

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

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

House Bill 817 (Delegate Conaway)  
 Environment and Transportation

**Unlawful Use of Off-Highway Recreational Vehicles - Repeal of Administrative Penalties**

This bill repeals driver’s license or privilege suspension penalties related to unlawful use of off-highway recreation vehicles (OHRV) or the dispensing of motor vehicle fuel into a dirt bike in Baltimore City for adults and children. Specifically, the bill repeals the requirement that the court notify the Motor Vehicle Administration (MVA) if a child is adjudicated delinquent or an adult is convicted of a violation of unlawfully driving an OHRV on a highway, and it repeals the sanction of license or privilege suspension. In addition, the bill repeals the requirement that the court notify MVA both on a finding that a child has committed and when an adult is convicted of a violation of dispensing motor vehicle fuel into a dirt bike from a retail pump at a service station in Baltimore City; it likewise repeals the sanction of driver’s license or privilege suspension.

**Fiscal Summary**

**State Effect:** General fund expenditures increase in FY 2017 only by \$12,300 for the District Court to make programming changes to implement the bill’s provisions. Potential minimal reduction in Transportation Trust Fund (TTF) revenues due to the issuance of fewer corrected licenses after the expiration of license suspensions.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
SF Revenue	(-)	(-)	(-)	(-)	(-)
GF Expenditure	\$12,300	\$0	\$0	\$0	\$0
Net Effect	(\$12,300)	\$0	\$0	\$0	\$0

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

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** The bill does not alter the maximum fines that apply to either of the above offenses under existing law. For the offense of unlawfully dispensing motor vehicle fuel from a retail pump in Baltimore City, the bill does not alter the requirement for either a child or an adult to appear in court to answer the charge, nor does it alter the existing imprisonment penalty to which an adult convicted of this offense is subject.

### Current Law:

#### *Unregistered Vehicles*

An unregistered vehicle may not be driven on a highway in the State. An OHRV is not required to be registered. An OHRV is defined in the Maryland Vehicle Law to include snowmobiles, vehicles commonly known as all-terrain vehicles, and dirt bikes. An adult who is convicted of this offense is guilty of a misdemeanor and is subject to a maximum fine of \$500. The prepayment penalty set by the District Court is \$290. The court is required to notify MVA of a conviction for this offense.

An adjudication of a child as delinquent by reason of the child's violation of the Maryland Vehicle Law, including a violation involving driving an OHRV on a highway, must be reported by the clerk of the court to MVA, which *must assess points* against the child's license to drive in the same manner and to the same effect as if the child had been convicted of the offense. A child is defined as an individual younger than age 18.

Likewise, an adjudication of a child as delinquent or a finding that the child has committed a delinquent act, without an adjudication of the child as delinquent (both by reason of the child's violation of the Maryland Vehicle Law, including the use of an OHRV on a highway) must be reported by the clerk of the court to MVA for *suspension* of the child's license to drive for six months for a first adjudication or finding of delinquency and for one year for a subsequent adjudication or finding. In the case of a finding without adjudication, MVA must retain the report as it retains reports for license holders who receive probation before judgment.

If a child subject to a suspension does not hold a license to operate a motor vehicle on the date of the disposition, the suspension commences when the child reaches age 16, or on the date of disposition for a child that is age 16 or older. A suspension is concurrent with any other suspension or revocation that arises out of the circumstances of the adjudication or finding of delinquency for specified other violations of the Maryland Vehicle Law, and it must be credited for any suspension period imposed for specified other violations that arose out of the same circumstances. If an individual does not hold a license to operate a motor vehicle, the suspension begins on the date that the license is issued, the date the

individual applies and becomes qualified to receive a license, or upon the individual reaching age 21, whichever is first.

MVA may modify a suspension or issue a restricted license if (1) the license is required for the purpose of attending an alcohol education or alcoholic prevention or treatment program; (2) the license is required to drive in the course of employment; or (3) on finding that education or employment would be adversely affected due to a lack of alternative means of transportation.

### *Dirt Bike Offenses in Baltimore City*

Except as otherwise specified, a person may not dispense motor fuel into a dirt bike from a retail pump at a service station in Baltimore City. Under § 27-101(dd) of the Transportation Article, a person who violates this provision is guilty of a misdemeanor and is subject to maximum penalties of 90 days imprisonment and/or a fine of \$1,000. A person charged with this offense may not prepay the fine; instead, the person must appear in court to answer the charge. Under § 21-1128(d) of the Transportation Article, the court must notify MVA of a conviction for this offense; for a first violation, MVA may suspend the driver's license for up to 30 days. For a second or subsequent violation, MVA *must* suspend the driver's license for 30 days.

Again, under § 27-101(dd) of the Transportation Article, a minor charged with a violation of this offense must likewise appear in court to answer the charge; the minor or the minor's parent or guardian may not prepay the fine penalty. The court may order that a fine imposed be paid by the minor, the parent or guardian of the minor, or both; however, a court may only order a parent or guardian to pay a fine if given a reasonable opportunity to be heard and to present evidence. Pursuant to § 3-8A-19 of the Courts and Judicial Proceedings Article, when the court finds that a child has committed a violation of dispensing motor fuel into a dirt bike from a retail pump at a service station in Baltimore City, the court must order MVA to initiate an action to suspend the driving privilege of the child for a period of at least 30 days but no more than 90 days. If a child subject to suspension does not possess the privilege to drive on the date of the disposition and the child is at an age that makes the child eligible to obtain driving privileges, the suspension begins on the date of disposition. If a child subject to suspension is younger than the eligible driving age, the suspension begins on the date the child becomes eligible to obtain driving privileges.

**Background:** According to the District Court, in fiscal 2015, there were a total of 11,028 citations issued for unlawfully driving an unregistered vehicle on a highway. Of the total, 1,191 citations were prepaid, 5,207 citations went to trial, and 4,630 remained open. During the same period, one citation was issued for unlawfully dispensing motor

fuel into a dirt bike from a retail pump in Baltimore City and that one citation was disposed of at trial.

**State Fiscal Effect:** The State Highway Administration advises that the bill does not have a fiscal impact on the administration. While MVA advises that the bill does not have a fiscal impact, the Department of Legislative Services advises that TTF revenues for MVA are likely to decline minimally due to fewer suspensions required under the bill's provisions and the corresponding issuance of fewer corrected licenses. A corrected license, which is issued after the expiration of a license suspension, costs \$20. *By way of illustration*, if the 1,191 people who received citations for driving an unregistered vehicle on a highway during fiscal 2015 were not subject to suspension of their driver's licenses, TTF revenues for corrected licenses could decline by \$17,865 in fiscal 2017 and by \$23,820 annually.

The Judiciary (Administrative Office of the Courts) advises that programming changes would be necessary to discontinue the automatic notification by the court to MVA in the specified circumstances. In total, implementing the bill would require approximately 148 hours at a cost of \$12,315. The bill is not expected to have an otherwise significant fiscal or operational impact on the District Court.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

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