

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 834 (Delegate Giannetti)
Judiciary

**Drunk and Drugged Driving - Evidence - Tests for Alcohol, Drugs, or Controlled
Dangerous Substances**

This bill requires a driver to take a blood alcohol content (BAC) test if the driver is detained and directed by a law enforcement officer to do so. It repeals the prohibition on inferring a driver's guilt or innocence of any alcohol and/or drug impaired driving violation from the driver's refusal to take a BAC test. The bill establishes penalties for refusing to take a BAC test and makes various other conforming changes consistent with the bill's provisions.

Fiscal Summary

State Effect: Potential significant general fund revenue increase due to the bill's monetary penalty provision. Minimal increase in general fund expenditures as a result of the bill's incarceration provisions. Potential increase in Transportation Trust Fund expenditures due to more administrative hearings and license revocations.

Local Effect: Potential minimal increase in local expenditures from the incarceration penalty provision of this bill. Potential minimal increase in revenues from circuit court fees.

Small Business Effect: None.

Analysis

Bill Summary: The bill repeals the right of a person not to be compelled to submit to a BAC test for any alcohol and/or drug impaired driving offense including: (1) committing

homicide or causing a life threatening injury to another by motor vehicle or vessel while intoxicated; (2) driving on an alcohol restricted license with alcohol in the blood; or (3) operating a vessel while intoxicated or under the influence of alcohol or drugs (collectively referred to as DWI/DUI).

The bill makes refusing to submit to a BAC test a misdemeanor with violators subject to a fine of up to \$1,000 or imprisonment of up to one year, or both. In addition, 12 points will be assessed against the license of the violator.

If a person is convicted of refusing to submit to a BAC test and had a previous conviction of refusing to submit to a BAC test or of any DWI/DUI offense within the previous five years, the person is not eligible to receive probation before judgment.

Current Law: A person cannot be compelled to submit to a BAC test but a person can have his/her driver's license suspended for refusing to submit to the test by up to 120 days for a first offense and up to one year for a subsequent offense. Refusal to submit to a BAC test cannot be used to infer guilt or innocence of violating any DWI/DUI violation.

If a driver is assessed 12 points within a two-year period, regardless of the causes, the MVA may revoke the driver's license.

State Revenues: The District Court reports that in fiscal 2000, there were 9,205 convictions of drunk or drugged driving out of 38,463 charges, and 8,804 people refused to submit to a BAC test.

Those who refuse to take a BAC test would be subject to a fine of up to \$1,000. However, because it is difficult to predict the deterrent effect of the penalties established for refusing a BAC test, a precise estimate of the potential revenue increase cannot be made. Moreover, it is expected that many offenders would not be fined the maximum amount.

Repealing the prohibition against an inference of guilt or innocence in a case involving a refusal to submit to a chemical test will allow that refusal to be considered as evidence. It is expected that the bill's provisions would result in an increase in the number of convictions, although the magnitude of any such increase cannot be reliably determined at this time. General fund revenues could increase from cases heard in the District Court.

State Expenditures: 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 and increased payments to counties for reimbursement of inmate costs.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. 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 2002 are estimated to range from \$9 to \$52 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC 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. Excluding overhead, the average cost of housing a new DOC inmate (food, medical care, and variable costs) is \$288 per month.

A person who refuses to take a BAC test is also subject to a 12-point assessment on his or her license. This is enough points to allow the MVA to revoke a license and to the extent that it does Transportation Trust Fund expenditures could increase from additional hearings that cost \$92 each and other expenditures associated with monitoring the additional revocations. A Transportation Trust Fund expenditure decrease is also expected due to greater compliance from those required to take a BAC test, resulting in less license suspensions.

Local Revenues: Revenues could increase minimally from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally due to more people being convicted of drunk and drugged driving offenses. 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 \$17 to \$77 per inmate in fiscal 2002.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (District Court of Maryland), Department of Transportation (Motor Vehicle Administration), Department of State Police, Department of Legislative Services

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cm/jr

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