

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 1161
 Economic Matters

(Delegate Brooks, *et al.*)

Finance

Maryland Automobile Insurance Fund - Uninsured Division - Uninsured Motorists

This bill repeals the Uninsured Motorist Education and Enforcement Fund (UMEEF) within the Motor Vehicle Administration (MVA) and establishes UMEEF in the Maryland Automobile Insurance Fund (MAIF). The bill establishes another Program to Incentivize and Enable Uninsured Vehicle Owners to Be Insured; however, the new program must be administered by MAIF (instead of MVA). Uninsured motorist penalties collected through the program are retained by MAIF. The bill requires MVA to notify MAIF in a certain manner when it receives notice that a vehicle has become uninsured. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: Transportation Trust Fund (TTF), general fund, and other special fund revenues decrease, potentially significantly, likely in FY 2019 only, under the assumptions discussed below. General fund revenues increase beginning in FY 2020. Special fund revenues for the Central Collection Unit (CCU) increase significantly in FY 2019 and 2020. Special fund revenues and expenditures for the existing UMEEF decrease beginning in FY 2019. Special fund expenditures by CCU increase by \$159,700 likely in FY 2019 only to assist in administration of the program. TTF expenditures increase by \$38,000 in FY 2019 only for MVA programming costs.

| (in dollars) | FY 2019 | FY 2020 | FY 2021 | FY 2022 | FY 2023 |
|----------------|-----------|---------|---------|---------|---------|
| GF Revenue | (-) | - | - | - | - |
| SF Revenue | - | - | (-) | (-) | (-) |
| SF Expenditure | \$196,700 | (-) | (-) | (-) | (-) |
| Net Effect | (-) | - | - | - | - |

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

MAIF Effect: Nonbudgeted revenues for MAIF increase, potentially significantly, beginning in FY 2019 due to penalty revenues and additional insurance policies issued under the bill. Nonbudgeted expenditures increase beginning in FY 2019 to administer the program and due to the additional liability of additional policies that are issued by MAIF. Nonbudgeted revenues are expected to fully offset nonbudgeted expenditures in all years. Special fund revenues and expenditures for the newly established UMEEF increase beginning in FY 2019. MAIF can meet the bill's study and reporting requirements using existing resources.

Local Effect: The bill does not directly affect local operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Uninsured Motorist Education and Enforcement Fund

The newly established UMEEF is administered by MAIF's Uninsured Division, and its revenues must be used to administer the fund and educate drivers and the public about the security requirements of the Maryland Vehicle Law and the sources of automobile insurance in the State. UMEEF is a nonlapsing, special fund which retains its interest earnings. The fund consists of (1) fine revenues collected when a driver fails to carry evidence of the required security (generally, proof of insurance) while operating a vehicle; (2) interest and investment earnings of the fund; and (3) any other money from any other sources accepted for the benefit of the fund.

Uninsured Motorist Incentivization Program – Eligibility

The program, to be administered by MAIF's Uninsured Division, has as its purpose reducing the number of uninsured vehicles by incentivizing and enabling individuals with delinquent uninsured vehicle penalties to become eligible to register a vehicle in the State as well as insured after paying a reduced uninsured vehicle penalty.

An individual is eligible to participate in the program if he or she (1) is a resident of the State; (2) does not have the required security on any vehicle; (3) has delinquent uninsured vehicle penalties that became delinquent on or before December 1, 2016; and (4) has not been issued a judgment by the Department of Budget and Management's CCU.

MVA and CCU must provide MAIF with the contact information and total amount of any delinquent uninsured vehicle penalties for each individual who may be eligible to participate in the program. MAIF must then notify those individuals about the program and include specified information in the notification.

Uninsured Motorist Incentivization Program – Implementation

The program period during which an individual's delinquent uninsured vehicle penalties may be waived may last up to 180 calendar days and must begin on or after July 1, 2018, and end by December 31, 2019.

MAIF and MVA must work together to ensure that, to the fullest extent possible, the programming and other work accomplished by MVA and its vendor during the implementation of MVA's uninsured motorist program be made available to implement this program.

Under the program and when notified by MAIF that an individual is eligible, MVA must waive 80% of an individual's delinquent uninsured vehicle penalties that became delinquent before December 31, 2016. As a condition of receiving the waiver, an individual must meet two conditions. First, the individual must purchase and maintain the required security for his or her vehicle(s) for a specified amount of time. An individual who does not own a vehicle at the time of the waiver, but who subsequently registers a vehicle, must also purchase and maintain the required security for that vehicle in the same manner.

Second, a participant must pay the remaining 20% owed before the end of the program period. If the account has been sent to CCU, the participant must also pay any fee owed to CCU, calculated using the remaining 20% owed and not the original uninsured vehicle penalty. MAIF is authorized to collect this payment on behalf of the State, and after notification that the payment has been collected, MVA and CCU must take the necessary steps to allow the individual to register a vehicle. MAIF may allow these penalties to be paid using a monthly installment payment plan that extends beyond the end of the program period under specified conditions. Except for the portion that must be remitted to CCU, the uninsured motorist penalties collected through the program must be retained by MAIF's Uninsured Division.

Maryland Automobile Insurance Fund

An applicant that participates in the uninsured motorist program is considered to be eligible for an automobile insurance policy through MAIF and may pay for the policy using an installment payment plan, as specified. The purpose of MAIF's Uninsured Division is expanded to include reducing the number of uninsured motorists in the State.

Notification Requirements

When MVA receives notice from an insurer that the required security on a vehicle has terminated or lapsed, MVA must electronically notify MAIF in a certain manner. After receiving such notice, MAIF may not contact the vehicle owner until at least 60 days after the effective date of the final termination or lapse of the required security. The notice MAIF uses to contact an owner in this manner must contain specified information about the availability of automobile insurance in the State and from whom the owner can obtain insurance.

Study and Reporting Requirements

The Uninsured Division of MAIF must meet with and solicit input from other insurers, producers and producer associations, premium finance companies, the Maryland Insurance Administration, MVA, consumer groups, and others to discuss and research the implementation of methods or programs aimed at reducing the number of uninsured motorists. Through its meetings and discussions, MAIF must research specified issues, such as other methods or programs that could be effective in reducing the uninsured motorist rate, the involvement of other insurers and producers in such a program, and any additional funds that may be needed to implement each method or program. MAIF must also determine the effectiveness of efforts to educate consumers regarding various topics related to automobile insurance. For both sets of issues, MAIF must report its findings and recommendations to the Governor and General Assembly by December 1, 2019.

In addition, within 60 days after the end of the program period, MVA and MAIF must report to the Governor and the General Assembly on the results of the program, the demographics of program participants, any analysis or information related to the effectiveness of the program, and any recommendations to implement other programs aimed at reducing the number of uninsured motorists.

Current Law:

Required Security

Maryland law requires an owner of a motor vehicle that is required to be registered in the State to maintain insurance for the vehicle during the registration period. MVA may not issue or transfer the registration of a motor vehicle unless the owner or prospective owner of the vehicle provides satisfactory evidence to MVA that the required security is in effect. If the required security for a vehicle lapses at any time, the registration of that vehicle is suspended automatically as of the date of the lapse, effective within 60 days after notification to MVA. After receiving this notice, MVA must make a reasonable effort to notify the owner of the vehicle that registration on the vehicle has been suspended. The

registration remains suspended until the vehicle owner submits evidence of replaced security on a designated MVA form, certified by the insurance provider, along with the uninsured motorist penalty fee.

In addition, Chapters 401 and 402 of 2016 require the driver of a motor vehicle to carry *evidence* of required security (generally, proof of insurance) while operating the vehicle. A person who violates this requirement is subject to a fine of \$50, which may be waived but, if collected, must be deposited into the existing UMEEF, which was also created by those acts. UMEEF is administered by MVA and must be used to educate drivers about and enforce the security requirements for motor vehicles under the Maryland Vehicle Law. (This is the fund essentially being transferred to MAIF under the bill.)

Uninsured Motorist Penalties and Revenue Distribution

MVA may assess the owner of the vehicle a penalty of \$150 for each vehicle without the required security for the first 30 days. Beginning on the thirty-first day, the fine increases by a rate of \$7 for each day, but the total fine may not exceed \$2,500 annually, not including the additional misdemeanor penalty of up to \$500, which may be prepaid with a fine of \$290. Knowingly operating a vehicle without adequate security is a misdemeanor, subject to maximum penalties of a \$1,000 fine and/or one year imprisonment for a first offense and a \$1,000 fine and/or two years imprisonment for a subsequent offense. The violation requires a court appearance, results in the imposition of five points on the driver's record, and subjects the driver to participation in the Driver Improvement Program.

A portion of the fines collected under the escalating penalty structure for lapsed security is retained in MVA (30%) for specified purposes; the rest (70%) is directed under a specified allocation formula to the Department of State Police's Vehicle Theft Prevention Fund, the School Safety Enforcement Fund, MAIF, and the general fund.

Maryland Automobile Insurance Fund

Created by the General Assembly in 1972, MAIF is an independent nonbudgeted State agency. Through its Insured Division, MAIF provides automobile liability insurance to residents of the State who are unable to obtain policies in the private insurance market. MAIF is not in direct competition with the private insurance industry. In other states, private insurance companies share in insuring those unable to obtain insurance (known as the residual market) through an assigned risk plan in their respective states. The residual market for personal automobile insurance is the "market of last resort" for drivers who are unable to find coverage in the voluntary market. Maryland is the only state that has a state plan. Most states have an automobile assigned risk plan.

MAIF must issue a policy for motor vehicle liability insurance if an applicant:

- pays a premium and (1) owns a covered vehicle registered with MVA; (2) has a license issued by MVA to drive a covered vehicle; or (3) is a lessee under a “lease not intended as security,” as defined by Maryland law;
- does not owe MAIF an unpaid premium (with respect to a policy that has expired or been canceled) or a claim payment obtained by fraud;
- has made at least two good faith efforts to obtain a policy from two other insurers in a specified manner or has had a policy canceled or not renewed by an insurer for a reason other than nonpayment of a premium; and
- meets one of the following residency requirements: the person must (1) be domiciled in the State; (2) own, lease, or rent a primary place of residence in the State and, regardless of the person’s domicile, reside in the State for more than one year; (3) maintain a main or branch office or warehouse facility in the State and base and operate motor vehicles intrastate in the State; (4) have filed as a State resident for income tax purposes; or (5) have a nonresident permit.

MAIF’s Uninsured Division is available to qualified Maryland citizens involved in accidents with an uninsured vehicle. To be eligible, Maryland residents must have no other form of collectible insurance. For example, a pedestrian, struck by an uninsured vehicle, who does not own a vehicle and has no other collectible household coverage, would be eligible to collect from the Uninsured Division. The Uninsured Division is funded through a portion of the uninsured motorist penalty fines issued by MVA.

Background: Historically, MVA and CCU have only collected approximately one-third of the total uninsured motorist penalties issued in the State.

Chapters 446 and 447 of 2016 established the Program to Incentivize and Enable Uninsured Vehicle Owners to Be Insured. The program was administered by MVA with the assistance of MAIF and CCU, and its purpose was to reduce the number of uninsured vehicles in the State by incentivizing and enabling uninsured vehicle owners with delinquent uninsured vehicle penalties to be insured. Under the program, MVA was able to waive 80% of a vehicle owner’s delinquent uninsured vehicle penalties that became delinquent before January 1, 2014, but only if those vehicle owners agreed to purchase and maintain the required security for their vehicles and paid the remaining 20%. The program being established by the bill is similar to the one established by Chapters 446 and 447.

In January 2018, MVA presented the results of the uninsured motorist program established by Chapters 446 and 447 to the Senate Finance Committee. CCU estimates that the total participation rate across all of its unique debts was 4%. In implementing the program, MVA:

- sent out 608,779 letters and 73,328 emails, spending a total of \$228,000, for its outreach program;
- spent \$362,000 to develop a software system in order to implement the program;
- had a total participation rate of 5.3% (10,234 unique debts out of 192,115); and
- collected approximately \$3.9 million through the program.

State/MAIF Revenues: Although the bill allows the program period to last up to six months and take place any time during fiscal 2019 and the first half of fiscal 2020, for the purposes of this analysis, it is assumed that the program period takes place, in its entirety, in fiscal 2019. To the extent that the program period partially or wholly takes place in fiscal 2020 instead, some or all of the revenue effect attributed to the program for fiscal 2019 in the discussion below is deferred to the following year.

Redistribution of Uninsured Motorist Penalties

The bill requires uninsured motorist penalties collected *through the new program* to be retained by MAIF's Uninsured Division; as a result, some of the funds that normally receive a portion of uninsured motorist penalties may receive less funding through the distribution formula. Such a reduction in revenues likely occurs in fiscal 2019 only.

Current law requires 30% of the revenues to be retained by MVA for TTF and the remaining 70% to be distributed as follows:

- \$600,000 to the School Safety Enforcement Fund;
- \$2.0 million to the Vehicle Theft Prevention Fund;
- an amount to MAIF's Uninsured Division based on the amount it received the previous year and adjusted by the Consumer Price Index; and
- the remaining balance to the general fund.

As the School Safety Enforcement Fund and the Vehicle Theft Prevention Fund receive in total \$2.6 million annually, which is likely to be available to them through the collection of penalties outside of the program, the bill likely does not affect those funds. However, other distributions, based on percentages and the remainder amounts, are affected. The impact depends on the amount of uninsured motorist penalties collected through the program and distributed only to MAIF that otherwise would have been collected and distributed through the statutory formula. Nonbudgeted revenues for MAIF increase corresponding to the decrease experienced by the other funds, as discussed below. This effect cannot be reliably estimated but may be significant.

Program to Incentivize and Enable Uninsured Vehicle Owners to Be Insured

The bill specifies that the program must be initiated and completed during the 18-month period encompassing all of fiscal 2019 and the first half of fiscal 2020 and may last for up to 180 days. Assuming the program is implemented expeditiously, most of the one-time revenue is likely collected in fiscal 2019. However, it is expected that many participants will choose to finance their payments, resulting in some revenue being collected in fiscal 2020.

CCU advises that there was a 4% participation rate for MVA's uninsured motorist program; however, because more individuals are likely to be eligible under the bill's program, CCU estimates that the participation rate could be as high as 10%. CCU estimates that there are currently 369,327 unique debtors. Among these individuals, there are 495,980 accounts with a total outstanding balance of \$816.0 million. A reliable estimate of the increase in nonbudgeted revenues cannot be made due to uncertainty regarding eligibility for and participation in the program. However, *for illustrative purposes only*, if the participation rate for the program is 10%, nonbudgeted revenues for MAIF's Uninsured Division increase by \$16.3 million ($\$816.0 \text{ million} * 10\% \text{ participation rate} * 20\% \text{ payment}$) in fiscal 2019 and 2020. Under this scenario, \$65.3 million in uninsured motorist penalties are forgiven.

It is likely that many of the uninsured motorist penalties collected under the program would not otherwise be collected given the fact that the historic collection rate for uninsured motorist penalties is about one-third. Therefore, the bill likely results in uninsured motorist penalty revenues being collected when they otherwise would not have been; however, this effect cannot be reliably estimated.

Central Collection Unit – Program Revenues

Similar to the effect described above for uninsured motorist penalty revenues, the bill is expected to increase special fund revenues through the 17% assessment CCU charges in addition to any actual debt for the accounts it must investigate and recover. Using the above estimate that the program will experience a 10% participation rate, *for illustrative purposes only*, special fund revenues for CCU increase by \$2.8 million in fiscal 2019 and 2020 as a result of the bill.

Maryland Automobile Insurance Fund – Additional Policies

MAIF revenues increase to the extent that the bill's eligibility expansion for MAIF policies results in additional consumers choosing to purchase MAIF policies. Any such impact depends on how many additional policyholders MAIF insures under the bill and, therefore, cannot be reliably estimated. However, the total effect could be significant as previously

uninsured motorists maintain the required security needed to participate in the program by purchasing MAIF policies.

Uninsured Motorist Education and Enforcement Fund

MVA advises that the version of UMEEF that was established by Chapters 401 and 402 of 2016 currently has no money in the fund. Therefore, this estimate assumes that the fund can be reestablished in MAIF with no revenue transfers or other complications. Special fund revenues for MAIF increase beginning in fiscal 2019 as the fund collects revenues in the manner specified by the bill (primarily from fines for not carrying evidence of required security); special fund revenues for MVA decrease correspondingly.

Premium Tax

Automobile liability insurance policies are subject to a 2% premium tax administered by MIA. General fund revenues increase beginning in fiscal 2019 from the premium tax to the extent that the program is successful at lowering the number of uninsured motorists in the State by enabling those motorists to purchase automobile liability insurance. Assuming most motorists who participate in the program maintain coverage beyond the required period under the bill, general fund revenues increase in the out-years as well.

State/MAIF Expenditures: Although the bill allows the program period to last up to six months and take place any time during fiscal 2019 and the first half of fiscal 2020, for the purposes of this analysis, it is assumed that the program period takes place, in its entirety, in fiscal 2019. To the extent that the program period partially or wholly takes place in fiscal 2020 instead, some or all of the expenditure effect attributed to the program for fiscal 2019 in the discussion below is deferred to the following year.

Uninsured Motorist Program Expenses

MAIF, MVA, and CCU have previously worked together to implement a program similar to the one required by the bill. However, there are likely to be costs (1) for MAIF to notify individuals who may be eligible for the program; (2) to the extent that MAIF requires additional staff, as discussed below; and (3) for CCU to hire temporary contractual staff to assist with program administration. The following estimates assume expeditious implementation of the program and that all expenditures for program administration take place in fiscal 2019, even though the program period could extend into or take place entirely within fiscal 2020. MVA can provide assistance and information to MAIF using the information technology system it developed in order to implement the initial uninsured motorist program using existing resources.

Maryland Automobile Insurance Fund: Similar to the strategy employed by MVA during the initial uninsured motorist program, in order to notify individuals who may be eligible to participate in the uninsured motorist program, MAIF will send out physical and email notices. MVA sent out about 600,000 letters and about 73,000 emails at a total cost of \$228,000. It is expected that MAIF will send out a similar number of notices at a similar cost. Therefore, nonbudgeted expenditures by MAIF increase by at least \$228,000 in fiscal 2019 to do so.

Additionally, MAIF may require additional staff depending on (1) how many individuals are eligible for and participate in the program and (2) how many program participants choose to purchase a MAIF insurance policy when obtaining the required security on their vehicles. This effect cannot be reliably estimated at this time; however, the Department of Legislative Services notes that the additional revenues obtained through the program are likely to fully offset any additional costs incurred by MAIF.

Central Collection Unit: CCU advises that, under the bill, it is likely to assist in the administration of the program. Specifically, CCU representatives are likely to be required to assist MAIF representatives in explaining, calculating, and monitoring any payment plans established under the program. In addition and as previously discussed, CCU expects a higher participation rate for the program because there are fewer restrictions on eligibility compared to the previous uninsured motorist program. Therefore, special fund expenditures by CCU increase by \$158,689 likely in fiscal 2019 only to hire five contractual collection agents to assist in the administration of the uninsured motorist program during the program period.

| | |
|---------------------------------------|------------------|
| Contractual Positions | 5 |
| Salaries and Fringe Benefits | \$132,676 |
| Other Operating Expenses | <u>26,013</u> |
| CCU FY 2019 State Expenditures | \$158,689 |

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act. To the extent that the participation rate is lower than anticipated, CCU may require fewer contractual staff.

Maryland Automobile Insurance Fund – Additional Policies

Nonbudgeted expenditures for MAIF increase for claim payments to the extent that the bill results in additional policyholders for MAIF due to the additional liability of these policies. Any such impact depends on how many additional policyholders MAIF insures under the bill and, therefore, cannot be reliably estimated.

Motor Vehicle Administration – Notification Costs

MVA utilizes an electronic notification system that allows automobile insurers in the State (including MAIF) to notify MVA in the event that a motor vehicle becomes uninsured. This system can be modified to relay the required information to MAIF for a one-time programming cost of \$38,000 in fiscal 2019.

Uninsured Motorist Education and Enforcement Fund

Special fund expenditures for MAIF increase to educate drivers and the public about the security requirements under Maryland Vehicle Law and the sources of automobile insurance in Maryland, including private insurers and MAIF. Special fund expenditures for MVA decrease correspondingly.

Additional Information

Prior Introductions: None.

Cross File: SB 856 (Senators Middleton and Reilly) - Finance.

Information Source(s): Department of Budget and Management; Maryland Department of Transportation; Maryland Insurance Administration; Maryland Automobile Insurance Fund; Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2018
md/ljm Third Reader - June 21, 2018
Revised - Amendment(s) - June 21, 2018
Revised - Clarification - June 21, 2018

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