

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE

Senate Bill 692 (Senator Middleton)
 Judicial Proceedings

Vehicle Laws - Disposition of Traffic Citations

This bill alters how a person complies upon receiving a traffic citation for a nonincarcerable offense by establishing that the person *must*, within 30 days, (1) elect to waive the right to a trial and pay the fine; (2) request a hearing on sentencing and disposition instead of a trial; or (3) elect to stand trial at the time and place established by the District Court. A person who does not comply with the citation by either paying the fine, electing to stand trial, or requesting a hearing within 30 days of receiving the citation may be subject to arrest or suspension of the driver’s license.

The bill takes effect October 1, 2010.

Fiscal Summary

State Effect: Significant general fund expenditure savings for the Department of State Police (DSP) and nonbudgeted expenditure savings for the Maryland Transportation Authority (MDTA) beginning in FY 2011 from reduced payments for overtime and more effective deployment of officers to crime-fighting activities. In FY 2011 only, general fund expenditures in the Judiciary increase by \$222,400 to automate changes to traffic citations. Transportation Trust Fund (TTF) expenditures increase by \$312,000 in FY 2011 only for programming changes to implement the required notifications and driver’s license suspensions. Enforcement can be handled with existing resources. No effect on revenues.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	222,400	(-)	(-)	(-)
SF Expenditure	0	312,000	0	0	(-)
NonBud Exp.	0	(400,000)	(400,000)	(400,000)	(400,000)
Net Effect	\$0	(\$134,400)	\$400,000	\$400,000	\$400,000

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

Local Effect: Significant expenditure savings, especially for larger counties, from reduced overtime payments and more effective deployment of law enforcement personnel. Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: A traffic citation issued for a nonincarcerable offense must contain a notice requiring the person to specifically either elect to waive the right to trial, request a hearing on sentencing and disposition, or elect to stand trial at a time and place established by the District Court by writ or trial notice.

The District Court may issue an arrest warrant for a person who does not comply with the traffic citation within 30 days of receiving the citation or, after 5 days, the District Court may notify the Motor Vehicle Administration (MVA) of noncompliance. Upon receipt of a notice of noncompliance from the District Court, MVA must immediately notify the person that his or her driver's license will be suspended, unless, by the end of the thirtieth day after the response to the citation was due, the person pays the fine or posts a bond or penalty deposit and requests a new trial date or a hearing on sentencing and disposition. If the person then fails to pay the fine or post the bond or penalty deposit, MVA *must* suspend the person's driver's license. If the District Court notifies MVA of the person's noncompliance, an arrest warrant may not be issued until 35 days after the date that the response to the citation was due.

Current Law: A police officer is authorized to charge a person with a violation of any provision of the Maryland Vehicle Law, a traffic law or ordinance of any local authority, and other specified laws, if the officer has probable cause to believe a violation is being committed or has been committed. A police officer who charges a person with a violation must issue a written or electronic citation. A traffic citation contains a notice to appear in court and a notice that the citation is a summons to appear as notified by a court or that the court will issue a writ setting the time and place for an appearance. The citation must contain identifying information about the person charged and specify the violation or violations charged. The citation must also contain a statement acknowledging receipt of the citation and a clear and conspicuous statement that acknowledgement is not an admission of guilt and failure to sign could subject the person to arrest. The time set for hearing must be at least five days after the alleged violation, unless the person demands an earlier hearing.

A police officer must issue a citation to the driver personally, or, if the vehicle is unattended, attach the citation to the vehicle in a conspicuous place. The police officer is

required to keep a written or electronic copy of the citation which bears the officer's certification that the facts contained in it are true, under penalty of perjury. In the absence of the driver, the owner of the motor vehicle is presumed to be the person receiving the citation. A person may comply with a citation by appearance in person, by counsel, or by payment of the fine specified for the violation.

If the person returns a copy of the citation within the time allowed for payment of the fine, indicating that the facts are not in dispute, a person may request a hearing in lieu of trial regarding sentencing and disposition. A person who requests this hearing waives a right to a trial of the facts and the right to compel the presence of the police officer who issued the citation. Such a hearing may only be requested if the alleged offense is not punishable by incarceration.

If a person fails to comply with the notice to appear, a court may issue a warrant for the person's arrest or, after five days, notify MVA of noncompliance. After receiving a notice of noncompliance, MVA must notify the person that he or she is subject to suspension of the driver's license, unless by the end of the fifteenth day after the date the notice was mailed, the person pays the fine on the original charge or posts bond or a penalty deposit and requests a new trial date or a hearing on sentencing and disposition. If the person then fails to pay the fine or post the bond or penalty deposit, MVA *may* suspend the person's driver's license. If the court notifies MVA of a person's noncompliance and the offense is nonincarcerable, an arrest warrant may not be issued until 20 days after the original trial date. If a person is arrested and taken before a District Court commissioner, the person must be released on issuance of a written citation if the commissioner, judge, or other public officer of the court is unavailable and the person gives a written promise to appear in court.

A police officer who issues a traffic citation must file the original promptly with the District Court and dispose of other copies in accordance with regulations adopted by MVA. Once the original copy of a traffic citation is filed with the District Court, the citation may only be satisfied by trial, dismissal or other judicial action, forfeiture of any collateral, if authorized, or payment of a fine.

State Fiscal Effect:

Judiciary: General fund expenditures increase by as much as \$222,413 in fiscal 2011 only for one-time computer programming changes to the case management system and changes to written and electronic citations. The Administrative Office of the Courts advises that planning is underway for a replacement of the legacy case management system. If the programming work required by this bill is timed to coincide with the introduction of the new case management system, the expenditures required by this bill decrease significantly and perhaps may be absorbed within existing resources. However,

the District Court advises that it does not yet have a projected completion date for the new case management system. Also, of the \$222,413 in projected expenditures, \$109,493 is required for reprinting of paper traffic citations. The District Court advises that nine law enforcement agencies have been certified to issue electronic citations to date and six more are taking the necessary steps for certification and will likely be certified before the bill's effective date. The reprinting cost is likely to decrease as more local law enforcement agencies participate in the electronic citation program launched by the District Court in 2007. For example, from October 2007 to September 2008, 10,413 electronic citations were issued by law enforcement. From January to February 2009, 30,915 electronic citations were issued by law enforcement, indicating that agencies are aggressively moving to use the electronic citation system, rather than issue paper traffic citations.

The District Court also advises that the same number of court dates and dockets are likely to exist under this bill as exist under current law. Drivers may continue to be motivated to request court dates to avoid points on the driver's license and to avoid mandatory license suspension for noncompliance with a requested trial or hearing date. Also, while the bill may cause an increase in revenue collections from greater compliance with court dates, the extent to which this may occur cannot be reliably predicted and is not accounted for in the fiscal estimate.

Department of State Police: Significant general fund expenditure savings occur due to the reduction of overtime and more effective deployment of troopers. DSP advises that not enough data is available to quantify expenditure savings. Anecdotal evidence indicates, however, in over 50% of the cases scheduled for trial, the trooper was not needed because the violator did not appear for the trial. For example, in Somerset County, on February 3, 2009, 115 cases were scheduled where DSP troopers were required to appear. Fifty-five cases were heard but 63 or 55% of the cases were not heard due to the failure of the violator to appear. In Washington County, from January 7, 2009 to February 4, 2009, DSP troopers were required to appear at 381 cases scheduled for trial. In 225 cases, the violator did not appear for trial. For a typical day within that period, the percentage of cases where the violator failed to appear ranged from 38% to 63.6%. For the whole period, the average percentage of cases where the violator failed to appear was 51.6%. This anecdotal evidence appears to indicate what DSP and other local police departments have claimed to experience, which is that the violator fails to appear for traffic court about 50% of the time.

DSP also recorded trooper overtime payments for the six-month period of July 1, 2008 to December 31, 2008. A total of 5,499 hours of overtime for court appearances was recorded at a cost of \$253,668. In that same period, the amount of overtime paid for officers scheduled for day shifts who were required to work past the end of shift was \$13,885 for 301 hours. One of the conditions causing overtime payments is the limited

staffing in DSP generally. This means some troopers are required to attend court on regularly scheduled leave days. The need to schedule troopers for court duty also impacts how other troopers who do not need to appear for court may be scheduled.

Maryland Department of Transportation: MDTA projects a savings of at least \$400,000 annually in nonbudgeted funds. MDTA advises that about 38,000 hours annually is spent in the District Court on traffic cases. The bill may reduce time spent in court by almost 25% and may also allow MDTA to recover some savings from the redirection of officer time to other duties.

TTF expenditures for MVA increase by \$312,000 in fiscal 2011 only for computer programming changes and to automatically determine whether a citation was paid or not and to determine if the driver's license should be suspended. MVA advises that 104,162 drivers are likely not to comply with a traffic citation and therefore become subject to suspension of the driver's license. An increase in suspensions is not anticipated as a result of the bill as MVA currently suspends driver's licenses for noncompliance with traffic citations upon notification from the District Court. As a result, the estimate does not assume an increase in postage due to the notification requirements. This estimate assumes that when a driver does not comply with the citation, the District Court notifies MVA rather than issuing an arrest warrant. The estimate also assumes that when MVA receives notification from the District Court, MVA suspends the license, although the law does not mandate license suspension. Accordingly, this estimate assumes that whatever changes in notification requirements and postage expenses are generated by the bill can be met with the existing resources of MVA.

Local Fiscal Effect: Local governments, especially those that process a large number of traffic citations may experience significant expenditure savings due to the bill. For those local governments participating in the electronic citation program, the initial savings are offset by the one-time costs of computer reprogramming and recertification for the program, estimated at \$12,000 to \$20,000 per jurisdiction. Montgomery County advises that about \$3.5 million and 75,000 officer-hours are spent annually on overtime for District Court appearances – about 35% of the total overtime budget. The bill may generate savings because officers are more likely to go to court only for cases where the violator actually appears. Those officers that are on day-shifts could continue to complete law enforcement duties until needed in court. Under the current system, citations are batched and officers are assigned to court for a specified number of citations. The officer does not know if the driver intends to pay the bill or intends to make an appearance. Any officer who goes to court is guaranteed a minimum of three hours overtime. While Montgomery County advises that the minimal overtime costs paid to officers for court appearances is not likely to change, a significant reduction in overtime costs for court appearances exceeding three hours may occur.

Harford County advises that the number of people who want to go to court is not likely to be changed by the bill, although some potential overtime savings may result from the changes proposed by the bill. Carroll County advises that, while no monetary savings are anticipated from the bill, officers may spend less time waiting in court and more time on crime-fighting duties. More effective deployment of law enforcement officers may result under the bill.

Additional Information

Prior Introductions: None.

Cross File: HB 545 (Delegate Jameson, *et al.*) - Judiciary.

Information Source(s): Carroll, Harford, and Montgomery counties; Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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