

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 617

(Senator Jimeno, *et al.*)

Judicial Proceedings

Judiciary

Drunk and Drugged Driving Offenses - Driver's License and Driving Privilege
Suspension

This bill increases administrative penalties for refusing to take a breath or blood test for a suspected violation of driving under the influence of alcohol or due to a test result indicating an alcohol concentration of more than 0.15 at the time of testing. For a test refusal, the Motor Vehicle Administration (MVA) must impose a license suspension for 180 days for a first offense and one year for a second or subsequent offense. If a violation involves a test result with an alcohol concentration in excess of 0.15, the MVA must suspend the driver's license for 60 days for a first offense and 120 days for a second or subsequent offense.

Fiscal Summary

State Effect: The bill's requirements could be handled within the existing resources of the MVA.

Local Effect: None.

Small Business Effect: None.

Analysis

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 cannot 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 person who is stopped by a police officer 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 permit a test to be taken. 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. Refusal to take a test is an "administrative per se" offense. 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.

Currently, if a person takes a breath or blood test that indicates an alcohol concentration of 0.08 or more at the time of testing, the MVA must suspend the driver's license or privilege for 45 days for a first offense, and 90 days for a second or subsequent offense. If a person refuses to take a test, the MVA shall suspend the driver's license or privilege for 120 days for a first offense and one year for subsequent offenses.

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

According to the organization Mothers Against Drunk Driving, 32 states, including Virginia, Delaware, Pennsylvania, and North Carolina, impose enhanced penalties for drivers who have been tested and have a concentration of alcohol that is 0.15 or higher. The District of Columbia and 20 states, including Maryland, New Jersey, and West Virginia, do not impose enhanced penalties for drivers with alcohol concentrations at 0.15 or above.

According to the American Automobile Association, 42 states and the District of Columbia sanction drivers for a test refusal or test results above the legal limit. The majority of sanctions are mandatory, but some states authorize some discretion in the imposition of sanctions.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

State Expenditures: The MVA advises that one additional position and additional expenses for administrative hearings at a cost of \$201,759 in fiscal 2005 are needed to

meet this bill's requirements. The Department of Legislative Services (DLS) disagrees with that assessment and advises that the MVA is already processing people for administrative sanctions that would also be addressed in this bill.

DLS advises that the number of drivers who would refuse a test for an alcohol- or drug-related driving offense could decline due to this bill's more severe sanctions. Also, under current law, drivers who refuse a test are subject to suspension. A large portion of the drivers who are stopped for a test are exhibiting signs of driving impairment that would subject them to an alcohol- or drug-related driving charge and license revocation, whether a test is taken or not. Since this type of charge requires an assessment of 12 points, the MVA is already processing license revocations under current law for much of the same population that would be subject to license revocation under this bill. Also, especially since DLS advises that the number of those refusing a test could decline, not increase under this bill, DLS advises that the workload from test refusals, including any requested hearings, could be handled with existing resources.

Additional Information

Prior Introductions: The bill as introduced was similar to SB 410 from the 2003 session. SB 410 was heard in the Judicial Proceedings Committee, but no further action was taken. Another similar bill, SB 515 from the 2002 session, was referred to the Judicial Proceedings Committee but was withdrawn. In the same year, another similar bill, HB 818, was referred to the Judiciary Committee where it received an unfavorable report.

Cross File: HB 763 (Delegate Dumais) – Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Department of Public Safety and Correctional Services, Mothers Against Drunk Driving, American Automobile Association, Department of Legislative Services

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