

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 564

(Delegate Wilson, *et al.*)

Environmental Matters

Motor Vehicles - Required Seat Belt Use by Each Occupant

This bill expands, to all the occupants of specified motor vehicles, the required use of either child safety seats or seat belts, as appropriate.

Fiscal Summary

State Effect: Significant increase in general fund revenues due to expanded enforcement for all drivers and all occupants of motor vehicles. Enforcement can be handled with existing resources.

Local Effect: Enforcement can be handled with existing resources.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill (1) clarifies that the required restriction on the provisional license which prohibits that driver from operating a motor vehicle unless every occupant is restrained by either a child safety seat or a seat belt, as required by statute, applies to every driver younger than age 18; (2) expands the requirement for seat belt equipment to *at least* two sets for the front seat of every motor vehicle registered in Maryland that was manufactured and assembled after June 1, 1964, and *at least* two sets for the rear seat of every motor vehicle registered in Maryland that was manufactured and assembled with a rear seat after June 1, 1969; (3) repeals the exemption that allows the number of children being transported in a motor vehicle to exceed the number of available passenger securing locations; and (4) repeals provisions that limit the restraint requirement to the

driver, each occupant younger than age 16, and any passenger in an outboard front seat, regardless of age.

Current Law: Notwithstanding the licensee's driving record, the Motor Vehicle Administration (MVA) is required to impose a restriction on the provisional driver's license that prohibits that driver from operating a motor vehicle unless the driver and each passenger in the motor vehicle are restrained by a seat belt or child safety seat, as appropriate. The mandate does not apply to an individual who has a written statement from a physician certifying that the use of a child safety seat or seat belt is not practical due to physical disability or other medical reason. The restriction expires when the provisional license holder becomes age 18.

Vehicle Restraint Equipment: A "child safety seat" does not mean a seat belt but is a device, including a child booster seat, that the manufacturer certifies complies with applicable federal safety standards and is intended to restrain, seat, or position a child who is transported in a motor vehicle. A "seat belt" is any belt, strap, harness, or similar device and includes a combination seat belt-shoulder harness.

Every motor vehicle registered in Maryland and manufactured and assembled after June 1, 1964, must be equipped with two sets of seat belts on the front seat. Every motor vehicle registered in Maryland and manufactured or assembled with a rear seat after June 1, 1969, must have two sets of seat belts on the rear seat. This provision does not apply to motorcycles, buses, trucks, or taxicabs. Failure to have the required front and/or rear seat belts in a registered motor vehicle is a misdemeanor with a maximum fine of \$500. The prepayment penalty assessed by the District Court is \$70.

Required Restraints for Children: The mandatory use of child safety seats applies to the transportation of all children younger than age eight, unless the child is 4 feet 9 inches or taller or weighs more than 65 pounds. The requirement applies to passenger, truck, or multipurpose vehicles that are registered or capable of being registered in Maryland or registered in another state or Puerto Rico that are of the same type.

A person is prohibited from transporting a child younger than age 16 in a motor vehicle unless the child is secured in a child safety seat (in accordance with the manufacturer's instructions) or a seat belt. A particular child may be exempted from the child safety seat or seat belt requirement if a physician who is licensed in the state where the vehicle transporting the child is registered provides written certification that use of a child safety seat by that particular child would be impractical due to the child's height, weight, physical unfitness, or other medical reason.

A child safety seat may not be used to restrain more than one individual at a time. However, if the number of children subject to this law exceeds the number of suitable

passenger securing locations for children and all of the securing locations are in use by children, then the person transporting the children is not in violation of the mandate.

A violation of the mandatory use of a child safety seat or seat belt for children is not evidence of negligence or contributory negligence and may not be admitted as evidence in any civil trial. It is also not a moving violation for which points may be assessed. The failure to provide a child safety seat or seat belt for more than one child in the same vehicle at the same time has to be treated as a single violation. A violator of these provisions is subject to a fine of \$25. The prepayment penalty assessed by the District Court is \$60, which also includes court costs.

A judge may waive the \$25 fine if the person charged did not possess a child safety seat at the time of the violation, acquires a child safety seat before the hearing date, and provides proof of acquisition to the court. The Maryland Department of Transportation and the Department of Health and Mental Hygiene have to jointly implement the Child Safety Seat Program and encourage compliance through educational and promotional efforts.

Seat Belts and Other Restraint Requirements: For purposes of the seat belt requirement, “motor vehicle” means a vehicle that is registered or capable of being registered in this State as a passenger vehicle, a truck, tractor, multipurpose, or passenger bus vehicle and is required to have seat belts under federal motor vehicle safety standards. Historic vehicles are not subject to the mandatory seat belt requirement.

A person may not operate a motor vehicle unless the person and each occupant younger than age 16 are restrained by a seat belt or a child safety seat, as specified. A person who is age 16 or older may not be a passenger in the outboard front seat of a motor vehicle unless restrained by a seat belt. A person who violates these provisions is subject to a maximum fine of \$25, including court costs.

The mandatory seat belt provisions do not apply to a person if a Maryland licensed physician determines and certifies in writing that the person’s disability or another medical reason prevents appropriate restraint by a seat belt. The certification must state the nature of the physical disability and the reason that restraint by a seat belt is inappropriate. The mandatory seat belt provisions also do not apply to U.S. Postal Service and contract carriers while delivering mail to local box routes. A violation is not a moving violation nor may it be considered evidence of negligence or contributory negligence.

MVA and the Department of State Police (DSP) must establish prevention and education programs to encourage compliance. MVA must include information on the State’s experience with seat belt compliance in the annual evaluation report on the State’s

highway safety plan that is submitted to the National Highway Traffic Safety Administration and the Federal Highway Administration.

Background: According to the Governors Highway Safety Association, 49 states and the District of Columbia mandate the use of seat belts. The District of Columbia and 31 states, including Maryland, Delaware, and New Jersey, require primary enforcement of seat belt laws. The remaining 18 states, including Pennsylvania and Virginia, require secondary enforcement only. New Hampshire is the only state that does not mandate use of seat belts for adults in motor vehicles. New Hampshire does, however, have a child passenger safety law that covers children younger than age 18 and is subject to primary enforcement.

According to the National Highway Traffic Safety Administration (NHTSA), seat belt use in Maryland was surveyed to be 94% in 2009, among the highest in the nation. In 2009, 343 passenger vehicle occupant fatalities were documented. Data reported to NHTSA from the State Highway Administration found that in traffic accidents with fatalities involving passenger occupants age five and older, about 37.3% of occupants were identified as unbelted at the time of a crash. NHTSA estimates that an additional 30 lives could have been saved in 2009 with 100% seat belt use by all vehicle occupants.

A goal of the Maryland Strategic Highway Safety Plan from 2006 to 2010 (the latest information available) was to increase seat belt use to 94.5% or greater by 2010. SHA also proposed an incentive/recognition program for law enforcement efforts, the targeting of pickup truck drivers and passengers, continuation of high visibility enforcement efforts, more paid media in highly populated metropolitan areas, the use of focus groups to improve compliance, and additional outreach to teens.

State Fiscal Effect: Significant increase in general fund revenues to the extent that additional citations are issued to those drivers who do not ensure that each occupant in a motor vehicle is restrained in either a child safety seat or a seat belt. DSP advises that enforcement can be handled with existing resources.

Exhibit 1 shows the number of citations, both prepaid and the total for child safety seat and seat belt violations for fiscal 2009 and 2010. Generally, the District Court processes 100,000 citations annually, although the number fluctuates from year to year.

Exhibit 1
Enforcement of Child Safety Seat and Seat Belt Provisions

<u>Citation</u>	<u>Fiscal 2009</u>	<u>Fiscal 2010</u>
Child Younger than Age 8 Not in Child Safety Seat		
Prepaid Citations	3,116	3,395
Total Citations	4,622	5,509
Failure to Restrain Child Younger Than Age 16		
Prepaid Citations	52	39
Total Citations	75	83
Prepaid Revenue for Child Safety Seat Citations (\$60 prepay)	\$190,080	\$206,040
Operating Vehicle with Occupant Younger Than 16 or Driver Not Restrained		
Prepaid Citations	84,370	73,308
Total Citations	91,341	86,008
Passenger Age 16 or Older in Outboard Front Seat without Seat Belt		
Prepaid Citations	7,645	6,177
Total Citations	9,227	7,889
Prepaid Revenue for Seat Belt Citations (\$25 prepay)	\$2,300,375	\$1,987,125
Total Prepaid Revenue for Safety Seat and Seat Belt Citations	\$2,490,455	\$2,193,165

Source: District Court of Maryland

Additional Information

Prior Introductions: None.

Cross File: SB 499 (Senators Forehand and Robey) – Judicial Proceedings.

Information Source(s): Department of Health and Mental Hygiene; Maryland Department of Transportation; Judiciary (Administrative Office of the Courts); Department of State Police; Governors Highway Safety Association; National Highway Traffic Safety Administration; Department of Legislative Services

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