

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE

Senate Bill 913 (Senator Zirkin)
 Judicial Proceedings

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

This bill expands participation in the Ignition Interlock System Program by lowering the threshold for a blood alcohol content (BAC) 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. The Motor Vehicle Administration (MVA) is required to adopt regulations for implementation.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) revenues increase by \$56,300 in FY 2010 from fees for corrected licenses. Out-years reflect annualization and assume a stable caseload. TTF expenditures increase \$112,700 in FY 2010 for additional personnel and related expenses to monitor drivers who participate in the Ignition Interlock System Program. Out-years include annualization and assume a stable caseload.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
SF Revenue	\$56,300	\$75,000	\$75,000	\$75,000	\$75,000
SF Expenditure	\$112,700	\$136,300	\$142,900	\$149,900	\$157,300
Net Effect	(\$56,400)	(\$61,300)	(\$67,900)	(\$74,900)	(\$82,300)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Potential minimal. Vendors qualified by MVA to install ignition interlock systems may 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 and/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. 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, however, 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 traffic fatalities involve impaired drivers who have a BAC of 0.08 or greater. The National Conference of State Legislatures notes that no significant progress in reducing the number of alcohol-impaired fatalities has occurred since the late 1990s.

Studies of ignition interlock 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 95% 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-six states (including Maryland) and the District of Columbia authorize the use of ignition interlock systems for certain drunk drivers. Fewer than half of the states with ignition interlock mandate its use under any circumstances and those that do have mandatory provisions generally limit their application to offenders with prior impaired driving convictions. However, four states (Arizona, Illinois, Louisiana, and New Mexico) mandate the use of ignition interlock for any drunk driving conviction, including a first conviction. Four states (Colorado, Kansas, New Hampshire, and West Virginia) make ignition interlock mandatory for so-called “high BAC” offenses (that is, 0.15 or 0.16 BAC) as well as repeat offenders. In an *Associated Press* article, the Division of Motor Vehicles in West Virginia reported that the number of residents required to install the ignition interlock device increased by 40% since the law was amended to mandate ignition interlock use for anyone convicted of impaired driving with a BAC of 0.15 or higher. Four states (Alabama, Maine, South Dakota, and Vermont) have no laws authorizing the use of ignition interlock systems for impaired drivers.

State Revenues: TTF revenues may increase by an estimated \$56,250 in fiscal 2010, accounting for the October 1, 2009 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, 7,979 individuals tested between 0.08 and 0.15 BAC in 2008 when detained by police. MVA advises that in one year, 2,500 individuals may test between 0.08 and 0.15 BAC and meet the conditions set forth in the bill. Of the 7,979 people that may be detained annually, it is likely that some of those people already use ignition interlocks 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 are not able to participate under the bill's provisions because of an inability to meet the conditions.

While many factors may cause the number of people affected by this bill to fluctuate, this estimate assumes that the caseload of 2,500 remains constant. The revenue estimate assumes that all drivers required to participate in the Ignition Interlock System Program under the bill's provisions pay the \$30 fee for a corrected license. Out-year revenues of \$75,000 assume a stable caseload and include annualization.

State Expenditures: TTF expenditures increase by an estimated \$112,689 in fiscal 2010, accounting for the bill's October 1, 2009 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. MVA advises that one customer service agent that monitors Ignition Interlock System Program participants can manage a caseload of 2,400 drivers annually due to a new automated process that allows the customer agent to process more cases per year than in prior years. It also reflects the need for one additional assistant Attorney General to address the related workload increase. 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. The estimate includes salaries, fringe benefits, one-time start-up costs, and other ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	\$99,704
Related Operating Expenses	<u>12,985</u>
Total FY 2010 State Expenditures	\$112,689

Future year expenditures reflect full salaries with 4.4% annual increases, 3% employee turnover, 1% annual increases in ongoing operating expenses, and a stable caseload.

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 2008, the State Police report that 7,194 people tested 0.15 BAC or greater after being detained by police. The number of drivers detained and tested with

BAC results of 0.08 to 0.14 (7,979) is slightly higher than the number of drivers detained and tested with BAC results of 0.15 or greater (7,194).

Additional Information

Prior Introductions: SB 378 of 2008 received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Department of Public Safety and Correctional Services, Maryland Department of Transportation, *Associated Press*, Mothers Against Drunk Driving, National Conference of State Legislatures, Department of Legislative Services

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