

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

Senate Bill 378 (Senator Zirkin)
 Judicial Proceedings

**Drunk Driving - Administrative Per Se Offense - Alcohol Concentration -
 Ignition Interlock System Program**

This bill lowers the threshold for a blood alcohol content test from 0.15 to 0.08 for which a driver may commit to participate in the Ignition Interlock System Program for one year instead of requesting a hearing on the mandatory suspension of the driver’s license, provided all other current law conditions are met.

Fiscal Summary

State Effect: Transportation Trust Fund revenues increase by \$22,500 in FY 2009 from fees for corrected licenses. Out-years reflect annualization and assume a stable caseload. TTF expenditures increase \$44,800 in FY 2009 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 2009	FY 2010	FY 2011	FY 2012	FY 2013
SF Revenue	\$22,500	\$30,000	\$30,000	\$30,000	\$30,000
SF Expenditure	44,800	52,000	54,700	57,500	60,400
Net Effect	(\$22,300)	(\$22,000)	(\$24,700)	(\$27,500)	(\$30,400)

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 Motor Vehicle Administration to install ignition interlock systems could attain additional revenues under the bill.

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 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.

A two-tier system of administrative penalties exists for BAC test results from 0.08 to less than 0.15 and test results of 0.15 or more. The administrative suspension period of 90 days for a first offense and 180 days for a second or subsequent offense applies 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 is 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 System Program for one year instead of requesting a hearing on the administrative penalties if certain conditions are met. The following conditions must be met to authorize participation in the Ignition Interlock System 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 System Program for one year.

If a driver refused to take a test or had a test with a BAC result of 0.15 or greater, MVA 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.

Background: According to Mothers Against Drunk Driving, about one-third of all drunk driving arrests involve people who have been previously convicted of driving under the influence of alcohol. Studies of the ignition interlock system over the last 10 years in California, Maryland, the Canadian province of Alberta, and other places have concluded that the use of ignition interlock results in a 50 to 90% reduction in subsequent drunk driving offenses by those drivers using the system, as opposed to those who were not using the system. Once the system is removed, however, these studies found that many of the drivers who were subject to ignition interlock gradually return to impaired driving.

Forty states (including Maryland) and the District of Columbia authorize the use of ignition interlock for certain drunk drivers. Four states (Arizona, Illinois, Louisiana, and New Mexico) mandate the use of ignition interlock for any drunk driving conviction, including a first conviction.

State Revenues: TTF revenues could increase by an estimated \$22,500 in fiscal 2009, accounting for the October 1, 2008 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 at a cost of \$30 showing a restriction for program participation.

According to the Maryland State Police, 8,117 individuals tested between .08 and 0.15 in calendar 2007 when detained by police. The revenue estimate assumes that in one full year 1,000 individuals could test between 0.08 and 0.15 and be affected by the bill. Of the 8,117 people detained annually, it is likely that some of the 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. Others would not be able to participate under the bill's provisions because of an inability to meet the conditions for participation.

While many factors could cause the number of people affected by this bill to fluctuate, this estimate assumes that the caseload of 1,000 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-year revenues of \$30,000 assume a stable caseload and include annualization.

State Expenditures: TTF expenditures could increase by an estimated \$44,846 in fiscal 2009, accounting for the October 1, 2008 effective date. This estimate reflects the cost of one customer service agent to monitor driver participation in the Ignition Interlock System Program and process driver records. The penalty in the bill is administrative, and MVA has the primary responsibility for issuing the penalty and monitoring drivers who are subject to the penalty.

Chapter 461 of 2006 made the Ignition Interlock System Program available to those drivers who tested 0.15 and higher as long as the driver met conditions similar to the conditions in this bill. In calendar 2007, the State Police report that 7,379 people tested 0.15 and higher after being detained by police. MVA advises that its caseload for the Ignition Interlock System Program has increased by about 1,000 since enactment of Chapter 461. Since the number of drivers detained and tested with results of 0.08 to 0.14 (8,117) is only slightly higher than the number of drivers detained and tested with results of 0.15 and higher, (7,379). DLS estimates that the MVA caseload will increase by about the same amount under this bill as it did after enactment of Chapter 461, that is, by about 1,000 cases.

For this administrative penalty, 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 a salary, fringe benefits, one-time start-up costs, and other ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$37,853
Related Operating Expenses	<u>6,993</u>
Total FY 2009 State Expenditures	\$44,846

Future year expenditures reflect • a full salary with 4.4% annual increases and 3% employee turnover; • 2% annual increases in ongoing operating expenses; and • a stable caseload.

MVA advises that computer programming modifications to the driver licensing system that could be required by the bill could result in additional one-time expenditures in fiscal 2009 only. However, 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 MVA may be able to handle the changes with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of Administrative Hearings, Maryland Department of Transportation, Mothers Against Drunk Driving, Governor's Highway Safety Association, Department of Legislative Services

Fiscal Note History: First Reader - February 11, 2008
mcp/ljm

Analysis by: Karen D. Morgan

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