

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 740 (Senator Jacobs)
Judicial Proceedings

Vehicle Laws - Detectable Level of a Controlled Dangerous Substance or Its
Metabolites - Prohibition

This bill establishes that a person may not drive or attempt to drive any vehicle with a *detectable level* of a controlled dangerous substance or its metabolites in the person's blood, if the person is not legally entitled to use the controlled dangerous substance. A person also may not commit this offense while transporting a minor. A person who commits this offense is subject to the existing penalties of fines and/or imprisonment that apply to the offense of driving or attempting to drive while impaired by a controlled dangerous substance, or transporting a minor while so impaired. The administrative penalty established for this offense is the assessment of 12 points, making the offender subject to revocation of the driver's license.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. Potential minimal increase in Transportation Trust Fund (TTF) revenues due to license reinstatement fees.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's penalty provisions. Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: A person is prohibited from driving or attempting to drive any vehicle while impaired by a controlled dangerous substance. A first offense is punishable with a

maximum fine of \$1,000 and/or imprisonment for one year. Maximum penalties for second and third offenses, that occur *more than* five years after a prior conviction, each increase by \$1,000 and an additional year of imprisonment with a maximum penalty of a fine of \$3,000 and/or imprisonment for three years.

A person who is convicted of driving or attempting to drive while impaired by a controlled dangerous substance *within* five years after a prior conviction for any included offenses is subject to a mandatory minimum penalty of imprisonment for at least five days. A person who is convicted a third or subsequent time *within* five years of this same offense is subject to a mandatory minimum penalty of imprisonment for at least 10 days. Imprisonment includes confinement in an inpatient rehabilitation or treatment center or home detention that includes electronic monitoring for the purpose of participation in a certified or court-approved drug treatment program. The Motor Vehicle Administration (MVA) is required to suspend for one year the license of anyone convicted of driving or attempting to drive while impaired by a controlled dangerous substance more than once within a five-year period.

A person convicted of driving or attempting to drive any vehicle while impaired by a controlled dangerous substance within five years of a prior conviction for any included offenses must be required by a court to undergo a comprehensive drug abuse assessment. If recommended at the conclusion of the assessment, the offender must participate in a drug program certified by the Department of Health and Mental Hygiene, certified by an adjacent state agency, or approved by the court. The penalties are mandatory and are not subject to suspension or probation.

Additionally, MVA may revoke the license of any person convicted of driving while impaired by a controlled dangerous substance or issue a restricted license prohibiting a licensee from driving with any drug or controlled dangerous substance content in the licensee's blood or with any other restriction that MVA determines necessary to ensure safe driving.

A person convicted of driving or attempting to drive while impaired by a controlled dangerous substance and transporting a minor is subject to a maximum fine of \$2,000 and/or two years imprisonment for a first offense; \$3,000 and/or three years imprisonment for a second offense; and \$4,000 and/or four years imprisonment for a third or subsequent offense.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court. TTF revenues may increase minimally to the extent that those convicted of this crime apply for license reinstatement after revocation of the driver's license. MVA charges a fee of \$75 for reinstatement of a license after revocation due to an alcohol- and/or drug-related driving offense. The number of people that may apply for license reinstatement due to the bill's provisions cannot be reliably predicted, but is expected to be minimal.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,750 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 \$409 per month. Excluding all medical care, the average variable costs total \$182 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the Division of Correction but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues increase minimally as a result of the bill's monetary penalty provision to the extent that cases are heard in circuit court.

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the Division of Correction but are confined in a local facility. Per diem operating costs of local detention facilities are expected to range from \$57 to \$157 per inmate in fiscal 2011.

Additional Information

Prior Introductions: None.

Cross File: HB 1048 (Delegate McComas, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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