

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 256
Judiciary

(Delegate Rosenberg)

Vehicle Laws - Alcohol- and Drug-Related Driving Offenses - Transporting
Minors - Penalties

This bill repeals the graduated penalties for subsequent convictions of transporting a minor while under the influence of alcohol, impaired by alcohol, drugs and/or alcohol or a controlled dangerous substance, and establishes standard penalties that are applied regardless of the number of convictions for any of these offenses.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the standardized penalties established for these offenses.

Local Effect: Potential minimal increase in revenues and expenditures due to the standardized penalties established for these offenses.

Small Business Effect: None.

Analysis

Bill Summary: For the offense of transporting a minor while driving under the influence of alcohol, under the influence *per se*, or while impaired by a controlled dangerous substance, the standard penalty established is a fine of at least \$1,000 to a maximum of \$5,000 and/or up to four years imprisonment. This is altered from the current range of a maximum of two to four years imprisonment and/or a fine of \$2,000 to \$4,000, depending on whether the conviction is for a first, second, or third or subsequent offense.

For the offense of transporting a minor while impaired by alcohol or by drugs and/or alcohol, the standard penalty established is a fine of at least \$500 to a maximum of \$2,500 and/or up to two years imprisonment. This is altered from the current range of a maximum of six months to one year of imprisonment and/or a fine of 1,000 to \$2,000, depending on whether the conviction is for a first or second or subsequent offense.

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, or drugs and alcohol; or
- impaired by a controlled dangerous substance.

If an offender is transporting a minor at the time of the alcohol- and/or drug-related driving offense, fines and sanctions increase beyond those already specified for lesser included offenses. For an offender convicted of transporting a minor while driving or attempting to drive under the influence of alcohol, or under the influence *per se*, or while impaired by a controlled dangerous substance, the maximum penalties are:

- for a first offense, a fine of \$2,000 and/or imprisonment for two years;
- for a second offense, a fine of \$3,000 and/or imprisonment for three years; and
- for a third or subsequent offense, a fine of \$4,000 and/or imprisonment for four years.

For an offender convicted of transporting a minor while driving or attempting to drive while impaired by alcohol or while impaired by drugs and/or alcohol, the maximum penalties are:

- for a first offense, a fine of \$1,000 and/or six months imprisonment; and
- for a second or subsequent offense, a fine of \$2,000 and/or imprisonment of one year.

For the purpose of determining second or subsequent offender penalties for transporting a minor, a prior conviction of any provision or driving or attempting to drive while under the influence or while impaired, as specified above, is considered a second or subsequent conviction.

With a conviction for an alcohol- and/or drug-related driving offense, a violator is subject to a range of penalties involving fines and imprisonment, as well as suspension or revocation of the driver's license by the Motor Vehicle Administration (MVA). A person

convicted of driving under the influence or under the influence *per se* is subject to fines ranging from \$1,000 to \$3,000 and/or a maximum imprisonment term of one to three years. A repeat conviction within five years requires a mandatory minimum penalty of imprisonment from 5 to 10 days or community service from 30 to 60 days, as well as a mandatory alcohol abuse assessment. A conviction for lesser included offenses subjects the violator to a fine of \$500 and/or imprisonment for up to two months. However, for repeat offenders, maximum prison terms increase to a year.

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

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalties due to people being committed to Division of Correction (DOC) facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. The number of people convicted under the standardized penalties 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: To the extent that additional cases are heard in the circuit courts, revenues potentially increase minimally as a result of the bill's monetary penalty provisions.

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalties. 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: None.

Information Source(s): Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, State's Attorneys' Association, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - February 8, 2010
mlm/ljm

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