

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 301

(Senator Jones-Rodwell)(By Request - Baltimore City
Administration)

Judicial Proceedings

**Vehicle Laws - Parking Violations - Administrative Enforcement by Counties and
Municipal Corporations**

This bill authorizes a county or municipal corporation to establish, by ordinance, an agency or board to implement an alternative enforcement program for the issuance of civil parking citations for stopping, standing, and parking of vehicles. The bill excludes from District Court jurisdiction the adjudication of parking citation cases in jurisdictions that adopt an ordinance under the bill. The bill specifies that a parking citation established by ordinance under the bill is a civil infraction and not a misdemeanor as is generally the case for violations of the Maryland Vehicle Law.

The bill has prospective application and any ordinance adopted under its authorization may only apply to a citation issued after the bill's October 1, 2011 effective date.

Fiscal Summary

State Effect: To the extent a local jurisdiction adopts an ordinance authorized under the bill, Transportation Trust Fund (TTF) revenues increase due to additional registration restoration and flag removal fees; TTF expenditures and operations may be affected to process additional registration-related transactions; general fund revenues decrease minimally due to fewer contested parking cases heard by the District Court; and District Court caseloads decrease minimally, while circuit court case increase minimally.

Local Effect: Local government expenditures and revenues increase for any jurisdiction that adopts an ordinance authorized by the bill to enforce and administratively adjudicate civil parking violations; it is assumed that revenues from parking penalties will exceed the expenditures necessary to implement the ordinance. Statewide local government revenues may increase minimally due to an increase in the distribution of highway user revenues.

Small Business Effect: None.

Analysis

Bill Summary: An ordinance adopted under the bill must (1) provide for the contents of a parking citation; (2) determine the amount of the fines; (3) identify the authorities who may issue a parking citation; (4) establish an agency or board to process the parking citations, collect fines, and adjudicate contested citations; (5) provide for the right to a hearing before the agency or board; (6) incorporate provisions relating to the rights of rental car companies that receive parking tickets, including their right to a hearing under the bill's authorization; and (7) specify that the standard of proof in a contested case is the preponderance of evidence standard.

The ordinance must also require that the alternative parking citation enforcement board or agency notify the Motor Vehicle Administration (MVA) when there is a failure to pay a parking citation fine, to contest the citation, or to appear at an adjudication of the citation. Under the ordinance, the remedy for failure to pay the fine or take another required action must be limited to (1) enforcement under the relevant jurisdiction relating to towing, booting, or impounding of the vehicle; and (2) the refusal by MVA to register, or transfer the registration of, the vehicle involved in the parking citation case, or suspension of the vehicle's registration.

An alternative parking enforcement program established by ordinance under the bill is exempt from current procedures governing the payment of parking citations and requests to contest parking citations, as well as other procedures for the disposition of traffic citation cases.

The Court of Appeals may adopt procedures for the appeal of parking citations issued under an alternative parking citation enforcement ordinance. An appeal to the circuit court from an adjudication must be confined to the record made by the agency or board, or supplemented by additional evidence required to be taken by the presiding officer of the agency or board pursuant to an order from the circuit court. The circuit court may order such additional evidence be taken if a party applies for leave to offer the evidence before the hearing date and the court is satisfied that the evidence is material and that there were good reasons for the failure to offer the evidence in the original proceeding before the agency or board.

Current Law: The Maryland Vehicle Law governs the stopping, standing, and parking of vehicles, and provides specific additional restrictions and prohibitions relating to stopping, standing, and parking under certain circumstances and within certain jurisdictions. Subject to the Maryland Vehicle Law, a local authority, in the reasonable

exercise of its police power, may regulate or prohibit the stopping, standing, or parking of vehicles on highways under its jurisdiction.

Political subdivisions and other local authorities are generally prohibited from requiring the registration or licensing of vehicles, and the imposition of fees or charges, except as provided by public local laws for the regulation of taxi services. However, the Maryland Vehicle Law authorizes local ordinances and regulations regarding the parking, towing, and impounding of vehicles in certain circumstances.

MVA may not register or transfer the registration of any vehicle involved in a parking violation, and may suspend the registration of the vehicle, if notified that the person cited for the violation has failed to pay the fine on time, file a notice of intention to stand trial, or appear for trial.

The District Court has exclusive jurisdiction over specified civil infractions of the Maryland Vehicle Law, including those involving automated traffic monitoring systems. Otherwise, a violation of the Maryland Vehicle Law is a misdemeanor (unless specifically declared a felony or administrative infraction) for which the District Court generally has criminal jurisdiction. However, a misdemeanor may be brought in either the District Court or a circuit court, at the discretion of the prosecutor, if the penalty is confinement for three years or more or a fine of \$2,500 or more. The amount of the prepayable fine for a violation of the provisions regulating stopping, standing, or parking is \$50, \$60, or \$70, depending on the specific violation.

State Fiscal Effect: TTF revenues increase due to the collection of additional registration flag removal and restoration fees by MVA. Currently, local governments are authorized to notify MVA regarding the failure to pay the fine on a parking citation. On notification, MVA places a flag on the registration of the vehicle involved, and the owner of the vehicle must pay a \$30 fee to have the flag removed once the parking fine or other violation giving rise to the flag has been satisfied. MVA is also authorized to suspend the registration of a vehicle for nonpayment of a parking fine. Legislative Services advises that local jurisdictions do not fully exercise their authority to have MVA place flags on the registration of vehicles with unpaid parking violations. For example, in Baltimore City, several thousand parking citations are paid more than a year late annually. If several large jurisdictions adopt the ordinance authorized by the bill and comply with the requirement to notify MVA of each unpaid parking citation, TTF revenues may increase significantly through additional collection of flag removal and suspension restoration fees.

TTF expenditures may increase to hire additional personnel if the number of vehicle registration suspensions and flag impositions increases significantly in any year due to one large jurisdiction, or several smaller jurisdictions, adopting an ordinance under the

bill. In addition, computer reprogramming work may be necessary to implement the bill and may result in TTF expenditures to the extent that such work cannot be accomplished by the bill's effective date with existing resources.

General fund revenues decrease minimally due to fewer contested parking cases heard in the District Court. In a contested parking case heard by a local adjudicative board established by an ordinance under the bill, any penalty assessed will remain with the local jurisdiction, and no court costs will be imposed.

Operations of the Judiciary may be minimally affected to establish procedures for handling appeals from administrative agencies established by ordinance under the bill. District Court workloads may decrease to a more significant extent following adoption of any local ordinances under the bill as adjudications are handled locally; however, circuit court workloads may increase significantly to hear appeals under the bill's authority. Overall, the bill is not anticipated to have a material fiscal effect on the Judiciary.

Local Fiscal Effect: Local finances are only significantly affected for jurisdictions that adopt an ordinance authorized by the bill. For a jurisdiction that adopts an ordinance, one-time expenditures increase to establish the required agency or board for adjudication of contested cases resulting from civil fines levied under the bill, as well as for any costs involved with adoption of the ordinance, including providing for local hearings. Significant ongoing expenditures include potential costs associated with agency or board membership, hearings, and any additional personnel needed to handle the issuance of citations.

Legislative Services is unable to provide a reliable estimate of the additional revenues that may accrue to a local government following adoption of an ordinance authorized under the bill. While local revenues from the issuance of parking citations amount to several million dollars in larger jurisdictions, it is unknown whether the incremental increase in fine revenues resulting from the adoption of an ordinance is significantly greater than the revenues currently generated, to the extent that the relevant jurisdiction presently provides for parking enforcement. The bill does not specify the amount of the civil parking fines that may be assessed under the bill, and it is unknown at what level each jurisdiction would choose to set its fine, or whether it would exceed current levels, to the extent fines are currently levied.

Baltimore City provided an estimate of the expenditures, revenues, and other impacts that may result from implementation of an ordinance under the bill. According to Baltimore City, parking fine revenues may increase by about \$1.8 million annually, while the city would budget for expenditures of about \$1.3 million annually. Thus, net revenues for the city may exceed more than \$500,000 annually under the ordinance. Further, Baltimore City advises that the operations of its parking control unit will benefit

significantly as less time will be spent at contested parking hearings in District Court and more time will be spent enforcing the parking ordinance. Fiscal and operational impacts may vary for other jurisdictions depending on current parking enforcement practices and future implementation of an ordinance under the bill.

Additional Information

Prior Introductions: Similar bills, HB 954/SB 707 of 2010, received unfavorable reports from the House Environmental Matters and Senate Judicial Proceedings committees, respectively.

Cross File: HB 577 (Delegate Anderson) (By Request – Baltimore City Administration) – Environmental Matters.

Information Source(s): Cecil, Montgomery, and St. Mary's counties; cities of Baltimore and Laurel; Judiciary (Administrative Office of the Courts); Maryland Association of Counties; Maryland Municipal League; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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