

Department of Legislative Services
 Maryland General Assembly
 2005 Session

FISCAL AND POLICY NOTE

House Bill 213 (Chairman, Environmental Matters Committee)
 (By Request – Departmental – Transportation)

Environmental Matters

Vehicle Laws - Highway Work Zones - Offenses and Penalties

This departmental bill establishes the offense of “negligent driving in a highway work zone,” clarifies that excessive speeding in a highway work zone is a traffic violation, and establishes or enhances criminal penalties for these offenses.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) revenues increase by \$74,200 and general fund revenues increase by \$195,500 in FY 2006. TTF expenditures increase by \$376,600. Future years reflect annualization and inflation. Minimal general fund revenue increases from the additional fines are applicable to these offenses under the Maryland Vehicle Law. Enforcement could be handled with existing resources.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
GF Revenue	\$195,500	\$260,600	\$260,600	\$260,600	\$260,600
SF Revenue	74,200	96,300	96,300	96,300	96,300
SF Expenditure	376,600	355,700	367,700	380,700	394,300
Net Effect	(\$106,900)	\$1,200	(\$10,800)	(\$23,800)	(\$37,400)

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

Local Effect: None.

Small Business Effect: The Maryland Department of Transportation (MDOT) has determined that this bill will have minimal or no impact on small business (attached). To the extent the bill reduces accidents and injuries, insurance costs for small businesses could stabilize or be reduced. Legislative Services concurs with this assessment.

Analysis

Bill Summary: The bill specifically prohibits a person from driving a motor vehicle in excess of the speed limit in a highway work zone. A person convicted of exceeding the speed limit in a highway work zone by 10 miles an hour or more is guilty of a misdemeanor and subject to a maximum fine of \$1,000 and a mandatory assessment of 5 points. This bill specifies that a highway worker is a person performing authorized construction, maintenance, utility or related activities, including law enforcement.

This bill establishes the offense of “negligent driving in a highway work zone.” A person is guilty of this offense if the person drives a motor vehicle in a highway work zone when a highway worker is present and drives in a careless or imprudent manner that endangers any property or person. A person convicted of this offense is guilty of a misdemeanor and subject to a maximum fine of \$1,000 and a mandatory assessment of 5 points. A court is authorized to find the person guilty of any lesser included offense.

Except for the above-mentioned offenses, a person convicted of violating any provision of Title 21 (Rules of the Road) in a highway work zone when a highway worker is present is subject to a fine that is double the amount that would otherwise apply. The penalty is in addition to any other penalty that could be imposed for the offense.

Current Law: The Maryland Motor Vehicle Law provides for the assessment of points against a drivers’ license for specified traffic violations. Speeding in excess of the posted speed limit by 10 miles per hour or more requires an assessment of 2 points. Speeding in excess of the posted speed limit by 30 miles per hour or more requires a 5-point assessment. Reckless driving requires an assessment of 6 points against the violator. Negligent driving requires an assessment of 1 point against the violator.

A “highway work zone” is defined as construction or maintenance area on or alongside a highway that is appropriately marked with traffic control devices showing that work is in progress. The State Highway Administration, a county, or a municipal corporation are authorized to reduce established speed limits in a highway work zone to protect the public. The reduced speed limit becomes effective as soon as it is posted. Any person convicted of exceeding the speed limit within a highway work zone is subject to a maximum fine of \$1,000.

A person who drives a motor vehicle with a wanton or willful disregard for the safety of people or property, or in a manner that indicates wanton and willful disregard, is guilty of reckless driving. A conviction for this offense is a misdemeanor and the violator is subject to a maximum fine of \$1,000. The District Court currently assesses a fine of \$575 for this offense. A person who drives a motor vehicle in a careless or imprudent manner that endangers the safety of people or property is guilty of negligent driving. A

conviction for this offense is a misdemeanor and the violator is subject to a maximum fine of \$500. The District Court currently assesses a fine of \$275 for this offense. A court may find a person charged with reckless or negligent driving guilty of any lesser included offense.

Background: According to MDOT, in calendar 2002, more than 3,000 traffic accidents within highway work zones occurred. Nearly 2,000 people were injured and 19 were killed. About half of the reported accidents occurred on State highways. The number of highway workers involved in these accidents is unknown. During the first half of calendar 2004, four highway workers were killed. Two of the workers were killed along the same segment of Interstate 695 in the Baltimore region. Currently, highway agencies attempt to calm traffic in highway zones by paying for manned police vehicles, which are stationed within or near highway work zones.

Montana, Oregon, and Washington have enacted statutes intended to protect workers in highway work zones. Michigan and Pennsylvania have increased the penalties for moving violations committed in highway work zones.

State Effect: The following assumptions are used to determine the fiscal effect of this bill.

- Citations against 11,091 drivers could be generated under this bill. According to the State Police, in calendar 2003, about 3,361 accidents occurred in highway work zones, out of a total of 109,000 traffic accidents statewide. District Court data indicate that about 361,000 speeding tickets are processed annually. Accordingly, for every accident, about 3.3 speeding tickets are processed ($3,361 \times 3.3 = 11,091$).
- Based on historical experience, about 97% (10,827) of drivers who could receive citations under this bill would have 0 to 2 points on their licenses. About 2% (201) of drivers would be subject to license suspension for accumulating 8 to 11 license points. The remaining drivers (63) would be subject to license revocation by accumulating 12 or more license points.
- Accumulation of at least five license points mandates attendance at a remedial driver course. About 40% (4,332) of drivers who are required to attend the course fail to do so and are subject to license suspension.
- Drivers who are subject to license suspension or revocation have a right to an administrative hearing. Historically, about 46% of eligible drivers request a hearing (2,114).

- All drivers with suspended or revoked licenses would want to pay the necessary fees to reinstate them.

Office of Administrative Hearings: Accounting for the October 1 effective date, general fund revenues could increase by \$195,469 from the filing fees for hearings that could be requested under the bill. According to projections from the Motor Vehicle Administration (MVA), 4,595 people will be subject to having their licenses revoked or suspended under this bill. Those drivers who have their licenses suspended or revoked have the right to request a hearing from the Office of Administrative Hearings (OAH). If 46% of drivers who are eligible to request a hearing do so, then 2,114 administrative hearings could be generated under the bill. Each person who requests a hearing must pay a filing fee of \$125.

MVA: Accounting for the October 1 effective date, TTF revenues could increase by \$74,232. The 63 drivers with revoked licenses will pay \$45 to reinstate their licenses and \$45 to purchase new licenses. The 4,532 drivers with suspended licenses will pay \$20 for a new license.

OAH: Accounting for the October 1 effective date, reimbursable fund expenditures could increase by \$65,117 for one additional Administrative Law Judge at grade 23 and associated costs to process the additional hearings that could be generated by this bill.

The bulk of the OAH hearing caseload is from the MVA and amounts to about 29,000 cases annually. An additional 2,114 MVA cases would require one additional Administrative Law Judge.

MDOT: Accounting for the October 1 effective date, TTF expenditures could increase by \$376,602 for additional highway signage, one additional customer service agent at grade 10, personnel costs for administrative hearings and associated expenses, additional administrative hearings, printing and mailing costs.

The State Highway Administration (SHA) will incur additional costs for additional signage warning of increased points and fines for violations under the bill. About 100 additional sign supports and roll-up signs would be installed at maintenance work zones at an estimated cost of \$250 each for a total cost of \$25,000 in fiscal 2006. About 10% of the signs would be replaced annually. Contractors would also be paid \$250 for an additional 400 signs to be installed at construction and maintenance work zones. In fiscal 2006, the cost would be \$100,000. Ten percent of these signs would also be replaced annually.

MVA projections indicate that an additional 11,091 driver actions could be processed under this bill. Annually, the MVA processes about 45,000 similar driver actions with four full-time employees. One customer service agent would be needed for the additional 11,091 actions.

Because OAH is primarily funded by reimbursable funds from other State agencies, the MVA is required to pay for additional personnel needed to process administrative hearings that are generated by MVA administrative sanctions. Therefore, TTF expenditures could increase by \$65,117 in fiscal 2006 for the salary and associated expenses required to process the anticipated additional caseload from the MVA.

The MVA is required to pay OAH \$92 for each MVA administrative hearing. If 46% of those eligible actually request a hearing, administrative hearings expenditures could increase by \$177,537 in fiscal 2006.

Mailing and printing costs associated with point system conferences, driver improvement programs, suspension, and revocation notices are expected to total \$5,242 in fiscal 2006.

	<u>Fiscal 2006</u>
Positions	2
Salaries	\$90,481
Administrative Hearings	145,866
Highway Signage	125,000
Other Operating Expenses	<u>15,255</u>
Total Expenditures (All funds)	\$376,602

Future year expenditures reflect: (1) annualization; (2) full salaries with 4.6% annual increases and 3% turnover and (3) 1% increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mp/jr

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