

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1078
 Judiciary

(Delegate Niemann, *et al.*)

Judicial Proceedings

**Vehicle Laws - Driving While License Refused, Suspended, Canceled, or Revoked
 - Penalties**

This bill alters the penalties relating to driving while a license is refused, suspended, canceled, or revoked.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) revenues decline by \$24,100 in FY 2005. Out-years account for annualization and inflation and assume stable caseload and fees. TTF expenditures decline by \$16,800. Potential minimal decrease in general fund revenues and expenditures due to the bill's penalty provisions.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
GF Revenue	-	-	-	-	-
SF Revenue	(24,100)	(32,200)	(32,200)	(32,200)	(32,200)
GF Expenditure	-	-	-	-	-
SF Expenditure	(16,800)	(22,600)	(22,800)	(23,000)	(23,300)
Net Effect	(\$7,300)	(\$9,600)	(\$9,400)	(\$9,200)	(\$8,900)

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

Local Effect: Potential minimal decrease in expenditures due to the bill's reduced penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: This bill standardizes the criminal penalties for various offenses of driving while a license is refused, suspended, canceled, or revoked. The bill reduces maximum criminal penalties associated with many of these violations. A person who is convicted of driving while the license is refused, suspended, canceled, or revoked is subject to maximum penalties of a \$500 fine, and/or 60 days imprisonment for a first offense. For a second offense, a violator is subject to maximum penalties of a \$1,000 fine and/or 90 days imprisonment. For a third or subsequent offense, a violator is subject to maximum penalties of a \$2,000 fine, and/or one year imprisonment.

The bill also establishes six points as the standard administrative penalty required to be assessed by the Motor Vehicle Administration (MVA) against an individual who drives after a refusal, suspension, cancellation, or revocation of a license. However, for a few offenses, three points would continue to be assessed as provided under current law (for example, a lapse in required security, noncompliance with citations issued under State or federal law, or nonpayment of a fine).

Current Law: A person may not drive a motor vehicle on any highway while the person's license or privilege to drive is refused, suspended, canceled, or revoked in Maryland or any other state. A violation is a misdemeanor and the violator is subject to a fine of up to \$1,000, imprisonment for up to one year, or both for a first offense. For any subsequent offense, the violator is subject to a fine of up to \$1,000, imprisonment for up to two years, or both. If the license is suspended due to lapse or required security, noncompliance with a traffic citation issued under state or federal law, or nonpayment of a fine, the violation is a misdemeanor and the violator is subject to a fine of up to \$500, or imprisonment for up to two months, or both.

For driving after a license has been refused, suspended, canceled, or revoked (except for certain types of suspensions), the MVA is required to assess 12 points against the license. The MVA must revoke a license that has accumulated 12 points. For driving after suspension of a license due to a lapse in required security, noncompliance with traffic citations issued under state or federal law, or nonpayment of a fine, the MVA is required to assess three points against the driver's license.

Background: The Court of Special Appeals ruled in *McCallum v. State*, 81 Md. App. 403 (1990) that *mens rea*, that is, an intent to do the prohibited act, is an element of the crime of driving while a license is suspended. Later, in *Rice v. State*, 136 MD. App. 593 (2001), the Court of Special Appeals ruled that while knowledge of the suspension is required to support a conviction of driving with a suspended license, the required knowledge can be manifested by deliberate ignorance, as well as by actual notification.

State Revenues: TTF revenues are expected to decline by \$24,119 in fiscal 2005 due to the elimination of revenue from license revocations, accounting for an October 1 start date. In fiscal 2003, the MVA processed 494 license revocation cases due to driving while the license is refused, suspended, cancelled, or revoked. Of the 494 cases, 163 cases were assessed fees of \$45 for revocation of licenses due to point accumulation. The remaining 330 cases were assessed fees of \$75 for license revocation due to alcohol- and drug-related driving offenses. Out-years assume annualization, a stable caseload, and no change in fees.

General fund revenues could decrease minimally as a result of the reduced monetary penalties from cases heard in the District Court.

State Expenditures: TTF expenditures are expected to decline by \$16,772 in fiscal 2005 due to savings in postage and administrative hearing costs, accounting for the bill's October 1, 2004 effective date. During fiscal 2003, the MVA processed 494 notices of revocation as a result of driving while the license is refused, cancelled, suspended, or revoked. For each revocation, the MVA sends notification to drivers by certified and registered mail. Postage savings of \$1,092 for fiscal 2005 are anticipated. Annual savings account for annualization and inflation, and assume no changes in postage rates or caseload. The MVA advises that of the 494 notices of revocation that were processed in 2003, 46%, or 227, of those notified requested a hearing. The MVA pays the Office of Administrative Hearings \$92 for each hearing requested. Fiscal 2005 savings of \$15,680 are anticipated, accounting for the October 1 start date. Out-year savings include annualization and inflation.

General fund expenditures could be reduced minimally as a result of the bill's reduced incarceration penalties due to reduced payments to counties for reimbursement of inmate costs.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. 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 a Division of Correction (DOC) facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$1,850 per month. Excluding medical care, the average cost of housing a DOC inmate is \$120 per month.

Local Expenditures: Expenditures could decrease as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration 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: A similar bill, HB 664, was introduced in the 2003 session. HB 664 passed the House as amended, and was referred to the Judicial Proceedings Committee where it received an unfavorable report.

Cross File: None.

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

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