

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE

House Bill 49
 Judiciary

(Delegate Kelly, *et al.*)

Judicial Proceedings

Vehicle Laws - Suspension of Driver's License - Theft of Motor Fuel

This bill provides that a person who is convicted of a theft that involves a failure to pay for motor fuel after dispensing it into a vehicle is subject to a driver's license suspension. For a first conviction, the Motor Vehicle Administration (MVA) may suspend a person's driver's license for up to 30 days; for a second or subsequent conviction, a 30-day suspension is mandatory. The bill allows a licensee to request a hearing if his or her license is suspended for fuel theft. The Chief Judge of the District Court and the Administrative Office of the Courts, in conjunction with the MVA, must establish uniform procedures for reporting these convictions.

Fiscal Summary

State Effect: General fund expenditures would increase by \$3,800 in FY 2004 only for programming changes to the District Court computer system. Revenues would not be affected.

| (in dollars) | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 |
|----------------|-----------|---------|---------|---------|---------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 3,800 | 0 | 0 | 0 | 0 |
| Net Effect | (\$3,800) | \$0 | \$0 | \$0 | \$0 |

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

Local Effect: None.

Small Business Effect: Minimal. To the extent that the bill assists with enforcement or deterrence of fuel theft at gas stations or convenience stores that are small businesses, it will benefit small business.

Analysis

Current Law: A person is guilty of theft when he or she willfully or knowingly obtains unauthorized control over property with the intent of depriving the owner of the property. A person also commits theft by willfully or knowingly using deception to obtain control over property of the owner with the intent of depriving the owner of its use. A person convicted of theft of property or services valued at less than \$500 must make restitution and is subject to a fine of not more than \$500 or imprisonment of not more than 18 months, or both. A person who has two prior theft convictions and is convicted of theft of property or services with a value of less than \$500 is guilty of a misdemeanor and is subject to imprisonment of up to five years or a maximum fine of \$5,000, or both. The person must also make restitution to the owner.

The MVA does not impose any penalties for the crime referenced in the bill. If a person is entitled to a hearing for a license suspension or revocation, the MVA must give written notice to the individual, who may request a hearing within 15 days from the date that the notice is mailed. The hearing must be held within 30 days of the request. After a hearing, the MVA may refuse, suspend, or revoke the individual's license, rescind or modify any prior action, or take any other action permitted under Maryland Vehicle Law.

Background: The offense referenced in the bill, commonly called a "drive-off," has become more common throughout the country (particularly in metropolitan areas), especially as fuel prices have increased. According to the National Association of Convenience Stores, retailers reported gasoline theft losses up to \$3,000 per store in 1999 and 2000; however, the per-store loss declined to \$1,032 in 2001. The association attributes some of the decline to public education campaigns and increased sanctions in several states.

The Commonwealth of Pennsylvania enacted the most recent drive-off legislation. It allows a judge to suspend (up to 30 days) the driver's license of a person who pleads guilty to stealing fuel upon the person's third conviction. North Carolina also recently enacted a law that requires a six-month suspension for anyone convicted twice of stealing fuel and a year-long suspension for a third conviction. Many states, including Maryland, prosecute this crime as a misdemeanor with fines ranging from \$100 to \$2,500 and jail terms ranging from 30 days to one year, but there are seldom any prosecutions or convictions.

A few states, including Indiana, Florida, and Kansas, allow suspension of a driver's license for repeat offenders. Several others allow license suspension for the first drive-off offense and require it for repeat offenses.

State Expenditures: The District Court advises that the bill would require \$3,750 of computer programming changes in fiscal 2004 only. The MVA advises that the bill may minimally increase administrative costs if driver's license suspensions increase, but the costs cannot be determined at this time because the increased number of suspensions cannot be reliably estimated. Each administrative hearing costs the MVA approximately \$92. Given the limited number of convictions for this violation, the Department of Legislative Services advises that the cost of any hearings resulting from the bill could be handled with existing resources.

Additional Information

Prior Introductions: The House passed an identical bill (HB 398 as amended) in 2002; the Senate Judicial Proceedings Committee took no action.

Cross File: None.

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

Fiscal Note History: First Reader - January 27, 2003
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