

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 374 (Delegate Menes, *et al.*)
(Chairman, Special Committee on Drug and Alcohol Abuse)
Judiciary

Vehicle Laws - Drunk and Drugged Driving - Consecutive Sentences

This bill requires the imposition of consecutive sentences against a person for multiple violations arising out of the same incident if the person is convicted of: (1) driving or attempting to drive while under the influence of alcohol, under the influence of alcohol per se, or driving or attempting to drive while impaired by alcohol; and (2) driving or attempting to drive while impaired by a controlled dangerous substance.

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Current Law: A person may not drive or attempt to drive any vehicle while:

- under the influence of alcohol or under the influence of alcohol per se;
- impaired by alcohol;
- impaired by drugs, or drugs and alcohol; or
- impaired by a controlled dangerous substance.

A person convicted of driving or attempting to drive while under the influence of alcohol or under the influence of alcohol per se is subject to a maximum fine of \$1,000 and/or imprisonment not exceeding one year for a first offense. For a second offense, the penalties increase to a maximum fine of \$2,000 and/or imprisonment not to exceed two years. For a third or subsequent offense, the penalties increase to a maximum fine of \$3,000 and/or imprisonment not exceeding three years. A conviction requires the MVA to assess 12 points against the driver's license and the violator is subject to license revocation.

A person convicted of driving or attempting to drive while impaired by alcohol, driving or attempting to drive while impaired by drugs or drugs and alcohol, or driving or attempting to drive while impaired by a controlled dangerous substance is subject to a maximum fine of \$500 and/or imprisonment not exceeding two months. A conviction of driving or attempting to drive while impaired by alcohol or while impaired by drugs or drugs and alcohol requires the MVA to assess eight points against the driver's license and the violator is subject to license suspension. A conviction of driving or attempting to drive while impaired by a controlled dangerous substance requires the MVA to assess 12 points against the driver's license and the violator is subject to license 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 also pointed out that Maryland law imposes no additional penalty if a person tests positive for both drugs and alcohol and a conviction for drugged driving carries lesser penalties than a conviction for driving while under the influence of alcohol.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to people being committed to Division of Correction (DOC) facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. The number of people likely to be subject to the longer incarceration penalties is expected to be minimal. DOC advises that offenders could be under parole or mandatory supervision for longer periods of time. The fiscal 2002 actual cost of supervision per offender assigned to the Drinking Driver Monitor Program was about \$305. That cost is not expected to change due to this bill's requirements.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the 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 \$350 per month. Excluding medical care, the average variable costs total \$120 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2005 are estimated to range from \$14 to \$58 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$29 to \$97 per inmate in fiscal 2005.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation, Department of Public Safety and Correctional Services, Department of Legislative Services

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mh/jr

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