

Department of Legislative Services  
Maryland General Assembly  
2003 Session

FISCAL AND POLICY NOTE

House Bill 94

(Delegate Boutin, *et al.*)

Judiciary

Judicial Proceedings

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**Drunk and Drugged Driving - Subsequent Offender Penalties - Out-of-State  
Crimes**

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This bill provides that, for purposes of the application of subsequent offender criminal penalties to specified alcohol- and drug-related driving offenses, a crime committed in another state or federal jurisdiction, that, if committed in this State, would constitute a violation of alcohol- and drug-related provisions, must be considered a prior offense.

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**Fiscal Summary**

**State Effect:** Enforcement of the bill's provisions could be handled with existing resources.

**Local Effect:** Enforcement of the bill's provisions could be handled with existing resources.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** A person may not drive or attempt to drive any vehicle while: (1) under the influence of alcohol or under the influence of alcohol per se; (2) impaired by alcohol; (3) impaired by drugs or drugs and alcohol; or (4) impaired by any controlled dangerous substance.

## **Subsequent Offender Penalties – Driving Under the Influence**

*Maximum Penalties:* Any person convicted of a second offense of driving while under the influence of alcohol or driving while under the influence of alcohol per se (not within five years of a prior conviction) is subject to a fine not exceeding \$2,000, imprisonment not exceeding two years, or both. For a third or subsequent offense, a person is subject to a fine not exceeding \$3,000, imprisonment not exceeding three years, or both.

For the purpose of applying second or subsequent offender penalties for violation of driving while under the influence of alcohol or under the influence of alcohol per se, a prior conviction within five years of: (1) driving while impaired by alcohol; (2) driving while impaired by drugs or drugs and alcohol; or (3) driving while impaired by a controlled dangerous substance shall be considered a prior conviction of driving while under the influence of alcohol or under the influence of alcohol per se.

*Mandatory Minimum Penalties:* A person who is convicted of a violation of driving while under the influence of alcohol or under the influence of alcohol per se, within five years after a prior conviction for one of these offenses, is subject to mandatory minimum penalties as specified in statute. These penalties are not subject to suspension or probation. The person must also undergo a comprehensive alcohol abuse assessment and, if recommended, participate in an alcohol program certified by the Department of Health and Mental Hygiene, as ordered by the court.

*Transporting A Minor:* A person who is convicted of driving while under the influence of alcohol or under the influence of alcohol per se and who was transporting a minor at the time of the offense is subject to a fine not exceeding \$2,000, imprisonment not exceeding two years, or both, for a first offense. For a second offense, the person is subject to a fine not exceeding \$3,000, imprisonment for not more than three years, or both. For a third or subsequent offense, a person is subject to a fine not exceeding \$4,000, imprisonment for not more than four years, or both.

## **Subsequent Offender Penalties – Driving While Impaired**

*Maximum Penalties:* A person is subject to a fine not exceeding \$500 or imprisonment not exceeding one year or both, if the person is convicted of a second or subsequent violation of: (1) driving while impaired by alcohol; (2) driving while impaired by drugs or drugs and alcohol; or (3) driving while impaired by a controlled dangerous substance.

For the purpose of applying second or subsequent offender penalties for a violation of driving while impaired by alcohol, drugs, or drugs and alcohol, or a controlled dangerous substance, a prior conviction of the following is considered a prior offense: (1) driving

while under the influence of alcohol or under the influence of alcohol per se; (2) driving while impaired by alcohol; (3) driving while impaired by drugs or drugs and alcohol; or (4) driving while impaired by a controlled dangerous substance.

*Transporting A Minor:* A person convicted of driving while impaired by alcohol, while impaired by drugs or drugs and alcohol, or while impaired by a controlled dangerous substance, and who was transporting a minor at the time of the offense, is subject to a fine not exceeding \$1,000, imprisonment not exceeding six months, or both, for a first offense. For a second or subsequent offense, the person is subject to a fine not exceeding \$2,000, imprisonment not exceeding one year, or both.

For determining second or subsequent offender penalties, a prior conviction of transporting a minor while: (1) under the influence of alcohol or under the influence of alcohol per se; (2) impaired by alcohol; (3) impaired by drugs or drugs and alcohol; or (4) impaired by a controlled dangerous substance, shall be considered a prior conviction.

**Background:** To prepare for the prosecution of a case where the defendant may have committed jailable traffic offenses in another state, or under federal jurisdiction, State's attorneys generally contact the Motor Vehicle Administration in the jurisdiction where the violations occurred or where the defendant is licensed, if relevant. The District Court generally relies on the State's attorneys to present information about the defendant's record from another jurisdiction, which may be used to show the defendant's propensity for drunk or drugged driving offenses. Maryland's Criminal Justice Information System excludes data about violations of traffic laws of Maryland or any other traffic law, ordinance or regulation. Criminal justice agencies can access the National Crime Information Center (NCIC) database, which is maintained by the Federal Bureau of Investigation. However, states report data to NCIC on a voluntary basis and may not report information on jailable traffic offenses.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 380 (Senator Jacobs, *et al.*) – Judicial Proceedings.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Office of State's Attorney, Anne Arundel County, Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2003  
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