

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 1126

(Delegate Frush)

Judiciary

Vehicle Laws - Delinquent Motor Vehicle Theft Offenses - License Suspension

This bill requires the Motor Vehicle Administration (MVA) to initiate an action to suspend the driving privilege of a child when the clerk of the court notifies the MVA, pursuant to a court order, that the child has been adjudicated delinquent for violating provisions against the unlawful taking or unauthorized use of a motor vehicle. For a first offense, the MVA must initiate an action to suspend the child's driving privilege for one year. For a second offense, the suspension must be for two years; for a third offense, the suspension must be for three years.

If the child subject to a suspension for the unlawful taking or unauthorized use of a motor vehicle does not hold a driver's license on the date of the court order, the suspension must commence on the date of the disposition if the child is at least 16 years old at that time. If the child is younger than 16 on the date of the disposition, the suspension must commence on the date the child reaches age 16.

Fiscal Summary

State Effect: Potential minimal reduction in Transportation Trust Fund (TTF) revenues beginning in FY 2008 to the extent offenders are subject to license suspension rather than license revocation. Potential minimal increase in general fund revenues for the Office of Administrative Hearings due to additional hearings. Potential minimal increase in TTF expenditures for additional administrative hearings in FY 2008 and future years.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: An adjudication of a child as delinquent for violating laws against an unlawful taking or unauthorized use of a motor vehicle must be reported by the clerk of court to the MVA. Section 16-402(a) (37) of the Transportation Article then requires the MVA to assess 12 points against the child's driver's license in the same manner as if the child had been convicted of the offense. If an individual accumulates 12 points within a two-year period, then § 16-404(b) of the Transportation Article requires the MVA to issue a notice of revocation. Unless a hearing is requested, the revocation notice becomes effective at the end of the 10-day period after the notice is sent.

Under § 16-208(b) of the Transportation Article, a person whose license has been revoked for the first time may file a reinstatement application any time the day after the revoked license is surrendered to the MVA. Generally, for a first revocation, the MVA may reinstate a revoked license six months after the revoked license is received by the MVA. For a second revocation, a person may apply for reinstatement one year after the revoked license is received by the MVA. For a third revocation, a person may apply for reinstatement 18 months after the revoked license is received by the MVA. For a fourth or subsequent revocation, a person may apply for reinstatement two years after the day the revoked license is received by the MVA. Section 16-405 of the Transportation Article authorizes a hearing officer to decline, cancel, or modify a revocation if the revocation would adversely affect the driver's employment or opportunities for employment.

On a finding that a child has committed a violation as specified in a citation (that is, misrepresentation of age to obtain alcoholic beverages, underage possession of alcoholic beverages, false documentation of age, obtaining an alcoholic beverage for someone who is younger than 21, possession of tobacco products or using false identification to obtain tobacco products, and drinking or possessing alcoholic beverages on school premises), the court may order the MVA to initiate an action to suspend the driving privilege of a child for a specified period of at least 30 days, and up to a maximum of 90 days. If the child subject to suspension does not hold a driver's license on the date of the disposition, the suspension must commence on the date of the disposition if the child is at least 16 years old. If the child is younger than 16, then the suspension must commence on the date the child becomes 16 years old.

In addition to suspension of a driver's license, the court may also counsel the child, parent, or both, or order the child to participate in an alcohol education or rehabilitation program that is in the best interest of the child. The court may also impose a fine of up to \$25 for a first violation and up to \$100 for the second and subsequent violations. The court may also order the child to participate in a supervised work program for up to 20 hours upon a first violation and up to 40 hours for a second violation.

Under § 7-105 of the Criminal Law Article, a person is prohibited from knowingly and willfully taking a motor vehicle out of the owner's lawful custody, control, or use without the owner's consent. A person who commits this offense is guilty of a felony and is subject to imprisonment for up to five years and/or a maximum fine of \$5,000 and must restore the motor vehicle or pay the full value to the owner if the motor vehicle cannot be restored.

Under § 7-203 of the Criminal Law Article, without the permission of the owner, a person may not enter the premises of another and take or carry away from the premises, or out of the owner's custody, any property, including a vehicle, a motor vehicle, a vessel, or livestock. A person who violates this provision is guilty of a misdemeanor and is subject to imprisonment for at least six months and up to four years and/or a fine of at least \$50 and up to \$100. The violator must also restore the property or pay the full value of the property if it cannot be restored.

Under § 14-102 of the Transportation Article, a person may not drive or take a vehicle without the owner's consent and deprive the owner temporarily of its possession, even if the person did not intend to steal it. The consent of the owner to the driving or taking of the vehicle may not be presumed or implied because the owner gave consent to the driving or taking of the vehicle on a previous occasion to the same or another person. Section 27-101(c) of the Transportation Article provides that a person who violates this provision is guilty of a misdemeanor and is subject to imprisonment for up to two months and/or a maximum fine of \$500.

Background: According to the *Maryland Uniform Crime Report*, for calendar 2005, there were 34,070 motor vehicle thefts statewide, a slight decrease from the 35,858 motor vehicle thefts that took place in calendar 2004. Of the 34,070 vehicles stolen, 25,770 were recovered. Forty-one percent of the thefts involved juveniles. In 2005, 3,853 motor vehicle thefts were cleared, with 29% of the clearances involving juveniles. The largest number of motor vehicle thefts took place in Prince George's County with a total of 17,242. The second highest number of thefts took place in Baltimore City, with a total of 6,232. The lowest number of motor vehicle thefts took place in Garrett County, with 19 during calendar 2005.

State Revenues: TTF revenues could potentially decrease to the extent offenders are subject to license suspension rather than license revocation. Under current law, the reinstatement of a driver's license costs \$75 and the issuance of a new license costs \$20, for a total of \$95. After a license suspension is completed, the MVA issues a new license for \$20. To the extent the MVA suspends driver's licenses and receives \$20 in revenue from the issuance of a new license, rather than \$95 for the reinstatement and issuance of a new license, TTF revenues could be reduced. Any reduction would begin in late fiscal 2008 when the MVA would otherwise begin reinstating revoked licenses. Instead, any

revenue due to issuance of a new license after a mandatory one-year suspension would not be collected until fiscal 2009 and would be a lower amount.

General fund revenues could potentially increase minimally as a result of the \$125 charged by the Office of Administrative Hearings (OAH) to additional individuals who may request administrative hearings.

State Expenditures: There could be a potential, minimal increase in TTF expenditures related to additional administrative hearings, as noted above. The MVA is required to pay \$125 to OAH for each administrative hearing. The MVA advises that there were 665 juvenile dispositions for unauthorized use of a motor vehicle as of March 2007. The MVA experience suggests that 46% of those subject to license suspension sanctions request an administrative hearing. *By way of illustration*, if the number of juvenile dispositions in fiscal 2008 were 665 and 46% (or 306) requested a hearing, then TTF expenditures could increase by \$38,250.

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 \$16,000 in fiscal 2008 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.

Additional Information

Prior Introductions: This is a reintroduction of HB 748 of 2006, which received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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