

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 577

(Senator Ruben, *et al.*)

Judicial Proceedings

---

Vehicle Laws - Finding of High Alcohol Concentration - Sentencing

---

This bill prohibits a court from entering a stay of judgment and granting probation before judgment, if the trier of fact finds, beyond a reasonable doubt, that the defendant committed an alcohol- and/or drug-related driving offense and had a test of blood or breath with a result indicating a blood alcohol concentration of 0.20 or more at the time of the violation. If the person is convicted of an alcohol- and/or drug-related driving offense and the trier of fact finds, beyond a reasonable doubt, that the defendant had a test of blood or breath that indicated a blood alcohol concentration of 0.20 or more at the time of the violation, the court is prohibited from suspending any sentence or placing the person on probation, including probation before judgment.

---

Fiscal Summary

**State Effect:** While this bill could slightly increase the number of related trials, as well as motor vehicle license suspensions/revocations, its requirements could be accommodated within the existing budgeted resources of the District Court and the Motor Vehicle Administration.

**Local Effect:** None.

**Small Business Effect:** None.

---

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.

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 who is 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 a life-threatening injury to another person. If, after being informed of the administrative sanctions that must be imposed and notice and hearing requirements, a person takes a test of blood or breath that indicates an alcohol concentration of 0.08 or more at the time of testing, the Motor Vehicle Administration must suspend the driver's license or privilege for 45 days for a first offense, and 90 days for a second or subsequent offense.

A court may enter a stay of judgment and grant probation before judgment unless the defendant is charged with any of the following offenses, and the defendant has been convicted of, or given probation for, any of these offenses within the preceding five years: (1) driving while under the influence of alcohol, or under the influence of alcohol per se; (2) driving while impaired by alcohol; (3) driving while impaired by drugs or drugs and alcohol; (4) driving while impaired by a controlled dangerous substance; (5) homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol per se; (6) homicide by motor vehicle or vessel while impaired by alcohol; (7) homicide by motor vehicle or vessel while impaired by drugs or drugs and alcohol; (8) homicide by motor vehicle or vessel while impaired by a controlled dangerous substance; or (9) life threatening injury by motor vehicle or vessel while under the influence of alcohol and related crimes.

On entering a judgment of conviction, a court may suspend the imposition of execution of the sentence and place the defendant on probation on conditions that the court considers proper.

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 MVA. 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 maximum penalties of a \$500 fine and/or two months imprisonment. However, for repeat offenders maximum prison terms increase to a year. If an offender is transporting a minor at the time of the alcohol- and/or drug-related driving offense, fines and sanctions increase beyond those already specified for lesser included offenses.

**Background:** According to the National Conference of State Legislatures, at least 32 states have enacted high blood alcohol content laws (also known as high BAC laws). States with high BAC laws generally establish a two-tier system for drunk driving offenses. The standard drunk driving limit is still set at 0.08 BAC, but a second, higher BAC level is established for drivers who are extremely drunk. These high BAC levels range from 0.15 to 0.20. Some states impose stiffer penalties for a high BAC offense, while others establish high BAC as a separate offense with separate penalties. At least 11 states considered bills to establish a high BAC threshold in 2005, but the only state to pass such a law was Texas, which imposed higher fines and required ignition interlock for drivers with a BAC higher than 0.15.

---

### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, National Conference of State Legislatures, Department of Legislative Services

**Fiscal Note History:** First Reader - March 3, 2006  
ncs/jr

---

Analysis by: Karen D. Morgan

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510