

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

House Bill 47

(Delegate Boschert, *et al.*)

Judiciary

Judicial Proceedings

Alcohol- or Drug-Related Offenses - Prohibition on Driving (John's Law)

This bill prohibits a person who has been arrested for certain alcohol- or drug-related driving offenses from driving within 12 hours after arrest.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Potential increase in expenditures due to the bill's incarceration provision.

Small Business Effect: None.

Analysis

Bill Summary: This bill provides that a person may not drive a motor vehicle within 12 hours after arrest if the person is arrested for any of the following violations:

- driving while under the influence of alcohol, while under the influence of alcohol per se, while impaired by alcohol, while impaired by drugs or drugs and alcohol, or while impaired by a controlled dangerous substance;
- homicide by motor vehicle or vessel while under the influence of alcohol, under the influence of alcohol per se, while impaired by alcohol, while impaired by drugs or drugs and alcohol, or while impaired by a controlled dangerous substance; and

- life-threatening injury by motor vehicle or vessel while under the influence of alcohol, under the influence of alcohol per se, while impaired by alcohol, while impaired by drugs or drugs and alcohol, or while impaired by a controlled dangerous substance.

If convicted of this offense, the person is guilty of a misdemeanor and is subject to imprisonment for up to two months, a maximum fine of \$500, or both. The Motor Vehicle Administration (MVA) is also required to assess eight points against the person's driver's license.

Current Law: There is no statutory provision relating to how long a person arrested for alcohol- and/or drug-related driving must refrain from driving. Police officers are not required to arrest a person charged with an alcohol- and/or drug-related driving offense.

With certain exceptions, the MVA must suspend the driver's license of an individual who accumulates eight points.

Background: This bill is known as "John's Law" and is named for John Elliott, a Naval Academy graduate who was killed by a drunk driver in New Jersey in July 2000. The person who killed John Elliott and critically injured his companion had been arrested three hours earlier on a drunk driving charge. The man was released to the custody of a friend. However, the friend allowed the man to resume driving. The drunk driver was also killed instantly. The friend who picked up the drunk driver is currently awaiting trial on charges of manslaughter, vehicular homicide, and aggravated assault.

To date, New Jersey is the only state to enact a law that requires a person appearing on behalf of a person arrested for an alcohol- and/or drug-related driving offense to acknowledge the possibility of civil and criminal liability if the arrested driver is allowed access to a motor vehicle before the driver can safely drive. The District of Columbia and the states of Florida, Illinois, Kentucky, Maine, North Carolina, and Wisconsin require a minimum period of incarceration or a minimum impoundment period for a vehicle if a person has been arrested for drunk or drugged driving as follows:

- The District of Columbia requires an arrested driver's vehicle to be impounded, but the vehicle may be released to another person judged able to drive. However, the vehicle may not be released to the arrestee for 24 hours.
- Florida requires the arrested person to be detained until the blood alcohol content (BAC) is .05 or eight hours have elapsed.

- Illinois requires the vehicle of a person arrested to be impounded for 12 hours. The vehicle may be released, however at an earlier time to another person with a valid driver's license.
- Kentucky requires a person arrested with a BAC of 0.15 or above to be detained a minimum of four hours.
- Maine provides that a vehicle driven by a driver arrested for an alcohol- and/or drug-related driving offense may be seized and held for at least eight hours.
- North Carolina requires an arrested driver to be detained until the person has a 0.05 or less BAC or a responsible person is willing to take responsibility for the arrestee until the person's faculties are no longer impaired.
- Wisconsin requires an arrested driver to be detained for 12 hours or until the person has a 0.04 BAC.

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

State Expenditures: The MVA will be required to issue notices of suspension to those convicted of the offense in this bill. Anyone who wishes to appeal the driver's license suspension will be entitled to an administrative hearing. It is expected that these requirements could be handled within the existing resources of the MVA.

Persons sentenced to a term of one year or less in Baltimore City are generally incarcerated in a Division of Correction (DOC) facility. Currently, DOC average total cost per inmate, including overhead, is estimated at \$1,850 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 (including medical care and variable costs) is \$300 per month.

Local Expenditures: Expenditures could increase as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for the first 90 days of a sentence. Per diem operating costs of local detention facilities are expected to range from \$20 to \$84 per inmate in fiscal 2003.

Additional Information

Prior Introductions: A similar bill, HB 69 of the 2001 session, received an unfavorable report from the Judiciary Committee

Cross File: SB 389 (Senator Ruben, *et al.*) - Judicial Proceedings. In addition, a similar bill, HB 60 has been referred to the Judiciary Committee.

Information Source(s): Somerset County, Montgomery County, Prince George's County, Charles County, Judiciary (Administrative Office of the Courts), Department of State Police, Baltimore County, Department of Transportation, Frederick County, Department of Legislative Services

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