

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 682

(Senator Muse)

Judicial Proceedings

Vehicle Laws - "Road Rage" Offenses

This bill prohibits a person from violating, with malice, any Maryland Vehicle Law provisions relating to (1) overtaking and passing vehicles; (2) driving in a single lane; (3) following too closely; (4) stopping or decreasing speed; (5) using slow speed to impede traffic; or (6) limitations on backing up a vehicle. A person convicted of violating this “offenses committed with malice” provision is subject to a maximum fine of \$1,000. However, if the trier of fact finds beyond a reasonable doubt that the violation contributes to an accident, the maximum penalty is two months imprisonment and/or a fine of \$2,000. The court may not impose this enhanced penalty unless the State’s Attorney complies with notice to the defendant or defendant’s counsel, as specified.

Fiscal Summary

State Effect: Minimal general fund revenue and expenditure increase from the bill’s penalty provisions. Enforcement 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: The Maryland Vehicle Law requires that, when overtaking another vehicle, the driver must wait until safely clear of the overtaken vehicle before driving the vehicle directly in front of the overtaken vehicle. Except when overtaking and passing on

the right is permitted, the driver of an overtaken vehicle may not increase speed until completely passed by the overtaking vehicle.

A driver is prohibited from following another vehicle more closely than is reasonable and prudent. The driver must have due regard for the speed of the other vehicle, the traffic, and highway conditions. In addition, a driver must drive within a single lane as much as practicable and not move to another lane or onto a road shoulder or bikeway unless safe to do so. Drivers of trucks, other vehicles towing vehicles, or a motor vehicle that is part of a caravan or motorcade must be driven to allow enough space between the vehicle or vehicle combination to allow any other vehicle to enter and occupy the space without danger. This provision does not apply to a funeral procession.

If there is a chance to signal, a person may not stop or suddenly slow a vehicle until an appropriate signal is given to the driver of any other vehicle immediately in the rear. Unless reduced speed is necessary for safe vehicle operation, or to comply with the law, a person may not willfully drive a vehicle at such a slow speed as to impede the normal and reasonable flow of traffic.

A driver may not back a vehicle unless the maneuver can be done safely and without interfering with traffic. A driver is prohibited from backing up a vehicle on any shoulder or roadway of a controlled access highway.

A violation of the above Maryland Vehicle Law is a misdemeanor. A violator is subject to a maximum fine of \$500. Prepayment penalties set by the District Court range from \$90 to \$110 for the above offenses. If the violation contributes to an accident, the prepayment penalty ranges from \$130 to \$150. Also, one to two points must be assessed unless the offense contributes to an accident, which requires the assessment of three points. The accumulation of points may result in additional administrative sanctions including a warning letter from the Motor Vehicle Administration (MVA), a mandatory driver conference, and driver's license suspension or revocation.

Background: In April 2007, two people were killed on the I-270 highway in Montgomery County during a road rage incident. Police reported that witnesses saw the drivers of two vehicles (a green pick-up truck and a Chrysler convertible) exchange angry gestures. The driver in the green pick-up truck pulled in front of the Chrysler and slammed on the brakes. The Chrysler swerved to miss the truck, flipped over, and rolled several times. The two occupants of the Chrysler were not wearing seat belts, were ejected from their car, and died at the scene. The driver of the pick-up truck sped away.

According to the National Highway Traffic Safety Administration (NHTSA), road rage and aggressive driving, while often used interchangeably in casual conversation, are different. While aggressive driving is a combination of moving traffic offenses that

endangers other persons or property, “road rage” is an assault with a motor vehicle or other dangerous weapon by the operator or passengers of one motor vehicle on the operator or passengers of another motor vehicle or an assault that is caused by an incident that occurred on a roadway. Road rage requires a willful and wanton disregard for the safety of others. As a result, road rage is a criminal offense.

According to the Governors Highway Safety Association, 14 states have addressed actions that meet the definition of aggressive driving as proffered by NHTSA. Eleven states have enacted aggressive driving laws although one of the states (Florida) enacted subsequent legislation prohibiting enforcement of the law. Pennsylvania has passed a resolution against aggressive driving, while California and Utah broadened their existing reckless driving laws to include elements of aggressive driving; Three of these states, (Georgia, Indiana, and Virginia) have included in their statutes elements which further criminalize road rage. Their statutes include as elements, “...an intent to annoy, harass, molest, intimidate, injure or obstruct another person while doing actions such as following too closely, overtaking and passing another vehicle unsafely, slowing, stopping, impeding traffic flow and reckless driving.”

Maryland, Virginia, Pennsylvania, and the District of Columbia have been involved in a public education/enforcement program called “Smooth Operator” since 1997. This campaign targets many of the aggressive driver behaviors that could lead to road rage. In addition to increased enforcement, public education campaigns attempt to stigmatize tailgating, speeding, unsafe lane changes, running red lights or stop signs, and other behaviors that compromise traffic safety. In addition, the Maryland Strategic Highway Safety Plan for 2006-2010 includes reducing fatalities and injuries related to aggressive driving and speeding by 5 to 6%, including reducing:

- aggressive driving fatalities from 62 in 2005 to 59 or fewer in 2010;
- aggressive driving injuries from 4,060 in 2005 to fewer than 3,800 in 2010;
- excessive speeding fatalities from 173 in 2005 to fewer than 164 in 2010; and
- excessive speeding injuries from 11,005 in 2005 to fewer than 10,450 in 2010.

State Revenues: General fund revenues increase minimally as a result of the bill’s monetary penalty provision from cases heard in the District Court. Although there were 7,922 charges in 2008 for the offenses included in the bill, it is unclear how many would be considered a violation committed with malice under this bill.

State Expenditures: General fund expenditures increase minimally as a result of the bill’s incarceration penalty due to increased payments for inmate costs in Baltimore City. 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 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: HB 1348, a similar bill, received an unfavorable report from the House Judiciary Committee.

Cross File: HB 271 (Delegate Stein, *et al.*) - Judiciary.

Information Source(s): Kent and Worcester counties, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Public Safety and Correctional Services, State's Attorneys' Association, Maryland Department of Transportation, National Highway Traffic Safety Administration, Governors Highway Safety Association, Department of Legislative Services

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