

Department of Legislative Services

Maryland General Assembly

2001 Session

FISCAL NOTE

House Bill 1052

(Delegate Franchot)

Judiciary

Alcohol Related Driving Offenses - Criminal Penalties and Driving Restrictions

This bill establishes a driver's license alcohol restriction and penalties for refusing to take a chemical test for intoxication. This bill also establishes a legally distinct blood alcohol content level of .15. This bill also makes the plea of *nolo contendere* equivalent to a conviction with respect to penalties for specified alcohol and/or drug impaired driving violations.

Fiscal Summary

State Effect: Special fund expenditures would increase by \$208,800 in FY 2002. Out-year expenditures reflect ongoing operations. Potential increase in special fund revenues from Motor Vehicle Administration (MVA) fees beginning in FY 2003.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
SF Revenue	\$0	-	-	-	-
SF Expenditure	208,800	251,500	255,600	259,900	264,500
Net Effect	(\$208,800)	(\$251,500)	(\$255,600)	(\$259,900)	(\$264,500)

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

Local Effect: Local expenditures would increase to the extent that the mandatory imprisonment provisions increase the number of inmates in local jails.

Small Business Effect: None.

Analysis

Bill Summary:

License Alcohol Restrictions

A person may be ordered by a court not to drive or attempt to drive a motor vehicle while the person has alcohol in his or her blood (a license alcohol restriction) if the person:

- is convicted of causing the death of another as a result of negligent driving of a motor vehicle or vessel while intoxicated, intoxicated per se, or while under the influence of alcohol;
- is convicted of causing life threatening injury to another as a result of these offenses;
- enters a plea of *nolo contendere* to a charge of committing these offenses;
- receives probation before judgment for a violation of these offenses; or
- is under 18 years of age and is found to be delinquent in having committed these offenses.

If a person is found guilty of the above offenses and has a blood alcohol content (BAC) level of more than .15, as determined by a chemical test, a court shall order a license alcohol restriction be placed on the person's license.

In addition to any other penalty or sanction a court may impose, a court may order a license alcohol restriction to be placed on the license of a person who is found guilty of driving while intoxicated, intoxicated per se, or driving under the influence of alcohol. If the licensee's BAC was more than .15 at the time of the violation, then the court shall order a license alcohol restriction to be placed on the person's license.

Refusal to Take a Blood Alcohol Level Test

The bill repeals the prohibition against an inference or presumption of guilt or innocence of driving while intoxicated or driving under the influence of alcohol or drugs arising due to a person's refusal to submit to a test administered to determine the alcohol, drug, or controlled dangerous substance content of a person's blood.

If a person refuses to submit to a chemical test for alcohol then the person's driver's license will be suspended for: (1) 120 to 180 days for a first offense; and (2) one year for subsequent offenses. The MVA must impose a license alcohol restriction on a person's license if the person has had a license suspended for refusing to submit to a chemical test for intoxication.

Similar penalties apply to: (1) non-resident licensees who are found guilty of an alcohol and/or drug impaired driving offense; (2) a driver who fails to request a hearing for having been detained for similar offenses; and (3) a driver who fails to show at a scheduled hearing related to similar offenses. The MVA, for good cause, may impose a license alcohol restriction on any non-resident licensee or on any driving privilege it issues.

BAC of .10 to .15

If a person is determined to have a BAC level of at least .10 but not more than .15, then the person's license will be suspended for: (1) 45 days for a first offense; and (2) 90 days for subsequent offenses.

BAC Greater Than .15

If a person is determined to have a BAC level of more than .15 at the time of any alcohol and/or drug impaired driving violation, then the person may not receive probation before judgment and the person's license will be suspended for: (1) 45 to 60 days for a first offense; and (2) 90 to 120 days for subsequent offenses. A person found guilty of driving while intoxicated or intoxicated per se with a BAC of more than .15 at the time of the violation shall be subject to a fine of not more than: (1) \$1,500 and/or 18 months in prison for a first offense; (2) \$3,000 and/or three years in prison for a second offense; and (3) \$4,000 and/or four years in prison for a third and subsequent offense.

Restricted License Modifications

Except as otherwise required by a court order, the MVA may modify a license suspension or issue a restricted license if: (1) the licensee did not refuse a BAC test; (2) the licensee has not had a license suspended in the past five years; and (3) the licensee has not, during the past five years, (a) been convicted of any State, federal, or comparable out-of-state alcohol or drug impaired driving offense; (b) entered a plea of *nolo contendere* for the same offenses; or (c) received a probation before judgment for the same offenses.

These same conditions, except for the five-year restriction, apply to a person who is participating in the ignition interlock program and has requested a restricted license.

Nolo Contedere

A plea of *nolo contendere* to specified alcohol and/or drug impaired driving offenses, including causing the death of or life threatening injury to another as a result of negligent driving of a motor vehicle or vessel while intoxicated, intoxicated per se, or while under the influence of alcohol is considered a prior conviction for a person charged with any alcohol and/or drug impaired driving violation and transporting a minor under the influence or intoxicated.

Current Law: There are no legal distinctions between .10 BAC and .15 BAC. A plea of *nolo contendere* is not considered a prior offense for penalty purposes in any of the alcohol and/or drug impaired driving penalty provisions.

Background: In 1999, the most recent year for which data is available, 25,691 BAC tests were offered with 6,894 refusals. Of the 18,797 that took a BAC test, 14,772 tested higher than .10 BAC. The MVA advises that, based on a recent sample, about 60% of these tested had higher than .15 BAC.

The National Highway Safety and Transportation Agency released a report last year showing that the “super-drunk” (a BAC in excess of .10) were responsible for 31.4% of all fatal automobile crashes in 1996.

Failure to conform the State’s law on repeat offenders to federal regulation by October 1, 2001 will alter federal funds allocated to the State under the Transportation Equity Act for the 21st Century. Funds allocated under specified highway programs would be transferred to safety programs emphasizing alcohol-impaired driving countermeasures or enforcement of drunk driving laws. Approximately \$3.85 million was transferred in fiscal 2001 and approximately \$3.85 million will be transferred in 2002, doubling to \$7.7 million in fiscal 2003 and each year thereafter. Overall total funding to the State would not be affected. It is unclear if this bill would make the necessary changes to conform State statute to federal regulations.

State Expenditures: Transportation Trust Fund expenditures could increase by an estimated \$208,823 in fiscal 2002, which accounts for the bill’s October 1, 2001 effective date. This estimate reflects the cost of hiring one additional customer service representative to process the projected 3,100 additional ignition interlock participants, the 3,700 additional license suspensions, and the 7,400 additional license restrictions. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Further, it is assumed that half of the suspensions (1,850) will result in an administrative hearing at a cost of \$92 per hearing.

Salaries and Fringe Benefits	\$23,761
Contractual Services (mainly suspension hearings)	157,650
Operating Expenses	<u>27,412</u>
Total FY 2002 State Expenditures	\$208,823

Future year expenditures reflect: (1) full salaries with a 6.5% increase in fiscal 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

State Revenues: The bill is expected to increase the number of driver's license suspensions and revocations. For a revocation, the 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.

Additional Information

Prior Introductions: None.

Cross File: SB 474 is a substantially similar bill.

Information Source(s): Department of Transportation (Motor Vehicle Administration), Department of State Police, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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