

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 372

(Delegate Menes, *et al.*)

(Special Committee on Drug and Alcohol Abuse)

Judiciary

Evidence - Tests for Drug or Controlled Dangerous Substance Content of Urine

This bill expands evidentiary provisions concerning tests for a drug or controlled dangerous substance to include a test of a person's urine. The bill applies the administrative sanctions relating to a refusal to take a test of blood or breath or a test result indicating impairment to a test of a person's urine. The bill also provides that a commercial driver's license holder is subject to disqualification for refusal to submit to a urine test for drugs or controlled dangerous substances.

Fiscal Summary

State Effect: Minimal decrease in general fund expenditures to process urine tests by the Department of State Police.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill expands the meaning of "test" to include a test of one specimen of urine to determine the drug or controlled dangerous substance content of a person's urine and establishes that a test or tests of one specimen of urine may be administered to determine the drug or controlled dangerous substance content of a person's urine.

A "specimen" of urine means one sample of urine that is taken, in a single procedure, in two or more portions, in two or more separate vials. A test of urine must be administered

by a qualified person with equipment approved by the toxicologist as specified by statute. A statement signed by the toxicologist certifying that the test was lawfully conducted is *prima facie* evidence of approval. The type of specimen obtained from a defendant to determine drug or controlled dangerous substance content must be a test of blood or urine. The results of a test or tests of urine are admissible as evidence in a criminal trial only for prosecution of specified drug-related driving offenses.

The administrative sanctions for refusal to take a test of blood are applied to a refusal to take a test of urine. Before the Motor Vehicle Administration (MVA) may apply administrative sanctions, the police officer who detained the person for a test must notify the person of the sanctions that result from refusal to take a test and of the opportunity to request a hearing within specified time frames. The administrative sanctions that apply to individuals who drive a commercial motor vehicle for test refusal are expanded to a test of the individual's urine.

Current Law: A person who drives or attempts to drive a motor vehicle is deemed to have consented to take a test. This applies to a person who is detained by a police officer on suspicion of committing an alcohol- or drug-related driving offense. However, a person may not be compelled to submit to a test or analysis to determine the alcohol or drug concentration of a person's blood or breath unless there is a motor vehicle accident that results in death or a life-threatening injury to another person.

A police officer who stops a driver with reasonable grounds to believe that a violation of alcohol- and/or drug-related driving provisions has taken place must detain the person and request that the person take a test. The police officer must advise the person of the administrative sanctions that must be imposed for refusal to take a test and inform the person of notice and hearing procedures. An offender's license or driving privilege must be suspended by the MVA for 120 days for a first offense and one year for a second or subsequent offense. A person operating a commercial vehicle who refuses to take a test for alcohol or drug concentration is subject to more stringent administrative sanctions. No modification of the license suspension is permitted for a refusal unless the driver participates in the Ignition Interlock System Program for at least one year.

Refusal to submit to a breath or blood test at the request or direction of a police officer who has reasonable grounds is admissible evidence in a prosecution for an alcohol- or drug-related driving offense.

If a person was tested and the result indicated a blood alcohol concentration of 0.08 or more, the MVA must suspend the driver's license for 45 days for a first offense. For a second or subsequent offense, the MVA must suspend the driver's license for 90 days.

A person is prohibited from driving or attempting to drive a motor vehicle while impaired by an illegally used controlled dangerous substance. A person who violates that provision is guilty of a misdemeanor and is subject to a maximum fine of \$500 and/or imprisonment not exceeding two months. The MVA must assess 12 points against the license after a conviction for this offense and the license is subject to revocation.

Background: This bill is one of several bills sponsored by the House Special Committee on Drug and Alcohol Abuse.

During the 2003 interim, the committee heard testimony indicating that the problem of drivers impaired by drug use is a serious, unrecognized offense that is rarely identified or prosecuted. The testimony pointed out that Maryland and Texas are the only two states that limit driver drug testing to blood. The committee also heard testimony that indicated that the use of illegal drugs accounts for 90% of the problem of drugged driving. Testing technology has advanced significantly and rapid urine and saliva tests are available and inexpensive to use. Currently, breath and hair tests for drug detection are in the development stages.

At one time, the State authorized the use of urine tests to detect alcohol concentration in motor vehicle drivers. The authority to conduct urine tests was repealed by Chapter 164 of 1977.

State Expenditures: The Judiciary advises that 1,231 charges of driving or attempting to drive while impaired by a controlled dangerous substance were filed in fiscal 2003. No fiscal impact from this bill is expected for the Judiciary.

The MVA advises that reprinting of forms due to the bill's requirements would require an increase in special fund expenditures of \$25,390 in fiscal 2005 only. However, the Department of Legislative Services advises that the MVA must revise its forms annually to include law changes, thus forms reprinting is simply a cost of doing business and can be handled with existing resources.

Implementation of this bill could result in minimal savings for the State Police. The State Police advise that blood tests for drugs or controlled dangerous substances are not analyzed in Maryland but are sent to a lab in Virginia. That lab currently charges an average of \$150 for a blood test. About 300 tests are analyzed annually, at a cost of \$45,000. If all of those tests were converted to urine tests, the lab charges would be either \$21 or \$96 per test. The basic charge for an analysis of a urine specimen is \$21. Initial negative test results are subjected to a full spectrum analysis, which adds another \$75 to the cost of the test, for a total of \$96. Assuming, for example, if half of the specimens would initially test negative and cost \$96, and half the specimens would test

positive, at a cost of \$21, general fund expenditures by the State Police could be \$17,550 under this bill. That would be a savings of \$27,450 compared to current procedures.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2004

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