

**Department of Legislative Services**  
 Maryland General Assembly  
 2006 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 525

(Delegate Zirkin, *et al.*)

Judiciary

Judicial Proceedings

**Vehicle Laws - Administrative Per Se Offenses - High Alcohol Concentration or  
 Test Refusal - Ignition Interlock System - Suspension Modifications and  
 Restrictive Licenses**

This bill alters penalties relating to refusing to take a test of blood or breath and establishes penalties for a test of blood or breath indicating a blood alcohol concentration of 0.15 or more. Suspension of driver's licenses under the bill is mandatory, unless the driver participates in the Ignition Interlock System Program.

The bill is effective January 1, 2007.

**Fiscal Summary**

**State Effect:** Transportation Trust Fund (TTF) revenues increase \$142,500 in FY 2007 from fees for corrected licenses. Out-years assume a stable caseload and include annualization. TTF expenditures increase \$264,400 in FY 2007 for additional personnel and related expenses to monitor drivers required to participate in the Ignition Interlock System Program. Out-years include annualization and inflation and assume a stable caseload.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
SF Revenue	\$142,500	\$285,000	\$285,000	\$285,000	\$285,000
SF Expenditure	264,400	436,100	462,700	491,300	522,100
Net Effect	(\$121,900)	(\$151,100)	(\$177,700)	(\$206,300)	(\$237,100)

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

**Local Effect:** None.

**Small Business Effect:** Potential minimal. Vendors qualified by the MVA to install ignition interlock systems could attain additional revenues under this bill.

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## Analysis

**Bill Summary:** This bill establishes a two-tier system of administrative penalties for BAC test results from 0.08 to less than 0.15 and test results of 0.15 or more. The bill increases the administrative suspension period to 90 days for a first offense and 180 days for a second or subsequent offense if the driver takes a test of blood or breath that indicates a BAC level of 0.15 or more. For a test result of 0.08, but less than 0.15, the administrative suspension period remains 45 days for a first offense and 90 days for a second or subsequent offense.

In addition to the notice of sanctions that a police officer must currently provide to a driver who refuses a test of blood or breath or a person who has a test result of 0.08 or greater, a police officer must inform a detained driver that if the driver refuses to take a test or takes a test with a BAC of 0.15 or greater, the person may participate in the Ignition Interlock Program for one year instead of requesting a hearing on the administrative penalties if certain conditions are met. The bill establishes the following conditions to authorize participation in the Ignition Interlock Program:

- the driver's license must not be currently suspended, revoked, canceled, or refused;
- the driver must not be charged with a moving violation that arises out of the same circumstances that involved a death or serious physical injury to another person; and
- within the time limits for requesting an administrative hearing, the driver must surrender a valid Maryland driver's license or sign a statement certifying that the driver no longer possesses the license, and elect in writing to participate in the Ignition Interlock Program for one year.

The bill also specifies that the existing authority of the Motor Vehicle Administration to modify an administrative suspension and issue a restrictive license applies only to those drivers who did not refuse to take a test and had a test result indicating a BAC of less than 0.15. The administration must find that the driver needs a restrictive license for specified reasons, and may also issue a restrictive license if the license is required to obtain necessary health care treatment (including prescriptions) for the driver or a member of the driver's immediate family.

If a driver refused to take a test or had a test with a BAC result of 0.15 or greater, the Motor Vehicle Administration may modify the license and issue a restrictive license only if the driver participates in the Ignition Interlock System Program for one year. If the driver fails to complete participation in the program, the license must be summarily suspended for the period applicable to the administrative offense of either taking a test with a result of 0.15 or greater, or refusing to take a test of blood or breath.

**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.

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 detained by a police officer on suspicion of committing an alcohol- and/or drug-related driving offense. However a person may not be compelled to submit to a test 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 life-threatening injury to another person and the police officer detains the person due to a reasonable belief that the person committed an alcohol- and/or drug-related driving offense.

If a person takes a test of blood or breath that indicates an alcohol concentration of .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 must suspend the driver's license or privilege for 120 days for a first offense and 1 year for subsequent offenses.

A person may participate in the Ignition Interlock System Program if the person's driving license is suspended or revoked for an alcohol- and/or drug-related driving offense or for the accumulation of points that lead to license suspension or revocation for these offenses. A person may participate if he/she is ordered to participate by a court. Also, a person may participate if the person's driving license has an alcohol restriction or if the MVA modifies a suspension or issues a restricted license to the person.

The MVA is authorized to issue a restrictive license to a person who participates in the program during the period that the driver's license is suspended. If the driver's license has been revoked for specified alcohol- and/or drug-related driving offenses or for the accumulation of points resulting from driving while under the influence of alcohol or

under the influence of alcohol per se, the MVA may reinstate the license and impose a period of suspension in lieu of the license revocation. A notice of suspension or revocation for alcohol- and/or drug-related driving offenses must include information about the program and the qualifications for admission. The MVA is also authorized to establish a fee for program participation. A person who is required to participate must be monitored by the MVA and pay the fee required by the MVA.

**State Revenues:** TTF revenues could increase by an estimated \$142,250 in fiscal 2007, accounting for the January 1, 2007 effective date of the bill from fees for corrected licenses. Each person who participates in the Ignition Interlock System Program is required to get a corrected license showing a restriction for program participation.

According to the Maryland State Police, 5,733 individuals tested 0.15 or higher in the first 10 months of calendar 2005 when detained by police. The revenue estimate assumes that in one full year 6,880 individuals could test at 0.15 and be affected by the bill. In calendar 2004, the Maryland State Police advises that 27,597 people were arrested for alcohol and/or drugged driving violations. Of those arrests, 7,125 or 31.5% refused to take a test. This estimate assumes that in one calendar year 7,125 people would refuse a test of blood or breath.

Accordingly, 14,005 people annually could be affected by this bill for either refusing to take a test of blood or breath or for a test result that indicates a blood alcohol level of 0.15 or higher. It is likely that some of these people would already be ignition interlock participants because they received a suspension modification at an administrative hearing or they were convicted of an alcohol-related driving offense and receive a suspension modification. The MVA advises that at any one time, about 4,500 drivers are participants in the Ignition Interlock System Program. This estimate assumes that after accounting for current participants, an additional 9,500 people annually could become participants in the Ignition Interlock System Program as a result of this bill's provisions.

While many factors could cause the number of people affected by this bill to fluctuate, this estimate assumes that the caseload of 9,500 remains constant. The revenue estimate assumes that all drivers required to participate in the Ignition Interlock System Program under the bill's provisions would pay the \$30 fee for a corrected license. Out-years assume a stable caseload and include annualization.

**State Expenditures:** TTF expenditures could increase by an estimated \$264,440 in fiscal 2007, accounting for the January 1, 2007 effective date. This estimate reflects the cost of hiring nine customer service agents to monitor driver participation in the Ignition Interlock System Program and process driver records. While the conditions attached to participation in the ignition interlock program could potentially reduce the number of

drivers in the program, it does not appear that the reduction would be significant enough to reduce the estimated staffing requirements. The penalty in the bill is administrative, and the MVA has the primary responsibility for issuing the penalty and monitoring drivers who are subject to the penalty. For this administrative penalty, the MVA advises that one customer service agent that monitors Ignition Interlock System Program participants could manage a caseload of 1,000 drivers annually. The estimate includes salaries, fringe benefits, one-time start-up costs, and other ongoing operating expenses.

Positions	9
Salaries and Fringe Benefits	\$209,945
Related Operating Expenses	<u>54,495</u>
<b>Total FY 2007 State Expenditures</b>	<b>\$264,440</b>

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

The MVA advises that computer programming modifications to the driver licensing system that could be required by the bill could result in a one-time expenditure of \$67,500 in fiscal 2007 only. However, the Department of Legislative Services (DLS) advises that, if other legislation is passed requiring computer programming changes, economies of scale could be realized. This would reduce computer programming costs associated with this bill and other legislation affecting the MVA system. Further, DLS advises that the increased computer expenditure is an estimate, and that the MVA may be able to handle the changes with existing resources.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore County, Charles County, Frederick County, Montgomery County, Prince George's County, Somerset County, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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