

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE

House Bill 1313

(Delegate Taylor, *et al.*)

Judiciary

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**Drunk and Drugged Driving - Subsequent Offender Penalties - Notice**

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For those alcohol- and/or drug-related offenses that authorize, but do not require, repeat offender penalties, and to the extent consistent with court rules, a court is prohibited from sentencing a defendant as a subsequent offender unless the State's Attorney serves notice of the alleged prior conviction on the defendant or his/her counsel before the acceptance of a guilty plea or plea of *nolo contendere* before trial.

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**Fiscal Summary**

**State Effect:** None. The bill codifies current practice.

**Local Effect:** None. The bill codifies current practice.

**Small Business Effect:** None.

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**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.

With a conviction for an alcohol- and/or drug-related driving offense, a violator is subject to a range of penalties involving fines and imprisonment, as well as suspension or

revocation of the driver's license by the Motor Vehicle Administration. A person convicted of driving under the influence or under the influence per se is subject to fines ranging from \$1,000 to \$3,000 and/or a maximum imprisonment term of one to three years. A repeat conviction within 5 years requires a mandatory minimum penalty of imprisonment from 5 to 10 days or community service from 30 to 60 days, as well as a mandatory alcohol abuse assessment. A conviction for lesser included offenses subjects the violator to a fine of \$500 and/or imprisonment not exceeding two months. However, for repeat offenders maximum prison terms increase to a year. If an offender is transporting a minor at the time of the alcohol- or drug-related driving offense, fines and sanctions increase beyond those already specified for lesser included offenses.

Maryland Rule 4-245 provides that when the law permits, but does not mandate additional penalties due to a specified previous conviction, the court may not sentence the defendant as a subsequent offender unless the State's Attorney serves notice of the alleged prior conviction on the defendant or counsel before acceptance of a guilty plea or plea of *nolo contendere*, or at least 15 days before trial in a circuit court or five days before trial in District Court, whichever is earlier.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State's Attorneys' Association, Judiciary ( Administrative Office of the Courts), Office of the Public Defender, Maryland Department of Transportation, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 17, 2006  
mam/jr

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