

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 1063
Judiciary

(Delegate Taylor, *et al.*)

Drunk and Drugged Driving - Subsequent Offender Penalties

This bill specifies that the Maryland Rule that prohibits a defendant from being sentenced as a subsequent offender unless the State's Attorney has served notice of an alleged prior conviction before the acceptance of a guilty plea or plea of *nolo contendere* or at least 15 days before trial in the District Court, does not apply to those alcohol- and/or drug-related driving offenses for which additional penalties are allowed, but not required to be imposed by a court a sentencing.

Fiscal Summary

State Effect: None. The bill's requirements could be met with existing resources.

Local Effect: None. The bill's requirements could be met with existing resources.

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.

With a conviction for a subsequent alcohol- and/or drug-related driving offense, a violator is subject to a range of additional criminal penalties involving fines and imprisonment, several of which are allowed, but not required to be imposed by a court at sentencing.

A person convicted of a second offense of driving or attempting to drive: (1) while under the influence or under the influence of alcohol per se; or (2) while impaired by a controlled dangerous substance; is subject to a maximum penalty of a \$2,000 fine and/or two years imprisonment. For a third or subsequent offense, an offender is subject to a maximum penalty of a \$3,000 fine and/or three years imprisonment. However, a repeat conviction for these offenses or lesser included offenses 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 or drug abuse assessment.

A conviction for driving or attempting to drive while impaired by alcohol or by drugs or drugs and alcohol subjects the violator to a maximum penalty of a \$500 fine and/or two months imprisonment. For repeat offenders, maximum prison terms could increase to one year.

Also, if an offender is convicted of a subsequent offense of drunk or drugged driving while transporting a minor, additional periods of imprisonment may be imposed by a court at sentencing. A second offense of driving or attempting to drive while: (1) under the influence or under the influence of alcohol per se, or (2) while impaired by a controlled dangerous substance, subjects the offender to a maximum penalty of a \$3,000 fine and/or three years imprisonment. A third or subsequent offense subjects the offender to a maximum penalty of a \$4,000 fine and/or imprisonment for four years. A second or subsequent offense of driving or attempting to drive while impaired by alcohol or while impaired by drugs or drugs and alcohol while transporting a minor subjects the offender to a maximum penalty of a \$2,000 fine and/or one year imprisonment.

A provision of 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 5 days before trial in District Court, whichever is earlier.

Additional Information

Prior Introductions: HB 1313 of 2006, a similar bill, received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): State's Attorneys' Association, Commission on Criminal Sentencing Policy, 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

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