

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 916

(Senator Zirkin)

Judicial Proceedings

Vehicle Laws - Ignition Interlock System Program - Participation After Request
for a Hearing

This bill expands the opportunity to participate in the Ignition Interlock System Program (if specified conditions are met) to an impaired driver who requests a hearing and then revokes a request for hearing after refusing to take a requested test of blood or breath or taking a test that indicates a blood alcohol concentration (BAC) level of 0.15 or more.

Fiscal Summary

State Effect: Minimal increase in Transportation Trust Fund (TTF) revenues to the extent that additional drivers who are not otherwise eligible for the Ignition Interlock System Program revoke a request for an administrative hearing and enter the program for one year. No effect on expenditures.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: If a person requests a hearing after refusing to take a requested test of blood or breath or after taking a test that indicates a BAC of 0.15 or more, the person may submit a written revocation of the hearing request at any time before the hearing occurs and instead elect to participate in the Ignition Interlock System Program if the following conditions are met:

- the driver's license must not have been suspended, revoked, canceled, or refused at the time of the administrative offense;
- the driver must not have been charged with a moving violation that arises out of the same circumstances as an administrative offense that involved a death or serious physical injury to another person; and
- within five days after submitting the written revocation, 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.

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 (NCSL) 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 Fiscal Effect: TTF revenues may increase minimally 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. MVA advises that the bill is not likely to significantly increase the numbers of people who are eligible to participate in the Ignition Interlock System Program as those people who might revoke a request for a hearing to participate in the Ignition Interlock System Program are likely to have been referred to the program after the administrative hearing in any event. The Department of State Police advises that, in 2008, 7,194 people had a BAC test result of 0.15 or greater and 6,662 people refused a requested test of blood or breath. Accordingly, the number of additional drivers who might enter the program after revoking a request for a hearing cannot be reliably estimated but is expected to be minimal. Thus, any such additional monitoring workload can be handled with existing resources.

Additional Information

Prior Introductions: A similar bill, 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), Office of Administrative Hearings, Department of Public Safety and Correctional Services, Maryland Department of Transportation, Department of State Police, *Associated Press*, Mothers Against Drunk Driving, National Conference of State Legislatures, Department of Legislative Services

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