

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 938

(Senator Klausmeier)(By Request - Baltimore County
Administration)

Judicial Proceedings

**Parking Violations - Administrative Enforcement by Baltimore County - Pilot
Program**

This bill authorizes Baltimore County to establish, by ordinance, an agency or board to implement an alternative enforcement program for the issuance of civil parking citations for stopping, standing, and parking of vehicles. The bill excludes from District Court jurisdiction the adjudication of parking citation cases under the bill. The bill specifies that a parking citation established by ordinance is a civil infraction and not a misdemeanor as is generally the case for violations of the Maryland Vehicle Law.

The bill has prospective application, and an ordinance adopted under its authorization may only apply to a citation issued after the bill's October 1, 2011 effective date. The bill terminates September 30, 2016.

Fiscal Summary

State Effect: To the extent that Baltimore County adopts an ordinance authorized under the bill, Transportation Trust Fund (TTF) revenues increase minimally due to additional registration restoration and flag removal fees; TTF expenditures may increase minimally and Motor Vehicle Administration (MVA) operations may be affected to process additional registration-related transactions; general fund revenues decrease minimally due to fewer stopping, standing, and parking citations collected by the District Court; and District Court caseloads decrease minimally.

Local Effect: Baltimore County revenues increase due to fines collected by the administrative agency or board, which may be established by ordinance. Circuit court case loads in Baltimore County increase minimally. Law enforcement expenditures and workloads decrease to the extent that an ordinance adopted under the bill results in greater efficiency in the administrative enforcement and disposition of stopping, standing,

and parking violations; it is assumed that revenues from parking penalties will exceed the expenditures necessary to implement the ordinance. Statewide local government revenues increase negligibly due to an increase in the distribution of highway user revenues.

Small Business Effect: None.

Analysis

Bill Summary: An ordinance adopted under the bill must (1) provide for the contents of a parking citation; (2) determine the amount of the fines; (3) identify the authorities who may issue a parking citation; (4) establish an agency or board to process the parking citations, collect fines, and adjudicate contested citations; (5) provide for the right to a hearing before the agency or board; (6) incorporate provisions relating to the rights of rental car companies that receive parking tickets, including their right to a hearing under the bill's authorization; and (7) specify that the standard of proof in a contested case is the preponderance of evidence standard.

The ordinance must also require that the alternative parking citation enforcement board or agency notify MVA when there is a failure to pay a parking citation fine, to contest the citation, or to appear at an adjudication of the citation. Under the ordinance, the remedy for failure to pay the fine or take another required action must be limited to (1) enforcement relating to towing, booting, or impounding of the vehicle; and (2) the refusal by MVA to register, or transfer the registration of, the vehicle involved in the parking citation case, or suspension of the vehicle's registration.

An alternative parking enforcement program established by ordinance under the bill is exempt from current procedures governing the payment of parking citations and requests to contest parking citations, as well as other procedures for the disposition of traffic citation cases.

The administrative judge of the Circuit Court for Baltimore County may adopt procedures for the appeal of parking citations issued under an alternative parking citation enforcement ordinance. An appeal to the circuit court from an adjudication must be confined to the record made by the agency or board and any additional evidence required to be taken by the presiding officer of the agency or board pursuant to an order from the circuit court. The circuit court may order such additional evidence be taken if a party applies for leave to offer the evidence before the hearing date and the court is satisfied that the evidence is material and that there were good reasons for the failure to offer the evidence in the original proceeding before the agency or board.

Current Law: The Maryland Vehicle Law governs the stopping, standing, and parking of vehicles and establishes specific additional restrictions and prohibitions relating to stopping, standing, and parking under certain circumstances and within certain jurisdictions. Subject to the Maryland Vehicle Law, a local authority, in the reasonable exercise of its police power, may regulate or prohibit the stopping, standing, or parking of vehicles on highways under its jurisdiction.

Political subdivisions and other local authorities are generally prohibited from requiring the registration or licensing of vehicles and the imposition of fees or charges, except as provided by public local laws for the regulation of taxi services. However, the Maryland Vehicle Law authorizes local ordinances and regulations regarding the parking, towing, and impounding of vehicles in certain circumstances.

MVA may not register or transfer the registration of any vehicle involved in a parking violation. It may suspend the registration of the vehicle, if notified that the person cited for the violation has failed to pay the fine on time, file a notice of intention to stand trial, or appear for trial.

The District Court has exclusive jurisdiction over specified civil infractions of the Maryland Vehicle Law, including those involving automated traffic monitoring systems. Otherwise, a violation of the Maryland Vehicle Law is a misdemeanor (unless specifically declared a felony or administrative infraction) for which the District Court generally has criminal jurisdiction. However, a misdemeanor may be brought in either the District Court or a circuit court, at the discretion of the prosecutor, if the penalty is confinement for three years or more or a fine of \$2,500 or more. The amount of the prepayable fine for a violation of the provisions regulating stopping, standing, or parking is \$50, \$60, or \$70, depending on the specific violation.

Baltimore County enforces local laws pertaining to the stopping, standing, and parking of vehicles, as well as laws governing the use of parking meters and residential parking. If a local law is violated, law enforcement must deliver a citation to the driver or, if the vehicle is unattended, attach a citation to the vehicle in a conspicuous place. Fines range from \$20 for parking meter violations, to \$150 for parking in a space designated for the use of individuals with disabilities. A person that receives a citation must either pay the relevant fine to the Baltimore County Director of Budget and Finance or elect to stand trial before the District Court.

State Fiscal Effect: TTF revenues increase due to the collection of additional registration flag removal and restoration fees by MVA. Currently, local governments are authorized to notify MVA regarding the failure to pay the fine on a parking citation. On notification, MVA places a flag on the registration of the vehicle involved, and the owner of the vehicle must pay a \$30 fee to have the flag removed once the parking fine or other

violation giving rise to the flag has been satisfied. MVA is also authorized to suspend the registration of a vehicle for nonpayment of a parking fine. Legislative Services advises that local jurisdictions do not fully exercise their authority to have MVA place flags on the registration of vehicles with unpaid parking violations. For example, in Baltimore City, several thousand parking citations are paid more than a year late annually. If Baltimore County adopts the ordinance authorized by the bill and complies with the requirement to notify MVA of each unpaid parking citation, TTF revenues may increase through additional collection of flag removal and suspension restoration fees.

TTF expenditures may increase to hire additional personnel if the number of vehicle registration suspensions and flag impositions increases significantly in any year due to Baltimore County adopting an ordinance under the bill. In addition, computer reprogramming work may be necessary to implement the bill and may result in TTF expenditures to the extent that such work cannot be accomplished by the bill's effective date with existing resources.

General fund revenues decrease minimally due to fewer contested parking cases heard in the District Court. In a contested parking case heard by a local adjudicative board established by an ordinance under the bill, any penalty assessed will remain with the local jurisdiction, and no court costs will be imposed.

Operations of the Judiciary may be minimally affected to establish procedures for handling appeals from administrative agencies established by ordinance under the bill. District Court workloads may decrease to a more significant extent as adjudications are handled by Baltimore County; however, as noted below, circuit court workloads in Baltimore County may increase significantly to hear appeals under the bill's authority. Overall, the bill is not anticipated to have a material fiscal effect on the Judiciary.

Local Fiscal Effect: Baltimore County advises that it currently possesses the resources, including administrative law judges and other administrative positions needed to establish and staff the administrative board or agency under the ordinance. Thus, although workloads increase, in particular for the Circuit Court for Baltimore County to hear appeals, no additional expenditures will be necessary to implement or enforce the ordinance. However, Baltimore County advises that it anticipates greater efficiency in the enforcement and adjudication of stopping, standing, and parking rules and violations through an administrative agency established under the bill. For example, due to the ability to control scheduling of cases in coordination with county law enforcement, officers will be able to attend a much greater number of contested cases and the county will be able to avoid overtime payments to officers that it currently incurs. Baltimore County estimates the amount of such overtime payments to officers in fiscal 2012 will be about \$22,000.

Legislative Services is unable to provide a reliable estimate of the additional revenues that may accrue to Baltimore County following adoption of an ordinance authorized under the bill. It is unknown whether the incremental increase in fine revenues resulting from the adoption of an ordinance is significantly greater than the revenues currently generated. The bill does not specify the amount of the civil parking fines that may be assessed under the bill, and it is unknown at what level the fine would be set, or whether it would exceed current levels.

However, Baltimore County has estimated that, due to fewer contested cases being dismissed as well as payment of fines and costs to the administrative agency established under the bill, revenues may increase by more than \$37,000 annually, beginning in fiscal 2012. This estimate is based on an assumption of about 1,500 contested parking cases annually, a fine of \$20 and contested hearing costs of \$22.50, but it does not account for any revenues generated from additional citations that result from greater time available for enforcement of standing, stopping, and parking laws. The estimate also does not account for the collection of additional fines that may result based on a greater share of unpaid citations being referred to MVA for action against the violator's registration. Finally, the estimate assumes all fines are \$20; this is the lowest current fine charged by Baltimore County for violations of the various local stopping, standing, and parking related laws.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore County, Baltimore City, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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ncs/ljm

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