

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

Senate Bill 568 (Senator Ruben. *et al.*)

Judicial Proceedings

Drunk Driving - Intoxicated Per Se - Driving While Under the Influence

This bill reduces the level of blood alcohol concentration (BAC) required for a determination of driving while intoxicated per se from 0.10 to 0.08. The bill also reduces the level of alcohol concentration required to result in an individual being charged with the crimes of homicide by motor vehicle or vessel while intoxicated per se and the crime of life threatening injury by motor vehicle or vessel while intoxicated per se from 0.10 to 0.08. Similarly, the bill reduces the alcohol concentration required for a suspension of a driver's license from 0.10 to 0.08.

This bill is to be construed to conform to the requirements of the federal government in order for the State to obtain full incentive grant funding under the federal Transportation Equity Act for the 21st Century. The bill must be construed only prospectively to administrative, criminal, and juvenile delinquency offenses that are committed on or after September 30, 2000. The bill is effective July 1, 2000.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures would increase by \$145,800 in FY 2001. Future years reflect inflation and new and ongoing personnel expenses. Estimates are exclusive of potentially significant costs for administrative hearings, Medical Advisory Review statements, and computer programming. TTF revenues could increase by an indeterminate amount. General fund revenues and expenditures could increase depending upon the increase in fines and convictions. Significant increase in federal fund revenue beginning in FY 2000 (perhaps as much as \$2.8 million).

(in dollars)	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
SF Revenues	-	-	-	-	-

FF Revenues	-	-	-	-	-
SF Expenditures	\$145,800	\$212,200	\$213,100	\$223,600	\$234,500
Net Effect	(\$145,800)	(\$212,200)	(\$213,100)	(\$223,600)	(\$234,500)

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

Local Effect: Revenues and expenditures could increase depending on the number of additional fines and convictions imposed.

Small Business Effect: None.

Analysis

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 for 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.

The United States General Accounting Office (GAO) recently released a report on the effectiveness of state 0.08 blood alcohol laws. The report caused some controversy by stating that the mere act of passing a 0.08 BAC standard would not conclusively lower drunk driving fatalities or incidents. The report concluded that there are strong indications that 0.08 BAC laws in combination with other drunk driving laws (particularly license revocation laws), sustained public education and information efforts, and vigorous and consistent enforcement can save lives. According to the GAO, the number of lives saved is dependent on the degree to which the law is publicized, how well it is enforced, other drunk driving laws in effect, and public attitudes concerning alcohol.

State Revenues:

Federal Funds

The federal government provides incentive grants for states that adopt a .08 BAC level as the legal standard for a drunk driving offense. The Transportation Equity Act for the 21st Century (TEA-21) provides \$500 million in incentive grants over the six-year program period beginning in fiscal 1998. The incentive grant is based upon the proportion of funds allocated to each eligible state under the federal State and Community Safety Grant Program. Grants under the State and Community Safety Grant Program are disbursed based on a formula of each state's population and road miles. Maryland receives approximately 2% of total program funding.

Currently, 18 states have enacted and are enforcing a .08 BAC level as the legal standard for driving while intoxicated. The following chart details Maryland's share of the incentive program should Maryland become the 19th state to adopt the .08 standard.

Maryland's Projected Share of TEA-21 Incentive Grants With 19 States Complying (in millions)					
<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
\$1.9	\$2.2	\$2.8	\$3.1	\$3.5	\$3.8

These estimates are based on only 19 states complying with the federal standard. As additional states adopt the new standard, Maryland's share of the program would decrease. If all states were to comply, Maryland's grant would simply be 2% of the total available funding, or \$1.6 million in fiscal 2000.

Maryland has forgone the grant for 1998 and 1999. However, because this bill becomes effective prior to the end of federal fiscal 2000, Maryland would be eligible for the grants beginning in 2000.

Special Funds

The bill is expected to increase the number of driver's license suspensions and revocations. For a revocation, the Motor Vehicle Administration (MVA) collects a \$15 filing fee for an application to reinstate a license plus \$60 for the reinstatement on an alcohol or drug-related driving offense. An additional \$30 fee is assessed to produce the new license. Further, the MVA imposes a fee of \$20 to reissue a license after an alcohol or drug-related suspension. TTF revenues could increase in future years depending upon the number of reinstatements.

General Funds

The bill will increase the number of individuals charged with driving while intoxicated. General fund revenues could increase under the monetary penalty provision for those cases heard in the District Court, depending upon the number of convictions and fines imposed. Furthermore, it is expected that the bill will significantly increase the requests for administrative hearings. The Office of Administrative Hearings imposes a \$15 fee for each case.

State Expenditures: In fiscal 1999, the MVA processed 3,575 suspensions for individuals convicted of driving while under the influence and who fell into the BAC range of .08 to .10. Under the bill these individuals would be subject to the stricter penalties imposed on those convicted of driving while intoxicated, including a revocation of driving privileges.

Accordingly, TTF expenditures could increase by an estimated \$145,800 in fiscal 2001, which accounts for a 90-day start-up delay. This estimate reflects the cost of hiring one customer service representative, two administrative specialists, and one docket specialist. These employees will be responsible for a variety of duties including processing revocations, preparing cases for administrative hearings, and preparing files for presentation to the Medical Advisory Review Board. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. An additional one-time cost of \$74,400 would be required to reprint forms to reflect the bill's changes.

Salaries and Fringe Benefits	\$98,600
One-time Expenses	27,800
Operating Expenses	<u>19,400</u>
Total FY 2001 TTF Expenditures	\$145,800

Because there will be an increase in revocations beginning with the effective date of this bill, the number of applications for license reinstatements will increase in the future. Based on the current volume of such requests and the anticipated increase, it is expected that the MVA will require two additional employees, one administrative specialist, and one clerk to process reinstatement applications beginning in fiscal 2002. The expense for the two employees, including salaries, fringe benefits, and operating expenses, would be \$76,700 in fiscal 2002.

Future year expenditures reflect: (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

It costs the MVA approximately \$92 in reimbursable funds to the Office of Administrative Hearings for each MVA hearing. It is expected that this bill will significantly increase the number of hearings requested, although the number of additional hearings that may be held to contest license suspensions and revocations is uncertain. To the extent that individuals with suspended and revoked licenses request hearings, TTF expenditures could increase. Similarly, all reinstatements concerning alcohol related offenses must be reviewed by the Medical Advisory Review Board. It costs the MVA \$100 for each hour of the board's service. On average, each reinstatement case needs 30 minutes to process. Depending on the number of reinstatements, TTF revenues could increase.

The MVA advises that computer programming expenditures could increase by an estimated \$10,000 to modify its computer programs. 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 the MVA may be able to handle the changes either with less money than it estimates or with existing resources.

The bill will increase the number of individuals charged with driving while intoxicated. General fund expenditures could increase minimally due to more people being committed to a Division of Correction facility and increased payments to counties for reimbursement of inmate costs.

Local Revenues: Revenues could increase minimally under the monetary penalty provision for those cases heard in the circuit courts.

Local Expenditures: Expenditures could increase due to a greater number of individuals being charged with drunk driving. 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: This bill was introduced in the 1999 session as SB 255 and received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Maryland Department of Transportation (Motor Vehicle

Administration, State Highway Administration), Judiciary (The District Court), Office of Administrative Hearings, Department of Public Safety and Correctional Services (Division of Correction), Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2000

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Analysis by: Jody J. Minnich

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