

**Department of Legislative Services**  
Maryland General Assembly  
2016 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 974  
Judiciary

(Delegates Dumais and Kramer)

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**Serious and Subsequent Offenders - Conditions for Reinstatement of Driver's License**

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This bill requires revocation of a driver's license or privilege to drive for licensed and nonresident drivers convicted of (1) manslaughter by motor vehicle or vessel (gross negligence); (2) manslaughter by motor vehicle or vessel (criminal negligence); (3) homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*; (4) homicide by motor vehicle or vessel while impaired by alcohol; (5) homicide by motor vehicle or vessel while impaired by drugs; (6) homicide by motor vehicle or vessel while impaired by a controlled dangerous substance (CDS); and (7) causing life-threatening injury by motor vehicle or vessel while under the influence of alcohol and related crimes. The bill also authorizes the Motor Vehicle Administration (MVA) to impose conditions for reinstatement of a revoked driver's license or privilege to drive, including a requirement for participation in the Ignition Interlock System Program (IISP). The bill also increases the length of participation in the IISP for repeat offenders and increases penalties for specified IISP circumvention offenses.

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**Fiscal Summary**

**State Effect:** Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. Minimal reduction in Transportation Trust Fund (TTF) revenues to the extent that drivers with revoked licenses are unable to qualify for license reinstatement. Enforcement can be handled with existing resources.

**Local Effect:** Potential minimal increase in local expenditures due to the bill's penalty provisions. Enforcement can be handled with existing resources.

**Small Business Effect:** Minimal. Ignition interlock operations and organizations that offer substance abuse treatment may be impacted to the extent that additional persons require these services.

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## Analysis

### Bill Summary:

*Additional Conditions for License or Privilege Reinstatement:* For the most serious drunk and drugged driving offenses (*i.e.*, manslaughter, homicide and causing life-threatening injury violations cited above), MVA may require as a condition of reinstatement of a license or privilege to drive, any appropriate restrictions, limitations, or other requirements, including one or more of the following:

- undergoing an alcohol abuse assessment, drug abuse assessment, or mental health assessment by the Medical Advisory Board (MAB);
- compliance with any recommendations of MAB;
- participation in IISP for a specified period determined by MVA to be appropriate to ensure the individual's safe driving;
- attendance at meetings of support groups, such as Alcoholics Anonymous or Narcotics Anonymous or both for a specified time period;
- enrollment in the Drinking Driver Monitor Program of the Division of Parole and Probation, Department of Public Safety and Correctional Services for a specified time period;
- attendance at an approved substance abuse or alcohol abuse education program approved by MVA for a specified time period; and
- participation in a substance abuse or alcohol treatment program that is certified by the Department of Health and Mental Hygiene (DHMH) or by an agency in another state that has powers and duties similar to DHMH for a specified time period.

MVA may require any of the above restrictions indefinitely, but must do so for at least three years from the date the licensee or nonresident is released from incarceration for any sentence of imprisonment, for the offenses covered under the bill. MVA may continue to revoke or refuse to issue or renew a license or driving privilege until a licensee or nonresident meets an imposed condition.

*Mandatory IISP Participation:* The bill extends the length of mandatory participation in IISP for individuals required to participate for a second time, from one to two years, and for the third or subsequent time, from three to five years. The bill also requires MVA to suspend any nonresident's privilege to drive until completion of IISP.

The bill increases the maximum penalties for certain IISP circumvention offenses to a fine of \$1,000 and/or imprisonment for one year for a first offense and a fine of \$1,000 and/or imprisonment for two years for:

- operating a vehicle that is not equipped with an ignition interlock;
- starting or attempting to start a motor vehicle equipped with an ignition interlock to provide an operable motor vehicle to a participant in IISP;
- tampering with, or any attempt to circumvent, the operation of an ignition interlock system that has been installed in a motor vehicle under the program;
- knowingly furnishing a vehicle that is not equipped with an ignition interlock to a person who is a participant in IISP.

The bill requires MVA to provide written notice to a licensee or nonresident meeting the requirement for mandatory IISP participation. A licensee or nonresident under the bill is entitled to a hearing and may request one in accordance with the procedure specified in State law. Failure to appear at a requested hearing results in license revocation.

**Current Law:** “Under the influence of alcohol *per se*” means having an alcohol concentration at the time of testing of at least 0.08 as measured by grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

“Impaired by alcohol” means *prima facie* evidence as indicated, at the time of testing, by an alcohol concentration of at least 0.07, but less than 0.08, as measured by grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

“Life-threatening injury” is not defined in statute.

*Manslaughter by Vehicle or Vessel – Gross Negligence:* A person is prohibited from committing manslaughter by vehicle or vessel by causing the death of another as a result of driving, operating, or controlling a vehicle or vessel in a grossly negligent manner. The standard of “gross negligence” is established in common law and requires that evidence show, beyond a reasonable doubt, that the offender had a wanton or reckless disregard for human life in the operation of a motor vehicle. The conduct must be extraordinary or outrageous to meet this standard.

*Manslaughter by Vehicle or Vessel – Criminal Negligence:* A person is prohibited from causing the death of another due to driving, operating, or controlling a vehicle or vessel in “a criminally negligent manner.” A person acts in a criminally negligent manner when the person should be aware, but fails to perceive, that the person’s conduct creates a substantial

and unjustifiable risk that manslaughter will occur and the failure to perceive is a gross deviation from the standard of care that would be exercised by a reasonable person.

*Homicide by Motor Vehicle or Vessel While Under the Influence:* A person may not cause the death of another as a result of negligently driving, operating, or controlling a motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*.

*Homicide by Motor Vehicle or Vessel While Impaired:* A person may not cause the death of another as a result of negligently driving, operating, or controlling a motor vehicle or vessel while (1) impaired by alcohol; (2) so far impaired by a drug, any combination of drugs, or any combination of one or more drugs and alcohol that the person cannot drive, operate, or control a motor vehicle or vessel safely; or (3) impaired by a CDS that the person is not entitled to use by State law.

*Life-threatening Injury by Motor Vehicle or Vessel While Under the Influence and Related Crimes:* A person may not cause life-threatening injury to another as a result of negligently operating or controlling a motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*. A person may not cause life-threatening injury to another as a result of negligently operating or controlling a motor vehicle or vessel while impaired by alcohol, impaired by drugs, or impaired by CDS.

**Exhibit 1** shows the current maximum penalties for the crimes affected by the bill.

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**Exhibit 1**  
**Current Maximum Penalties for Alcohol/Drug-related Motor Vehicle and Vessel**  
**Offenses Covered by the Bill**

<b>Offense</b>		<b>Maximum Penalties</b>	
		<b>Imprisonment</b>	<b>Fine</b>
Manslaughter by vehicle or vessel – gross negligence	felony	10 years	\$5,000
Manslaughter by vehicle or vessel – criminal negligence	misdemeanor	3 years	\$5,000
Homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol <i>per se</i>	felony	5 years	\$5,000
Homicide by motor vehicle or vessel while impaired by alcohol	felony	3 years	\$5,000
Homicide by motor vehicle or vessel while impaired by drugs	felony	3 years	\$5,000
Homicide by motor vehicle or vessel while impaired by a CDS	felony	3 years	\$5,000
Causing life-threatening injury by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol <i>per se</i> or while impaired by a CDS	misdemeanor	3 years	\$5,000
Causing life-threatening injury by motor vehicle or vessel while impaired by alcohol, by drugs, or by a CDS	misdemeanor	2 years	\$3,000

Note: The maximum penalties may be the imprisonment term noted, the fine noted, or both.

Source: Department of Legislative Services

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*Administrative Penalties:* In addition to the current maximum penalties noted in Exhibit 1, all of the offenses in the bill are subject to points assessment by MVA, which makes the driver subject to revocation of the driver's license.

For convictions of all manslaughter by motor vehicle or vessel, homicide by motor vehicle or vessel, and life-threatening injury by motor vehicle or vessel offenses, MVA must assess 12 points against the driver's license, and the license is subject to revocation. A conviction of driving under the influence of alcohol or driving while impaired by a CDS also requires assessment of 12 points against the license by MVA, and the license is subject to

revocation. A driver who accumulates 12 points against his or her driver's license within a two-year period is subject to license revocation.

*Mandatory IISP Participation:* A driver must participate in IISP as a condition of modification of a license suspension or revocation of a license or the issuance of a restrictive license if the driver:

- is required to participate by a court order;
- is convicted of driving while under the influence of alcohol or under the influence of alcohol *per se* and had a blood alcohol concentration (BAC) at the time of testing of 0.15 or greater;
- is convicted of driving under the influence of alcohol, under the influence of alcohol *per se*, or while impaired by alcohol and transporting a minor younger than age 16;
- is convicted of driving while under the influence of alcohol, under the influence of alcohol *per se*, or impaired by alcohol and within the preceding five years was convicted of any specified alcohol- and/or drug-related driving offense; or
- was younger than age 21 and violated the alcohol restriction imposed on the driver's license or committed a specified alcohol-related driving offense.

A driver who is required to participate in the program must be in the program for six months the first time the requirement is imposed. For the second time, the driver must participate for one year. For the third or any subsequent time the requirement is imposed, the driver must participate for three years. A court and MVA may also impose a longer participation period in accordance with other Maryland Vehicle Law provisions.

MVA must immediately issue a license to a driver who successfully completes the program and whose license is not otherwise suspended, revoked, refused, or canceled.

*Sanctions for Program Participants:* A driver who is convicted of the following offenses is subject to a mandatory indefinite license suspension until the driver successfully completes IISP: (1) driving while under the influence of alcohol or under the influence of alcohol *per se* and having a BAC of 0.15 or greater; or (2) driving while under the influence of alcohol, under the influence of alcohol *per se*, or impaired by alcohol and transporting a minor younger than age 16. The other categories of drivers who are mandated to participate in the program (as noted above) are subject to mandatory license suspension for one year if they fail to participate in the program or do not complete it. Periods of mandatory participation must run concurrently for a driver who is subject to participation in the program due to more than one provision of the law.

*Reconsideration of Refusal or Program Reentry:* If a driver who is eligible or required to participate in IISP does not initially become a participant, that driver may apply to MVA to become a participant at a later time. MVA may reconsider any suspension or revocation of the driver's license arising out of the same circumstances and allow the driver to participate in the program.

If MVA removes a driver from the program due to violation of the program requirements, MVA may allow the driver to reenter the program after a period of 30 days from the date of removal. If the driver reenters the program under these circumstances, that driver must participate in the program for the entire period that was initially assigned for successful completion of the program without any credit for participation that occurred before the driver was removed from the program.

*Medical Advisory Board:* Appointed by the Motor Vehicle Administrator, MAB consists of qualified physicians of various specialties who advise the administrator on medical aspects of driver licensing. MAB currently lists 20 disorders that require further medical review before board approval may be granted to license or reinstate an applicant. When examining an individual who has one of these disorders, the board examiners take many factors into consideration before determining whether to approve the individual for licensure.

**Background:** According to the Maryland State Commission on Criminal Sentencing Policy, in fiscal 2015, 32 people were sentenced for 43 counts of the criminal law offenses under the bill; *i.e.*, those related to homicide, life-threatening injury, or manslaughter.

**State Fiscal Effect:** The bill may increase demand for assessments and treatment services by DHMH; even so, it is anticipated that the department can handle the increased assessments with existing resources.

The Division of Parole and Probation advises that it does not expect a significant increase in enrollment into the Drinking Driver Monitor Program and can handle the bill's requirements with existing resources. MVA advises that it can handle regulation changes and employee training with existing resources. TTF revenues decrease minimally due to less revenue from reinstatement of licenses as more drivers find it difficult to qualify for reinstatement. Moreover, any subsequent increase in revenue from reinstatement fees would be minimal.

General fund expenditures increase minimally as a result of the bill's incarceration penalties due to people being committed to State correctional facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. The number of people convicted of the expanded penalties under this bill is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,300 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including variable health care costs) is about \$770 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

General fund revenues increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

**Local Expenditures:** Expenditures increase minimally as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.



**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Department of Public Safety and Correctional Services, Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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Analysis by: Michelle Davis

Direct Inquiries to:

(410) 946-5510

(301) 970-5510