

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 1076

(Senator Gladden)

Judicial Proceedings

Drunk and Drugged Driving - Subsequent Offenders - Prior Convictions

This bill clarifies the designation of prior convictions for specified alcohol- and/or drug-related driving offenses for the purpose of the imposition of subsequent offender penalties. For transporting a minor while committing the specified alcohol- and/or drug-related driving offense, the bill limits what may be considered a prior conviction for the purpose of imposition of second or subsequent offender penalties.

Fiscal Summary

State Effect: For transporting a minor while committing the specified alcohol- and/or drug-related driving offense, the bill may reduce general fund revenues and expenditures minimally to the extent that fewer people are subject to second or subsequent offender fines and/or imprisonment penalties due to the bill's changes; otherwise, the bill is clarifying and is not expected to significantly affect governmental finances.

Local Effect: For those cases of transporting a minor while committing the specified alcohol- and/or drug-related driving offense that are heard in the circuit courts, the bill may reduce revenues and expenditures minimally, to the extent fewer people are subject to second or subsequent offender fines and/or imprisonment penalties due to the bill's changes; otherwise, the bill is clarifying and is not expected to significantly affect local government finances.

Small Business Effect: None.

Analysis

Bill Summary: The bill clarifies what may be considered a prior conviction by specifying, for each relevant offense, that a violation of a substantially similar provision under the federal law or the law of another state is also considered a prior conviction for the purpose of the imposition of second or subsequent offender penalties.

For the imposition of second or subsequent offender penalties for a violation of driving while (1) under the influence of alcohol or under the influence of alcohol *per se*; or (2) impaired by a controlled dangerous substance, where the penalties of mandatory alcohol and/or drug abuse assessment and mandatory minimum imprisonment do not apply, the bill expands what may be considered a prior conviction from the lesser included offenses to *any* prior violation of the specified alcohol- and/or drug-related driving law or a substantially similar federal law or the law of another state.

With regard to transporting a minor while committing the specified alcohol- and/or drug-related driving offense, the bill limits what may be considered a prior conviction for the purpose of determining second or subsequent offender penalties, to only a prior conviction for transporting a minor while committing the specified alcohol- and/or drug-related driving offense or a prior conviction of violating a substantially similar federal law or the law of another state.

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;
- so far impaired by any drugs and/or drugs and alcohol; or
- impaired by a controlled dangerous substance.

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 or drug abuse assessment. 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 alcohol or drug treatment program.

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. 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.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mpc/ljm

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