

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 305 (The Speaker, *et al.*) (By Request - Administration)
Judiciary

Judicial Proceedings

Vehicle Laws - Alcohol Restriction on Driver's License - Penalties for Violations

This Administration bill makes the conviction for a violation of an alcohol restriction on a driver's license that is imposed by the Motor Vehicle Administration (MVA) a misdemeanor. It subjects a person who violates this restriction to the maximum penalties of up to two months imprisonment and/or a fine of \$500. The bill also establishes that the violation of any restriction imposed on a driver's license or the violation of any rule or regulation under the Maryland Vehicle Law may subject the violator to up to two months imprisonment and/or a fine of up to \$500 or, if greater, the same penalties authorized by the law or regulation that was violated.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and potential minimal increase in general fund expenditures due to 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.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: An individual may not drive or attempt to drive a motor vehicle after ingesting any alcohol if the court has imposed an alcohol restriction on the individual's driver's license. A person who violates an alcohol restriction on the driver's license that is imposed by a court is subject to a maximum penalty of two months imprisonment and/or a fine of \$500.

Except as otherwise provided, any person who violates a restriction imposed on the driver's license or who violates any rule or regulation adopted under the Maryland Vehicle Law is guilty of a misdemeanor. In addition to any administrative penalties that may be imposed, the person is subject to a maximum fine of \$500 or, if greater, to the same penalties that are provided under the statute, rule, or regulation that was violated.

Background:

The Task Force to Combat Driving Under the Influence of Drugs and Alcohol: The bill is recommended by the Task Force to Combat Driving Under the Influence of Drugs and Alcohol. The task force recommends that a conviction for any violation of an alcohol restriction on a driver's license, whether imposed by a court or by MVA, become an incarcerable offense with a maximum recommended sentence of 60 days imprisonment and/or a fine of \$500. The task force found that an increasing number of alcohol- or drug-impaired drivers are repeat offenders and that additional sanctions are needed to help reduce recidivism and improve public safety. The task force advises that this measure will help reduce blood alcohol concentration levels in drivers. A similar measure was found to be effective in Maine where the number of convicted alcohol-impaired drivers involved in fatal crashes decreased by 45%.

The task force was created by Chapters 533 and 534 of 2007 and was required to submit an interim report in December of 2007 and a final report by October 31, 2008. The task force was required to:

- review achievements in combating impaired driving within the past 20 years;
- identify and assess current efforts to address impaired driving;
- identify national best practices for combating impaired driving;
- determine if any gaps exist between current State efforts and the identified national best practices;
- recommend necessary actions to implement national best practices in Maryland;
- recommend new State initiatives to address populations that are disproportionately responsible for driving fatalities due to impaired driving;

- recommend actions to sustain and enhance public awareness and concern for the dangers imposed by impaired driving; and
- recommend strategies for the improved coordination of management, funding, and resources at State and local levels.

The task force issued 42 recommendations focusing on initiatives in the Maryland Department of Transportation, law enforcement, treatment of alcohol- or drug-impaired drivers, the courts, education, and the legislature. Seven recommendations specifically were targeted to the Maryland General Assembly:

- pass legislation to discourage and punish underage drinking by linking the privilege of driving to abstention from alcohol and drugs;
- impose incarceration for the violation of an alcohol restriction on a driver's license;
- increase the time before a person is eligible for another probation before judgment (PBJ) after receiving the first one, from 5 to 10 years;
- make all driving while impaired offenses count toward repeat offender status;
- require law enforcement to request alcohol testing of all drivers involved in life-threatening or fatal crashes;
- require from all ignition interlock users at least six months of failure-free use before release from the program; and
- recodify all laws related to driving under the influence and driving while impaired.

Impaired Driving Generally: According to the U.S. Department of Transportation, alcohol-impaired driving is one of the nation's deadliest crimes. Although some progress has been made in reducing alcohol-impaired driving, most of that progress occurred in the 1980s and 1990s. From about 1982 to 1995, the percentage of fatally injured alcohol-impaired drivers who were 16 to 20 years old declined by more than half. Since then, the proportion of those fatalities has hovered around 25%. In 2007, over half of all fatally injured drivers in the 21 to 30 age group had blood alcohol concentration levels at or above 0.08%.

According to the Insurance Institute for Highway Safety, 20,281 alcohol-related traffic fatalities occurred nationwide in 2007, about 49% of the total traffic fatalities for that

year. The nationwide number of alcohol-related traffic fatalities in 2007 declined, however, by 5.2% from the 21,497 alcohol-related traffic fatalities in 2006.

According to the Fatality Analysis Reporting System maintained by the U.S. Department of Transportation, alcohol-related fatalities in Maryland are somewhat below national rates. In 2007, a total of 614 traffic fatalities occurred in Maryland, a crash rate of 10.9 per 100,000 people. Of those fatalities, 272, or 44.2%, were alcohol-related. Ninety-four of those fatalities, or 34.5%, involved drivers with blood alcohol concentration levels at or above 0.08%. According to the District Court, 41,038 traffic citations involving alcohol- and/or drug-related driving were filed in fiscal 2008. There were guilty dispositions for 5,014 of those citations, and 6,025 citations were disposed of with PBJ.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary provision from cases heard in the District Court.

State Expenditures: General fund expenditures potentially increase minimally as a result of the bill's incarceration penalty due to more people being committed to the Baltimore City Detention Center. The number of people that may be 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 may 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: SB 263 (The President)(By Request - Administration) (Task Force to Combat Driving Under the Influence of Drugs and Alcohol) and Senator Forehand - Judicial Proceedings.

Information Source(s): Garrett and Montgomery counties, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Public Safety and Correctional Services, Maryland Department of Transportation, National Highway Traffic Safety Administration, Insurance Institute for Highway Safety, U.S. Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2009
ncs/ljm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Vehicle Laws - Alcohol Restriction on Driver's License - Penalties for Violations

BILL NUMBER: HB 305

PREPARED BY: Governor's Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.