

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 676 (Delegates Vallario and Petzold)

Judiciary

Alcohol or Drug Related Offenses - Evidence - Tests

This bill authorizes the admissibility of copies of reports detailing the results of a breath or blood test to determine alcohol concentration as substantive evidence without the presence or testimony of the technician or analyst who performed the test in any criminal trial in which a violation of any type of restricted license is at issue.

Fiscal Summary

State Effect: Minimal. The bill's requirements could be handled with the existing budgeted resources of the Judiciary and the Motor Vehicle Administration (MVA). While this bill's expansion of evidentiary provisions may change the outcome of some trials and plea bargains (and resulting penalties) that would otherwise not be altered, any such changes are not expected to significantly affect State finances.

Local Effect: While this bill's expansion of evidentiary provisions could change the outcome of some trials and plea bargains (and resulting penalties) that would otherwise not be altered, any such changes are not expected to significantly affect local finances.

Small Business Effect: None.

Analysis

Bill Summary: This bill provides that in a proceeding for a violation of any type of restricted license, the amount of alcohol in the person's breath or blood shown by analysis is admissible in evidence. The bill provides that, if at the time of testing a person has: (1) an alcohol concentration of 0.05 or less, it is presumed that the defendant was not intoxicated or driving while under the influence of alcohol; (2) an alcohol concentration of more than 0.05

but less than 0.07, this fact may not give rise to any presumption that the defendant was or was not intoxicated or driving while under the influence of alcohol, but this fact may be considered with other competent evidence in determining the guilt or innocence of the defendant; (3) an alcohol concentration of at least 0.07 but less than 0.10, it must be prima facie evidence that the defendant was driving while under the influence of alcohol; (4) an alcohol concentration of 0.02 or more, it is prima facie evidence that the defendant was driving with alcohol in the defendant's blood; and (5) an alcohol concentration of 0.02 or more, it is prima facie evidence that a defendant was driving in violation of an alcohol restriction on a license.

Under the bill, evidence of a test or analysis of a person's blood or breath obtained for another purpose other than determining alcohol concentration, outside the required time limits, administered by an unqualified person, or evidence that an improper test was administered, is not admissible in a prosecution for violating specified applicable provisions, including vehicular manslaughter or vehicular homicide.

Current Law: The MVA may issue licenses: (1) with a vision restriction; (2) with an alcohol restriction; (3) with an hour restriction; (4) with a supervision requirement; or (5) which are only valid in the State of Maryland.

In addition, the MVA may impose on a licensee, for good cause, any restrictions applicable to the licensee that the MVA determines appropriate to assure the safe driving of a motor vehicle by the licensee, including restrictions relating to special mechanical control devices, and an alcohol restriction prohibiting the licensee from driving or attempting to drive while having alcohol in the licensee's blood.

Copies of signed reports detailing the results of a breath or blood test as substantive evidence without the testimony of the person who performed the test is admissible in a criminal trial where a violation of an alcohol restriction is at issue. Additionally, in a proceeding for a violation of an alcohol restriction on a license, the amount of alcohol in the person's breath or blood shown by analysis is admissible as evidence.

Evidence of a test or analysis obtained in violation of applicable provisions is not admissible in a prosecution for driving while intoxicated, while intoxicated per se, under the influence of alcohol, or under the influence of a drug, a combination of alcohol and a drug, or a controlled dangerous substance.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (The District Court), Department of Transportation,
Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2000
cm/jr

Analysis by: Guy G. Cherry

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510