

Department of Legislative Services
 Maryland General Assembly
 2000 Session

FISCAL NOTE

House Bill 1138 (Delegate Franchot. *et al.*)

Judiciary

Alcohol Related Driving Offenses - Criminal Penalties and Driving Restrictions

The bill alters various penalties and driving restrictions for those convicted of alcohol-related driving offenses. The bill also alters the authority of the Motor Vehicle Administration (MVA) and the courts to impose such penalties and restrictions.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures would increase by \$90,800 in FY 2001 for personnel and form costs. This estimate is exclusive of costs for hearings and computer programming. Future years reflect annualization, inflation, and ongoing personnel expenditures. Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions.

(in dollars)	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
GF Revenues	-	-	-	-	-
GF Expenditures	-	-	-	-	-
SF Expenditures	\$90,800	\$36,500	\$38,200	\$40,100	\$42,100
Net Effect	(\$90,800)	(\$36,500)	(\$38,200)	(\$40,100)	(\$42,100)

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

Local Effect: Potential increase in revenues and expenditures due to the bill’s penalty provision.

Small Business Effect: None.

Analysis

Bill Summary: The bill alters various penalties and driving restrictions for those convicted of alcohol-related driving offenses, including:

- requiring a court to order an individual not to drive with alcohol in the individual's blood if the individual's blood alcohol content level (BAC) was over .16;
- requiring a court to order an individual not to drive with alcohol in the individual's blood if the individual's BAC was over .16 at the time the individual committed homicide or life threatening injury by motor vehicle;
- increasing the license suspension for those individuals whose blood was tested at a BAC of over .16 from a maximum of 90 days to a maximum of 120 days;
- imposing an alcohol restriction for those individual's whose blood was tested at a BAC of over .16;
- increasing the fine and jail penalties for those with a BAC of over .16 from a maximum of \$3,000 and/or imprisonment of three years to a maximum of \$4,000 and/or imprisonment of four years;
- increasing the length of a license suspension for those who refuse to submit to a chemical test from a maximum of 90 days to a maximum of 120 days;
- allowing the MVA to modify a suspended license if the individual has not committed homicide or life threatening injury by vehicle while intoxicated or under the influence in the past five years;
- allowing specified prior convictions to be considered as prior convictions of drunk driving provisions for the purposes of determining sentences; and
- making other conforming changes.

Current Law: Maryland's drunk driving laws establish a two-tiered system of violations: a person may be convicted of driving while intoxicated per se or under the influence of alcohol, depending on the person's blood alcohol content. A driver with a BAC of 0.10 and above is "intoxicated per se." A driver with a BAC of at least 0.07 but less than 0.10 is presumptively considered "under the influence." There is no presumption that a driver was or was not intoxicated or under the influence if the driver has a BAC of more than 0.05 but less than 0.07, but the BAC may be considered with other competent evidence in determining whether the driver was intoxicated or under the influence.

Background: In fiscal 1999 there were 37,664 cases involving drunk driving violations; including 4,570 convictions for driving while intoxicated and 4,209 convictions of driving while under the influence. The Division of Correction reports that 181 individuals are imprisoned in State facilities for such violations, serving an average sentence of 13 months. Statistics on the number of individuals in local detention facilities are not readily available at this time.

State Revenues: There is a \$50 fine for driving in violation of a license restriction. The bill

is expected to increase the number of individuals who have an alcohol-restricted license. To the extent that those individuals violate the alcohol restriction, general fund fine revenue would increase. Any such increase is expected to be minimal.

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

State Expenditures:

Transportation Trust Fund

An estimated 75% of drunk driving cases request hearings. It is expected that longer suspension periods and the imposition of more alcohol-restricted licenses will increase the number of requested administrative hearings. It costs the MVA approximately \$92 in reimbursable funds to the Office of Administrative Hearings for each MVA hearing.

Further, TTF expenditures could increase by an estimated \$31,500 in fiscal 2001, which accounts for the bill's October 1, 2000, effective date. This estimate reflects the cost of hiring one administrative specialist to review additional hearings, process additional alcohol restrictions, and review offenses of alcohol restrictions. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$26,600
Operating Expenses	<u>4,900</u>
Total FY 2001 State Expenditures	\$31,500

Future year expenditures reflect (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

To reflect the changes enumerated in the bill, forms used by law enforcement officers and distributed by the MVA will need to be updated. The Advice of Rights forms and the Order of Suspension forms would need to be recalled and reprinted at a cost of \$27,800 in fiscal 2001 only.

The MVA advises that computer programming expenditures could increase by an estimated \$300,000 to modify the computer programs to account for an additional tier of penalties. The Department of Legislative Services (DLS) advises that if other legislation is passed requiring computer reprogramming changes, economies of scale could be realized. This would reduce computer programming costs associated with this bill and other legislation affecting the MVA system. Further, DLS advises that the increased computer expenditure is simply an estimate and that the MVA may be able to handle the changes either with less money than it

estimates or with existing resources.

General Fund

General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,700 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. The average variable cost of housing a new DOC inmate (food, medical care, etc.), excluding overhead, is \$260 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2001 are estimated to range from \$11 to \$54 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center (BCDC), a State operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's increased incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$22 to \$83 per inmate in fiscal 2001.

Additional Information

Prior Introductions: None.

Cross File: SB 524 (Senator Jimeno, *et al.*) - Judicial Proceedings.

Information Source(s): Maryland Department of Transportation (Motor Vehicle Administration), Department of Public Safety and Correctional Services (Division of Correction), Judiciary (The District Court), Department of Legislative Services

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