

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
Revised

House Bill 524

(Delegate Simmons, *et al.*)

Judiciary

Judicial Proceedings

Criminal Offenses - Driving Without a License - Arrest and Penalties

This bill alters arrest procedures and penalties for a person who operates a motor vehicle without a driver's license. If a police officer has probable cause to believe that a person is driving or attempting to drive a vehicle without a license, the police officer may arrest the person without a warrant. The maximum penalty for a first offense of driving without a license is altered to provide imprisonment for up to 60 days as an alternative or in addition to the current maximum fine of \$500. For a second or subsequent offense, the maximum penalty remains a fine of \$500 and/or imprisonment for one year.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill's penalty provisions. Enforcement of the bill's provisions could be done with existing resources.

Local Effect: Minimal increase in expenditures due to the bill's penalty provisions. Enforcement of the bill's provisions could be done with existing resources.

Small Business Effect: None.

Analysis

Current Law: An individual is prohibited from driving, or attempting to drive, a motor vehicle on any highway in this State unless the individual holds a driver's license, the individual is expressly exempt from licensing requirements, or the individual is specifically authorized to drive vehicles of the class that the individual is driving or

attempting to drive. An individual who violates this provision is guilty of a misdemeanor and is subject to a maximum fine of \$500. The penalty currently imposed by the District Court is \$320 and may be prepaid. A violation requires the assessment of five points against the driver's license. For a second and subsequent violation of driving without a license, the individual is subject to a maximum fine of \$500 and/or imprisonment for up to one year.

A police officer may arrest a person without a warrant for a violation of the Maryland Vehicle Law or any traffic law or ordinance of any local authority if:

- the person does not furnish identification or the officer has reasonable grounds to believe the person will disregard a traffic citation;
- the person is a nonresident and the officer has probable cause to believe that the person committed the violation which contributed to an accident; or
- the officer has probable cause to believe that the person committed the violation, the person is issued a traffic receipt, and the person refuses to acknowledge its receipt by signature.

A person arrested without a warrant must be arrested in the same manner as other misdemeanor cases and taken without unnecessary delay before a District Court Commissioner, unless the officer releases the person upon the person's written promise to appear for trial.

Background: The number of persons charged with driving without a license in Maryland has dramatically increased over the past few years. There has been about a 64% increase from fiscal 2002 through 2005 of drivers arrested for this offense. During that four-year period almost 100,000 drivers have been charged with driving without a license. These 100,000 drivers are separate and distinct from those drivers charged with driving with a suspended or revoked driver's license.

The current penalty for the offense of driving without a license has been described by traffic safety advocates as woefully inadequate, particularly in light of the increasing problem. For a first offense, a violation is punishable by a fine only. A prepaid fine of \$320 may be mailed without ever appearing in court. Although, in theory, a subsequent offender must appear in court and is subject to imprisonment, the reality is that a driver is rarely charged as a subsequent offender because information on a prior conviction is not available to a police officer at the time a citation is issued. A driver who is charged after a first violation can avoid the possibility of subsequent offender penalties by merely paying the "prepaid" fine without appearing in court.

According to the American Automobile Association (AAA) Foundation for Traffic Safety, drivers without valid licenses are involved in 20% of fatal crashes. About 28% of invalidly licensed drivers received three or more license suspensions or revocations in the three years before their fatal crashes. This information came from a study completed in 2003 entitled *Unlicensed to Drive – The Sequel*. This study expanded on information compiled for the first study, entitled *Unlicensed to Drive*, completed in 2000, also by the AAA Foundation for Traffic Safety.

Nationally, out of 390,278 drivers involved in fatal crashes from 1993 to 1999, 86.1%, or 335,091 drivers had valid licenses. Of those invalidly licensed, 3.6% or 14,196 drivers had no license; 18,657 drivers or 4.8% had suspended licenses; and 4,037 drivers or 1.3%, had revoked licenses. The study found that the highest proportion of invalidly licensed drivers was in New Mexico, where 23.9% of all drivers involved in fatal crashes were either unlicensed, driving with a revoked or suspended license, or were of “unknown status.” Other jurisdictions that had a relatively high proportion of fatal crashes among invalidly licensed drivers included the District of Columbia, Arizona, California, and Hawaii.

In Maryland, the study found that, from 1993 to 1999, an average of 90.82% of all Maryland drivers had valid licenses. Of those invalidly licensed, the largest group was “unknown status” at a 4.01% average of all drivers for that period. Drivers who never held a valid license comprised an average of 1.68% of all Maryland drivers using the highways; drivers with revoked licenses comprised 1.83% of all drivers; while drivers with suspended licenses comprised 1.58% of all drivers using the highways. During the same period, 6,188 Maryland drivers were involved in fatal crashes and 5,605 of those drivers had valid licenses. Of the invalidly licensed drivers, 104 had no license, 113 had revoked licenses, 98 had suspended licenses, and 248 drivers were of unknown status. The study reported that, in 2002, Maryland officials implemented a sting operation where drivers with suspended or revoked licenses were summoned to the Howard County courthouse. More than a third of the drivers were immediately arrested, as they had driven themselves to court.

The study also conducted an in-depth analysis of six states to determine the extent of the invalidly licensed driver problem and the types of practices and sanctions that could mitigate the problem. The study recommended that states consider the following:

- implement license plate removal when an unlicensed or invalidly licensed driver is apprehended;
- establish administrative vehicle impoundment, seizure, and immobilization programs;

- develop special plates or stickers that automatically establish probable cause to stop a vehicle;
- establish mandatory jail time for multiple offenders; and
- link vehicle registration and driver license records so that drivers cannot register their vehicles unless they have a valid license.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to increased payments to counties for reimbursement of inmate costs as more people could be committed to Division of Correction (DOC) facilities. The number of people convicted of this proposed crime is expected to be minimal.

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 2007 are estimated to range from \$17 to \$65 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$1,974 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$341 per month.

Local Fiscal Effect: Expenditures could increase as a result of the bill's incarceration penalty from more people being committed to local jails. 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 \$33 to \$119 per inmate in fiscal 2007.

Additional Information

Prior Introductions: None.

Cross File: SB 558 (Senator Frosh) – Judicial Proceedings.

Information Source(s): Montgomery County, Prince George's County, Caroline County, Calvert County, Howard County, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Baltimore City, AAA Foundation for Traffic Safety, Department of Legislative Services

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