege of driving to abstention from alcohol and drugs;
- impose incarceration for the violation of an alcohol restriction on a driver's license;
- increase the time before a person is eligible for another probation before judgment (PBJ) after receiving the first one, from 5 to 10 years;
- make all driving while impaired offenses count toward repeat offender status;
- require law enforcement to request alcohol testing of all drivers involved in life-threatening or fatal crashes;
- require from all ignition interlock users at least six months of failure-free use before release from the program; and

- recodify all laws related to driving under the influence and driving while impaired.

Impaired Driving Generally: According to the U.S. Department of Transportation, alcohol-impaired driving is one of the nation's deadliest crimes. Although some progress has been made in reducing alcohol-impaired driving, most of that progress occurred in the 1980s and 1990s. From about 1982 to 1995, the percentage of fatally injured alcohol-impaired drivers who were 16 to 20 years old declined by more than half. Since then, the proportion of those fatalities has hovered around 25%. In 2007, over half of all fatally injured drivers in the 21 to 30 age group had blood alcohol concentration levels at or above 0.08%.

According to the Insurance Institute for Highway Safety, 20,281 alcohol-related traffic fatalities occurred nationwide in 2007, about 49% of the total traffic fatalities for that year. The nationwide number of alcohol-related traffic fatalities in 2007 declined, however, by 5.2% from the 21,497 alcohol-related traffic fatalities in 2006.

According to the Fatality Analysis Reporting System maintained by the U.S. Department of Transportation, alcohol-related fatalities in Maryland are somewhat below national rates. In 2007, a total of 614 traffic fatalities occurred in Maryland, a crash rate of 10.9 per 100,000 people. Of those fatalities, 272, or 44.2%, were alcohol-related. Ninety-four of those fatalities, or 34.5%, involved drivers with blood alcohol concentration levels at or above 0.08%. According to the District Court, 41,038 traffic citations involving alcohol- and/or drug-related driving were filed in fiscal 2008. There were guilty dispositions for 5,014 of those citations, and 6,025 citations were disposed of with PBJ.

Provisions in the federal Transportation Equity Act of the 21st Century (TEA-21) conditioned the use of federal funds for highway construction projects on state enactment of laws that increased sanctions for drivers with repeat intoxicated driving offenses. A state without compliant legislation was required to transfer 1.5% of its federal funding from construction projects to highway safety programs. Part of TEA-21 established, as a minimum penalty, that all intoxicated drivers receive a driver's license suspension of not less than one year. Maryland passed legislation meeting the requirements of TEA-21 before the loss of construction money.

State Revenues: TTF revenues increase by an estimated \$6,549 in fiscal 2011, accounting for the October 1 effective date and the mandatory one-year suspension period required by the bill. Annually thereafter TTF revenues increase by \$8,730. MVA advises that, for the most recent five-year period, about 1,680 additional drivers would have been subject to mandatory license suspension under the provisions of this bill; thus, MVA expects, on average, an additional 336 suspensions annually. Generally, about 67% of those suspended request a hearing from the Office of Administrative

Hearings (OAH). OAH advises that, generally, most people (about 80%) who request an appeal from a suspension are required to complete the suspension, although the period initially imposed by MVA may be modified. Thus, Legislative Services advises that, of the 336 new suspensions generated by this bill, 291 drivers will have to endure a one-year suspension period as required by the bill annually. Those drivers who successfully request modification of the mandatory one-year suspension period are not eligible for a corrected license before the year has elapsed as the person must use ignition interlock for the balance of the one-year period that is not subject to the suspension. The number of drivers who may request such a modification cannot be reliably predicted. Legislative Services advises, however, that any additional effect on revenues is likely negligible. Once the suspension period is completed, the estimate assumes all of those drivers will request a corrected license, for which MVA charges a \$30 fee. Out-years assume a stable caseload.

General fund revenues increase by \$21,094 in fiscal 2010, accounting for the bill's October 1 effective date. This estimate assumes that 67% of those new drivers receiving suspensions, or 225 drivers, appeal their suspensions to OAH and pay the \$125 fee. The number of drivers that request MVA to modify a suspension and use ignition interlock may reduce the number of requested hearings, but the extent of any reduction cannot be reliably predicted. For purposes of this estimate, the effect of any reduction in hearing requests is assumed to be negligible. Out-years assume a stable caseload and include annualization.

State Expenditures: TTF expenditures increase \$84,700 in fiscal 2010, accounting for the October 1 effective date. This accounts for additional hearing costs for additional appeals of suspensions, computer programming costs, and postage for required notifications to drivers who are suspended under the provisions of the bill. Based on MVA historical data, it is estimated that 336 new driver license suspensions occur annually under the bill. Of those drivers, about 67%, or 225 drivers, request a hearing on the suspension. MVA budgets \$176 per case appealed to OAH. The estimate assumes that all drivers subject to suspension receive notification. The number of drivers who may request a modification instead of a hearing cannot be reliably predicted, but MVA advises that any impact can be addressed through additional computer programming changes that occur in fiscal 2010 only. Postage expenses for notifications can also be handled with existing resources. The estimate also assumes that changes to computer programming, costing \$55,000 in fiscal 2010 only, are required to implement the bill. Out-years assume a stable caseload and include annualization.

Additional Information

Prior Introductions: None.

Cross File: HB 293 (The Speaker, *et al.*) (By Request - Administration) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, National Highway Traffic Safety Administration, Insurance Institute for Highway Safety, U.S. Department of Transportation, Department of Legislative Services

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ncs/ljm Revised - Senate Third Reader - April 1, 2009
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Vehicle Laws - Repeated Drunk and Drugged Driving Offenses -
Suspension of License

BILL NUMBER: SB 262

PREPARED BY: Governor's Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.