

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 292 (Senator Zirkin)
Judicial Proceedings

Vehicle Laws - Administrative Per Se Offenses - Suspension Modification and Restrictive Licenses

This bill authorizes the Motor Vehicle Administration (MVA) to modify a license suspension or issue a restrictive license to a driver charged with or convicted of an alcohol- and/or drug-related driving offense if the license is required for the purpose of complying with a court order.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

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

A "test" means a test of a person's breath or one specimen of blood to determine alcohol concentration, a test or tests of one specimen of blood to determine drug or controlled

dangerous substance content or both a test of a person’s breath, or a test of one specimen of blood to determine alcohol concentration *and* a test or tests of one specimen of blood to determine drug or controlled dangerous substance content.

A person who is stopped by a police officer with reasonable grounds to believe that a violation of alcohol- and/or drug-related driving provisions has taken place must detain the person and request that the person permit a test to be taken. The police officer must advise the person of the administrative sanctions that must be imposed for taking a test with a result of 0.08 blood alcohol concentration (BAC) or higher or refusing to take a requested test. These are administrative *per se* offenses. A driver may challenge the sanctions that are imposed for an administrative *per se* offense pursuant to notice and hearing requirements, as specified, and the police officer must inform the driver of these procedures.

A driver is subject to an immediate license suspension for an administrative *per se* offense. The applicable periods of suspension, based on the type of offense and whether it is a first or subsequent offense, are contained in **Exhibit 1**.

Exhibit 1
Administrative Per Se Offenses and Periods of License Suspension

<u>Administrative Per Se Offense</u>	<u>Period of License Suspension</u>	
	<u>First Offense</u>	<u>Subsequent Offense</u>
BAC Test Result: at least 0.08 but less than 0.15	45 Days	90 Days
BAC Test Result: 0.15 or greater	90 Days	180 Days
Test Refusal	120 Days	One Year

Source: Department of Legislative Services

Exhibit 2 shows the circumstances under which a suspension for an administrative *per se* offense may be modified or a restrictive license maybe issued to a driver who has limited prior interaction with MVA or promises to participate in the Ignition Interlock System Program.

Exhibit 2
Modification of Administrative *Per Se* License Suspension

Suspended Driver Eligible for Modification

Driver must meet all three conditions:

- test result of at least 0.08 BAC but less than 0.15 BAC
- license not suspended for administrative *per se* offense during past five years
- no conviction for alcohol and/or drug-related driving offense during past five years

Modification Type

MVA may modify the suspension to allow driver to:

- drive vehicle in course of employment
- attend alcohol prevention or treatment program
- drive vehicle to or from employment due to no alternative means
- obtain health care treatment
- attend school (noncollegiate or collegiate)

Source: Department of Legislative Services

As shown above, the authority of MVA to modify a suspension or issue a restrictive license applies only to a driver who (1) takes a test of blood or breath with a BAC result of at least 0.08 but less than 0.15; (2) has not had a license suspension for an alcohol-related driving offense for the past five years; and (3) has not been convicted of an alcohol- and/or drug-related driving offense during the past five years.

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

Fiscal Note History: First Reader - February 11, 2013
mc/ljm

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