

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 172
Judiciary

(Delegate G. Clagett, *et al.*)

Vehicle Laws - Recklessly Contributing to an Accident in a Highway Work Zone
- Penalties

This bill establishes the offense of recklessly contributing to an accident in a highway work zone. A person is guilty of this offense if the person drives a motor vehicle in wanton or willful disregard for the safety of persons or property or in a manner that indicates such a disregard and the driving contributes to an accident in a highway work zone. A “highway work zone” is a temporary or permanent highway work or construction area on or along a highway that is marked by appropriate signage indicating that work is in progress. For a person charged with this offense, a court may find the person guilty of any lesser included offense. A violator is guilty of a misdemeanor and is subject to a maximum penalty of 90 days imprisonment and/or a \$1,000 fine. The Motor Vehicle Administration (MVA) is required to assess six points against the driver’s license.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill’s penalty provision. Potential minimal increase in Transportation Trust Fund (TTF) revenues due to additional driver conferences and driver license suspensions and revocations. Potential minimal increase in general fund expenditures due to the incarceration penalty. Enforcement of the bill’s provisions can be handled with existing resources.

Local Effect: Potential minimal increase in expenditures due to the bill’s incarceration provision. Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: A person is guilty of reckless driving if the person drives a motor vehicle in wanton or willful disregard for the safety of persons or property or in a manner that indicates such a disregard. For a person charged with this offense, a court may find the person guilty of any lesser included offense. A violator is guilty of a misdemeanor and subject to a maximum fine of \$1,000. The prepayment penalty assessed by the District Court is \$510. MVA is required to assess six points against the driver's license.

For purposes of speed limit enforcement, a "highway work zone" is defined as a construction or maintenance area on or alongside a highway that is appropriately marked with traffic control devices showing that work is in progress. The State Highway Administration, a county, or a municipal corporation are authorized to reduce established speed limits in a highway work zone to protect the public. (*See* Transportation Article § 21-802.1.)

A driver who accumulates six points on the driver's license within a two-year period is subject to administrative sanctions. An accumulation of five points requires the driver to attend a driver's safety conference. A driver who accumulates 8 points on the driver's license within a two-year period is subject to license suspension, and the accumulation of 12 points subjects the driver to license revocation. (*See* Transportation Article § 16-404.)

Background: Based on historical data from the Maryland Department of Transportation, thousands of traffic accidents occur within highway work zones annually. In 2007, 835 traffic fatalities in highway work zones occurred nationally. During the same period in Maryland, 2,252 accidents and 10 fatalities occurred in highway work zones. According to the National Work Zone Safety Information Clearinghouse, Michigan, Oregon, and Washington have enacted legislation to prohibit the reckless endangerment of highway workers in construction zones. Illinois imposes up to 14 years imprisonment for the reckless homicide of a construction worker in a highway construction or maintenance zone.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court. Historical data from the District Court indicates that about 733 people are convicted of reckless driving annually. Given that 100,943 accidents occurred statewide in 2007, it is likely that less than 1% of drivers involved in accidents would be convicted of this offense.

Potential minimal increase in TTF revenues from fees for additional driver improvement conferences and the restoration of driver's licenses that may be suspended or revoked due to the accumulation of points. The fee for a mandatory driver improvement conference is \$60 and rescheduling of the conference is \$25. The fee for reissuance of a license that

has been suspended is \$30, and the fee to reinstate a license that has been revoked due to points accumulation is \$45. Although the number of additional drivers who might be subject to these fees cannot be reliably predicted, it is anticipated that any additional revenues generated is minimal.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalty due to increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2010 are estimated to range from \$23 to \$71 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a Division of Correction (DOC) facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$2,600 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including variable medical care and variable operating costs) is \$342 per month. Excluding all medical care, the average variable costs total \$164 per month.

Local Expenditures: Expenditures increase as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$46 to \$141 per inmate in fiscal 2010.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, American Association of State Highway and Transportation Officials, National Work Zone Safety Information Clearinghouse, U.S. Department of Transportation, Department of Legislative Services

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