

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 24 (Senator Lawlah)
Judicial Proceedings

**Alcohol, Drug, or Controlled Dangerous Substance Related Driving Offenses -
Mandatory License Suspension and Vehicle Impoundment or Immobilization for
Subsequent Offenses**

This bill requires the Motor Vehicle Administration (MVA) to suspend for one year the driver's license of a person who is convicted of a second or subsequent alcohol, drug, or controlled dangerous substance-related driving offense under specified circumstances. A court must order the impoundment or immobilization of a vehicle used in the commission of such an offense under certain circumstances.

Fiscal Summary

State Effect: The bill's changes could be handled with existing budgeted resources.

Local Effect: Assuming that any additional towing and storage of vehicles resulting from the bill is conducted on a cost-recovery basis, there would be no net fiscal impact to local governments.

Small Business Effect: Minimal.

Analysis

Bill Summary: This bill requires the MVA to issue license suspension terms for alcohol- and drug-related offenses that are currently discretionary, and increases certain suspension periods. The bill also requires the court to impound or immobilize a vehicle used in a repeat alcohol- and drug-related offense.

License Suspension

This bill requires the MVA to suspend, for one year, the driver's license of a person convicted of driving or attempting to drive a motor vehicle while impaired by alcohol (§ 21-902(b) of the Transportation Article) or while so far impaired by any drug, combination of drugs, or a combination of one or more drugs and alcohol, that the person cannot drive a vehicle safely (§ 21-902(c)), and who was at any time previously convicted of a violation of § 21-902 (driving while under the influence of alcohol or under the influence per se, driving while impaired by alcohol, or drugs or drugs and alcohol, or a controlled dangerous substance).

The bill also requires the following license suspension periods for the accumulation of points for a violation of § 21-902(b) or (c), or for the imposition of a period of suspension in lieu of revocation for a violation of § 21-902(a), (b), or (c), or the accumulation of points for a violation of § 21-902(a):

- for a first conviction, not more than six months;
- for a second or third conviction, one year; and
- for a fourth or subsequent conviction, not more than 24 months.

The imposition of suspension in lieu of revocation or revocation for accumulation of points applies only to a participant in the ignition interlock program.

Vehicle Impoundment or Immobilization

The bill requires a court to order, for not more than one year, the impoundment or immobilization of a solely owned vehicle used in the commission of a second or subsequent violation of any provision of § 21-902. Impoundment or immobilization is prohibited if the vehicle owner transferred the vehicle to another person prior to the finding of the second or subsequent violation.

Current Law: The MVA may suspend, for not more than 120 days, the driver's license of a person who, within a three-year period, is convicted of driving or attempting to drive a motor vehicle while impaired by alcohol (§ 21-902(b) of the Transportation Article) or while so far impaired by any drug, combination of drugs, or a combination of one or more drugs and alcohol, that the person cannot drive a vehicle safely (§ 21-902(c)), and was previously convicted of a violation of § 21-902 (driving while under the influence of alcohol or under the influence per se, or driving while impaired by alcohol, or drugs or drugs and alcohol, or a controlled dangerous substance).

The following license suspension periods are authorized for the accumulation of points for a violation of § 21-902(b) or (c), or for the imposition of a period of suspension in lieu of revocation for a violation of § 21-902(a), (b), or (c), or the accumulation of points for a violation of § 21-902(a):

- (1) for a first conviction, not more than 6 months;
- (2) for a second conviction at least 5 years after the first conviction, not more than 9 months;
- (3) for a second conviction less than 5 years after the first conviction, or for a third conviction, not more than 12 months; and
- (4) for a fourth or subsequent conviction, not more than 24 months.

Under current law, an individual who participates in the ignition interlock system program may have a license suspension reduced to:

- (1) for a first conviction, up to 15 days, provided the individual maintains the ignition interlock system for not more than 5 months;
- (2) for a second conviction at least 5 years after the first conviction, up to 30 days, provided the individual maintains the ignition interlock system for not more than 9 months;
- (3) for a second conviction less than 5 years after the first conviction, or for a third conviction, up to 45 days, provided the individual maintains the ignition interlock system for not more than 12 months; or
- (4) for a fourth or subsequent conviction, 6 months, provided the individual maintains the ignition interlock system for not more than 24 months.

A court may order, as a sentence, a part of a sentence, or a condition of probation, the impoundment or immobilization of a solely owned vehicle, for not more than 180 days, if the vehicle is used in the commission of a violation of driving with a suspended or revoked license, if the owner of the vehicle was driving, and the owner's license was suspended or revoked for a conviction of certain alcohol- or drug-related offenses.

Background: Provisions in the federal Transportation Equity Act of the 21st Century (TEA-21) condition the use of federal funds for highway construction projects on state enactment of laws that increase sanctions for drivers with repeat intoxicated driving offenses. A state without compliant legislation was required to transfer 1.5% of its federal funding from construction projects to highway safety programs on October 1, 2000 and October 1, 2001. Maryland is one of the states subject to sanctions. During fiscal 2001 and 2002, \$3.5 million in federal funding was transferred from construction to highway safety projects. In fiscal 2003, as of October 1, 2002, the sanction doubles to 3% and will require Maryland to transfer \$7 million to highway safety projects. Funds

transferred in 2000 and 2001 were used for hazard elimination, primarily safety modifications to intersections. Total federal highway grants received in Maryland are not affected by the federal repeat violator sanctions.

TEA-21 establishes, as a minimum penalty that all repeat intoxicated drivers shall:

- receive a driver's license suspension of not less than one year;
- be subject to either:
 - impoundment of each of the driver's motor vehicles during the one year license suspension;
 - immobilization of each of the driver's motor vehicles during the one year license suspension; or
 - installation of a State-approved ignition interlock system on each of the driver's motor vehicles at the conclusion of the one year suspension;
- receive an assessment of their degree of alcohol abuse and treatment as appropriate; and
- receive a mandatory sentence of:
 - not less than 5 days imprisonment or 30 days community service for a first offense; and
 - not less than 10 days imprisonment or 60 days of community service for a third or subsequent offense.

States may provide limited exceptions to the impoundment, immobilization, and ignition interlock sanctions to avoid undue hardship on a convicted person's family members, a co-owner, or others completely dependent on the vehicle for necessities, as long as the exceptions do not include the offender. Any exceptions to the vehicle sanctions must be issued in accordance with a state law, regulation, or binding policy directive that clearly states vehicle release conditions to be applied statewide and the exceptional situations that might apply to an offender's vehicle, as long as the repeat intoxicated driver does not gain unrestricted vehicle use.

The federal law applies to the standard drunk driving offense. In Maryland, the standard drunk driving offense is § 21-902 (a) of the Transportation Article. The bill requires the MVA to suspend for one year the license of a person who is convicted for the lesser included offenses (of driving or attempting to drive while impaired by alcohol, while impaired by any combination of drugs and/or alcohol, or while impaired by a controlled dangerous substance) if that person was previously convicted within a five-year period under any provision of § 21-902.

It should be noted that federal regulations (23 CFR 1275.5) provide that for states to avoid transfer of funds in a fiscal year, the state must certify to the U.S. Secretary of Transportation, on or before September 30 of the previous federal fiscal year, that the state has enacted and is enforcing a repeat offender law that meets federal requirements.

According to the organization Mothers Against Drunk Driving, 28 states and the District of Columbia have enacted repeat offender legislation that complies with the requirements of TEA-21. Those states include Pennsylvania and New Jersey. Twenty-one states have not enacted compliant repeat offender legislation. In addition to Maryland, those states include Delaware and Virginia.

State Expenditures: The District Court advises that 38,500 citations are issued annually for violations of alcohol- and/or drug-related driving impaired offenses. Of these, about 20,600 cases are heard in court and 4,500 are convicted of the offenses referenced in this bill. The District Court advises that the number of impoundments and immobilizations that would be ordered for second and subsequent violations is not possible to predict.

The District Court also estimates that 30 hours work for modifications to automated systems would be required to comply with this bill, at an estimated rate of \$65 an hour. The general fund expenditure in fiscal 2003 would be \$1,950. It is expected that this could be absorbed within the District Court's existing budgeted resources.

Small Business Effect: The bill could result in additional revenue for towing companies that perform towing and storage services for police departments.

Additional Comments: The State Highway Administration advises that the provisions of this bill appear to conform to the federal law requiring state repeat offender legislation, with the possible exception of a local override. The National Highway Traffic Safety Administration would issue the final determination of compliance.

Additional Information

Prior Introductions: SB 178 of the 2001 session received an unfavorable report from the Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Department of Transportation, Mothers Against Drunk Driving, National Conference of State Legislatures, National Highway Traffic Safety Administration, Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2002
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Analysis by: Karen D. Morgan

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