

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 560

(Senator Forehand, *et al.*)

Judicial Proceedings

Judiciary

Vehicle Laws - Traffic Citations - Option to Request Trial

This bill alters how a person complies upon receiving a traffic citation for a nonincarcerable offense. It establishes that the citation must contain a notice, as specified, that a person must, within 30 days after receipt of the citation, either (1) pay the full amount of the preset fine; (2) request a hearing for sentencing and disposition in lieu of trial; or (3) request a trial date at the date, time, and place established by the District Court by writ or trial notice. If the citation is for an offense that requires the person to appear in court to answer the charge, then the citation is a notice that it is a summons to appear in court. The citation is also a notice that failure to take one of the above-mentioned actions as required means that the Motor Vehicle Administration (MVA) will be notified and MVA is authorized to suspend the person's driver's license.

The provisions establishing the above-mentioned requirements take effect January 1, 2011. Otherwise, the bill takes effect July 1, 2010.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues to the extent that additional hearings are requested from the Office of Administrative Hearings (OAH). Potential minimal increase in Transportation Trust Fund (TTF) expenditures to the extent additional hearings are requested. Significant general fund expenditure savings of at least \$500,000 for the Department of State Police (DSP) and minimal nonbudgeted expenditure savings for the Maryland Transportation Authority (MDTA) beginning in FY 2011 from reduced payments for overtime and more effective deployment of officers to crime-fighting activities. In FY 2011 only, federal fund expenditures for the Governor's Office of Crime Control and Prevention (GOCCP) increase by \$250,000 to provide funding to the Judiciary to automate changes to traffic forms and citations. Enforcement can be handled with existing resources.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
GF Revenue	-	-	-	-	-
GF Expenditure	(-)	(-)	(-)	(-)	(-)
SF Expenditure	-	-	-	-	-
FF Expenditure	\$250,000	\$0	\$0	\$0	\$0
NonBud Exp.	(-)	(-)	(-)	(-)	(-)
Net Effect	(\$250,000)	\$0	\$0	\$0	\$0

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

Local Effect: Significant expenditure savings, especially for larger counties, from reduced overtime payments and more effective deployment of law enforcement personnel. Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The bill also requires notification to the defendant that, if MVA decides to suspend the defendant's driver's license for failing to respond to the citation, driving on a suspended license is an incarcerable offense.

The bill alters the time periods under which an arrest warrant can be issued for noncompliance with the traffic citation. If the traffic offense is not punishable by incarceration and the court notifies MVA of noncompliance, an arrest warrant cannot be issued for the defendant until either 20 days after (1) the expiration of the 30-day period, if the defendant did not request a trial date or hearing; or (2) the original trial date, if a trial was scheduled in response to the defendant's request as noted on the citation.

The bill expresses legislative intent that GOCCP provide up to \$250,000 to the Judicial Branch in fiscal 2011 only for computer programming changes to the case management and citation systems. This provision takes effect July 1, 2010.

Current Law: A police officer is authorized to charge a person with a violation of any provision of the Maryland Vehicle Law, a traffic law or ordinance of any local authority, and other specified laws, if the officer has probable cause to believe a violation is being committed or has been committed. A police officer who charges a person with a violation must issue a written or electronic citation. A traffic citation contains a notice to appear in court and a notice that the citation is a summons to appear as notified by a court or that the court will issue a writ setting the time and place for an appearance. The citation must contain identifying information about the person charged and specify the violation or violations charged. The citation must also contain a statement acknowledging receipt of the citation and a clear and conspicuous statement that

acknowledgement is not an admission of guilt and failure to sign could subject the person to arrest. The time set for a hearing must be at least five days after the alleged violation, unless the person demands an earlier hearing.

A police officer must issue a citation to the driver personally or, if the vehicle is unattended, attach the citation to the vehicle in a conspicuous place. The police officer is required to keep a written or electronic copy of the citation which bears the officer's certification that the facts contained in it are true, under penalty of perjury. In the absence of the driver, the owner of the motor vehicle is presumed to be the person receiving the citation. A person may comply with a citation by appearance in person, by counsel, or by payment of the fine specified for the violation.

If the person returns a copy of the citation within the time allowed for payment of the fine, indicating that the facts are not in dispute, a person may request a hearing in lieu of trial regarding sentencing and disposition. A person who requests this hearing waives a right to a trial of the facts and the right to compel the presence of the police officer who issued the citation. Such a hearing may only be requested if the alleged offense is not punishable by incarceration.

If a person fails to comply with the notice to appear, a court may issue a warrant for the person's arrest or, after five days, notify MVA of noncompliance. After receiving a notice of noncompliance, MVA must notify the person that he or she is subject to suspension of the driver's license, unless by the end of the fifteenth day after the date the notice was mailed, the person pays the fine on the original charge or posts bond or a penalty deposit and requests a new trial date or a hearing on sentencing and disposition. If the person then fails to pay the fine or post the bond or penalty deposit, MVA may suspend the person's driver's license. If the court notifies MVA of a person's noncompliance and the offense is nonincarcerable, an arrest warrant may not be issued until 20 days after the original trial date. If a person is arrested and taken before a District Court Commissioner, the person must be released on issuance of a written citation if the commissioner, judge, or other public officer of the court is unavailable and the person gives a written promise to appear in court.

A police officer who issues a traffic citation must file the original promptly with the District Court and dispose of other copies in accordance with regulations adopted by MVA. Once the original copy of a traffic citation is filed with the District Court, the citation may only be satisfied by trial; dismissal or other judicial action; forfeiture of any collateral, if authorized; or payment of a fine.

State Fiscal Effect:

Office of Administrative Hearings: General fund revenues potentially increase minimally to the extent that additional people request administrative hearings to contest driver's license suspensions that could occur under the bill. The number of additional cases cannot be reliably predicted but is expected to be minimal. A person that wants to appeal a license suspension to the OAH must pay a filing fee of \$125. It is expected that OAH can accommodate any additional hearings from this bill with existing resources.

GOCCP and the Judiciary: Federal fund expenditures increase by as much as \$250,000 in fiscal 2011 only to provide funding to the District Court so that the computer and form changes required by the bill can be implemented. GOCCP advises that federal grant monies from the Byrne Justice Assistance program are currently available and can be provided to the District Court as of July 1, 2010; however, less federal funding will be available for other purposes as a result. For this bill as introduced, the Judiciary advised that \$257,825 was required in fiscal 2011 to accomplish computer programming and citation changes. However, the \$250,000 that will be provided by GOCCP should be sufficient to implement the bill's requirements.

Of the projected expenditures, \$137,405 is required for reprinting of paper traffic citations. The reprinting cost is likely to decrease as more local law enforcement agencies participate in the electronic citation program launched by the District Court in 2007. For example, from October 2007 to September 2008, 10,413 electronic citations were issued by law enforcement. From January to February 2009, 30,915 electronic citations were issued by law enforcement, indicating that agencies are aggressively moving to use the electronic citation system, rather than issue paper traffic citations.

The Administrative Office of the Courts advises that planning is underway for a replacement of the legacy case management system. The Department of Legislative Services advises that, since completion of this system is not anticipated before 2015, it is unlikely that implementation of this bill's provisions will significantly alter the timeline for system completion.

Department of State Police: Significant general fund expenditure savings may occur due to the reduction of overtime and more effective deployment of troopers. DSP advises that at least \$500,000 in general fund expenditure savings could occur annually; however, there is not enough data available to specifically quantify expenditure savings.

DSP stated that anecdotal evidence indicated that, in over 50% of the cases scheduled for trial, the trooper was not needed because the violator did not appear for the trial. For example, in Somerset County, on February 3, 2009, 115 cases were scheduled where DSP troopers were required to appear. Fifty-five cases were heard but 63 or 55% of the

cases were not heard due to the failure of the violator to appear. In Washington County, from January 7, 2009 to February 4, 2009, DSP troopers were required to appear at 381 cases scheduled for trial. In 225 cases, the violator did not appear for trial. For a typical day within that period, the percentage of cases where the violator failed to appear ranged from 38.0% to 63.6%. For the whole period, the average percentage of cases where the violator failed to appear was 51.6%. This anecdotal evidence appears to indicate what DSP and other local police departments have claimed to experience, which is that the violator fails to appear for traffic court about 50% of the time.

DSP also recorded trooper overtime payments for the six-month period of July 1, 2008 to December 31, 2008. A total of 5,499 hours of overtime for court appearances was recorded at a cost of \$253,668. In that same period, the amount of overtime paid for officers scheduled for day shifts who were required to work past the end of shift was \$13,885 for 301 hours. One of the conditions causing overtime payments is the limited staffing in DSP generally. This means some troopers are required to attend court on regularly scheduled leave days. The need to schedule troopers for court duty also impacts how other troopers, who do not need to appear for court, may be scheduled.

Maryland Department of Transportation: MDTA projects a savings of at least \$24,000 annually in nonbudgeted funds. MDTA advises that about 38,000 hours annually is spent in the District Court on traffic cases. The bill may reduce time spent in court and may also allow MDTA to recover some savings from the redirection of officer time to other duties.

TTF expenditures for MVA may increase minimally due to additional administrative hearings to contest the additional license suspensions that may occur under the bill. This estimate assumes that the existing system used by the District Court to notify MVA of noncompliance with citations is used for the notification required by this bill. The number of additional suspensions cannot be reliably predicted but is expected to be minimal and manageable within the existing resources of MVA. Expenditures for additional administrative hearings to contest the suspensions could increase minimally, however. MVA pays \$150 for each case that is referred to OAH.

Local Fiscal Effect: Local governments, especially those that process a large number of traffic citations may experience significant expenditure savings due to the bill. For those local governments participating in the electronic citation program, the initial savings are offset by the one-time costs of computer reprogramming and recertification for the program, estimated at \$12,000 to \$20,000 per jurisdiction.

The Montgomery County Police Department advises that overtime expenditures could be reduced under this bill. The bill may generate savings because officers are more likely to go to court only for cases where the violator actually appears. Those officers that are on day shifts could continue to complete law enforcement duties until needed in court. In its

2009 response for a similar bill, Montgomery County advised that about \$3.5 million and 75,000 officer-hours are spent annually on overtime for District Court appearances – about 35% of the total overtime budget. Under the current system, citations are batched and officers are assigned to court for a specified number of citations. The officer does not know if the driver intends to pay the bill or intends to make an appearance. Any officer who goes to court is guaranteed a minimum of three hours overtime.

Garrett County advises that the bill is not expected to have a fiscal impact.

Additional Information

Prior Introductions: SB 692 of 2009, a similar bill, was withdrawn after being heard by the Senate Judicial Proceedings Committee. Its cross file, HB 545, received an unfavorable report from the House Judiciary Committee.

Cross File: HB 829 (Delegate Jameson, *et al.*) - Judiciary.

Information Source(s): Garrett and Montgomery counties, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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Analysis by: Karen D. Morgan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510