

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Joint Resolution 5 (Senator Giannetti)
Judicial Proceedings

Federal Funds and Use of Ignition Interlock Systems

This joint resolution urges the Maryland Congressional Delegation to support, work to pass, and vote for legislation that would allow the State to collect federal funding for imposing the use of an ignition interlock system as a sanction for driving while under the influence of, or impaired by, alcohol. In lieu of the mandatory sentences for these offenses that must now be imposed due to federal grant conditions, the State could prohibit, for a specified time, an individual convicted of these offenses from operating a motor vehicle that is not equipped with an ignition interlock system.

Fiscal Summary

State Effect: Compliance with this joint resolution would not materially affect State operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: An “ignition interlock system” means a device that:

- connects a motor vehicle ignition system to a breath analyzer that measures a driver’s blood alcohol level; and
- prevents a motor vehicle ignition from starting if a driver’s blood alcohol level exceeds the calibrated setting on the device.

A court is authorized to require the use of an ignition interlock system as an additional penalty or a condition of probation for driving while under the influence of alcohol, under the influence of alcohol per se, or driving while impaired by alcohol.

A person is prohibited from driving or attempting to drive any vehicle while under the influence of alcohol or under the influence of alcohol per se (§ 21-902(a) of the Transportation Article). A first offense is punishable with a maximum fine of \$1,000 or imprisonment up to one year, or both. Maximum penalties for second and third offenses that occur after five years of a prior conviction, each increase by \$1,000 and an additional year of imprisonment, but the subsequent offenses occurring after five years of a prior conviction, have a maximum penalty of a fine of up to \$3,000 or imprisonment for up to three years, or both.

A person who is convicted of driving or attempting to drive any vehicle while under the influence of alcohol, or under the influence of alcohol per se, within five years after a prior conviction for any included offenses is subject to a mandatory minimum penalty of imprisonment for not less than five days. A person who is convicted a third or subsequent time within five years of any of those same offenses is subject to a mandatory minimum penalty of imprisonment for not less than 10 days. Imprisonment includes confinement in an inpatient rehabilitation or treatment center or home detention that includes electronic monitoring for the purpose of participation in a certified or court-approved alcohol treatment program. The Motor Vehicle Administration (MVA) is required to suspend for one year the license of anyone convicted of driving or attempting to drive while under the influence of alcohol or under the influence of alcohol per se more than once within a five-year period.

A person who is convicted of driving or attempting to drive any vehicle while under the influence of alcohol or under the influence of alcohol per se within five years of a prior conviction for any included offenses must be required by a court to undergo a comprehensive alcohol abuse assessment. If recommended at the conclusion of the assessment, the offender must participate in an alcohol program certified by the Department of Health and Mental Hygiene, certified by an adjacent State agency, or approved by the court. The penalties are mandatory and are not subject to suspension or probation.

Additionally, the MVA may revoke the license of any person convicted of a violation of § 21-902(a) or issue a restricted license prohibiting a licensee from driving with alcohol in the licensee's blood.

A person is prohibited from driving or attempting to drive any vehicle while impaired by alcohol (§ 21-902(b) of the Transportation Article). A first offense is punishable with a maximum fine of \$500 or imprisonment for up to two months, or both. Subsequent

offenses that do not occur within five years of a prior offense have a maximum fine of \$500 or imprisonment for up to one year, or both.

Additionally, the MVA may revoke the license of any person who, within a three-year period, is convicted of driving while impaired by alcohol, or while impaired by any combination of drugs or drugs and alcohol and who was previously convicted of two or more violations within a three-year period of being convicted under § 21-902. The MVA may suspend the license for 60 days for a first offense, or 120 days for two or more violations of driving while impaired by alcohol or driving while impaired by any combination of drugs or drugs and alcohol within three years, or the MVA may issue a restricted license prohibiting a licensee from driving with alcohol in the licensee's blood.

Background: Provisions in the federal Transportation Equity Act of the 21st Century (TEA-21) condition the use of federal funds for highway construction projects on enactment of state laws that increase sanctions for drivers with repeat intoxicated driving offenses.

A state without compliant legislation was required to transfer 1.5% of its federal funding from construction projects to highway safety programs on October 1, 2000 and October 1, 2001. Maryland was one of the states subject to sanctions. During fiscal 2001 and fiscal 2002, \$3.5 million in federal funding was transferred from construction to highway safety projects. Funds transferred in 2000 and 2001 were used for hazard elimination, primarily safety modifications to intersections. Total federal highway grants received in Maryland were not affected by the federal repeat violator sanctions. Maryland avoided further sanctions through passage of HB 4, which became Chapter 110 of 2002.

TEA-21 establishes, as a minimum penalty that all repeat intoxicated drivers shall:

- receive a driver's license suspension of not less than one year;
- be subject to either:
 - impoundment of each of the driver's motor vehicles during the one year license suspension;
 - immobilization of each of the driver's motor vehicles during the one year license suspension; or
 - installation of a State-approved ignition interlock system on each of the driver's motor vehicles at the conclusion of the one year suspension;
- receive an assessment of their degree of alcohol abuse and treatment as appropriate;
- receive a mandatory sentence of:
 - not less than five days imprisonment or 30 days community service for a first offense; and

- not less than 10 days imprisonment or 60 days of community service for a third or subsequent offense.

States may provide limited exceptions to the impoundment, immobilization, and ignition interlock sanctions to avoid undue hardship on a convicted person's family members, a co-owner, or others completely dependent on the vehicle for necessities, as long as the exceptions do not include the offender. Any exceptions to the vehicle sanctions must be issued in accordance with a state law, regulation, or binding policy directive that clearly states vehicle release conditions to be applied statewide and the exceptional situations that might apply to an offender's vehicle, as long as the repeat intoxicated driver does not gain unrestricted vehicle use.

The federal law applies to the standard drunk driving offense. In Maryland, the standard drunk driving offense is § 21-902 (a) of the Transportation Article. State law requires the MVA to suspend for one year the license of a person who is convicted for the lesser included offenses (of driving or attempting to drive while impaired by alcohol or while impaired by any combination of drugs and/or alcohol, or while impaired by a controlled dangerous substance) if that person was previously convicted within a five-year period under any provision of § 21-902.

According to the organization Mothers Against Drunk Driving, 37 states and the District of Columbia have enacted repeat offender legislation that complies with the requirements of TEA-21. In addition to Maryland, these states include Delaware, New Jersey, Pennsylvania, and Virginia. Fourteen states have not enacted compliant repeat offender legislation. Those states include Alaska, California, Massachusetts, Rhode Island, and West Virginia.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation, Mothers Against Drunk Driving, Department of Legislative Services

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