

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 205 (Senators Shank and Forehand)

Judicial Proceedings

Judiciary

Vehicle Laws - Fleeing or Eluding Police

This bill specifies that a driver may not flee or elude a police officer who, while not in an appropriately marked vehicle, is displaying an activated flashing blue or red and blue light and gives a visual signal or an audible signal to the driver to stop. The bill establishes an exemption, however, to this prohibition if the driver, while obeying traffic laws, proceeds directly to a nearby police station or any other lighted public location to stop. The bill also clarifies what an appropriately marked police vehicle is when an officer is signaling a driver to stop.

Fiscal Summary

State Effect: The bill's changes are not expected to materially affect State finances; enforcement activity can be handled with existing resources.

Local Effect: The bill is not expected to materially affect local government finances. Enforcement activity can be handled with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The bill clarifies that, if a police officer gives a visual signal or an audible signal to stop and the police officer is in an "appropriately marked" police vehicle, the driver may not attempt to flee or elude the police officer by willfully failing to stop the driver's vehicle, fleeing on foot, or any other means.

An “appropriately marked police vehicle” is an official police vehicle that displays the official emblem or insignia of a police or sheriff’s department or the official emblem or insignia of the State or a local government in the State.

Current Law: A visual or audible signal includes a signal by hand, voice, emergency light, or siren. If a police officer gives an audible or visual signal to stop and the police officer is in uniform, prominently displaying a badge or other insignia, the vehicle driver may not attempt to flee or elude the police officer by willfully failing to stop the vehicle, fleeing on foot, or any other means. If a police officer gives an audible or visual signal to stop and the officer is in a vehicle appropriately marked as an official police vehicle, whether or not the officer is in uniform, the vehicle driver may not attempt to flee or elude the officer by willfully failing to stop the vehicle, fleeing on foot, or any other means. A person who is convicted of fleeing or eluding police is guilty of a misdemeanor and is subject to maximum penalties of imprisonment for one year and/or a fine of \$1,000. For any subsequent offense, a person is subject to maximum penalties of imprisonment for two years and/or a fine of \$1,000.

A driver may not willfully fail to stop a vehicle while attempting to elude a police officer who is signaling the driver to stop to apprehend the driver for committing a crime of violence, for which the driver was subsequently convicted. A vehicle driver is also prohibited from attempting to elude a police officer by willfully failing to stop the vehicle such that it results in the bodily injury to or death of another person. A person who commits either of these offenses is subject to maximum penalties of three years imprisonment and/or a fine of \$5,000. A person who causes the death of another person as a result of fleeing or eluding police is guilty of a misdemeanor and is subject to maximum penalties of 10 years imprisonment and/or a fine of \$5,000.

All of the above-mentioned offenses require a court appearance, and, after a conviction, the Motor Vehicle Administration is required to assess 12 points against the driver’s license, which subjects the driver to license revocation.

Background: This bill (and other similar bills introduced during the 2012 legislative session) is in response to a Court of Special Appeals decision in *Williams v. State*, 200 Md. App. 73 (2011). In this case, the appellant, Gregory Williams, was convicted in the Circuit Court for Montgomery County of possession of cocaine and fleeing and eluding.

A police officer was conducting surveillance of the appellant in an unmarked police car at a gas station in Montgomery County. The police officer testified at trial that he saw the appellant’s vehicle “lap slowly around” the gas station before exiting at a high rate of speed. The police officer pursued and initiated a traffic stop by turning on the police siren and flashing red and blue lights on the windshield visor of the vehicle. The vehicle

moved to the shoulder of the road and then accelerated back into the travel lane. The appellant's vehicle stopped after colliding with a curb off an exit ramp. The appellant and his passenger then left the vehicle and ran toward nearby woods. The appellant was eventually apprehended by a K-9 unit that was dispatched to the area.

The circuit court imposed (1) a sentence of four years imprisonment, with 30 months suspended and three years of supervised probation, for the cocaine charge and (2) one year of imprisonment, to be served concurrently, for the fleeing and eluding charge. The case was appealed to the Court of Special Appeals, and among the issues, the following question was presented for consideration:

Was the evidence insufficient to sustain a conviction for fleeing and eluding in violation of section 21-904(c) of the Transportation Article?

The Court of Special Appeals answered the question in the affirmative and reversed the appellant's conviction for the fleeing and eluding charge.

The appellant contended that the fleeing and eluding statute prohibits fleeing and eluding a police officer who is in a vehicle "appropriately marked as an official police vehicle." Appellant argued that the legislature failed to define the phrase "a vehicle appropriately marked as an official police vehicle." Accordingly, the evidence was factually and legally insufficient to sustain his conviction.

The court, after noting that the meaning of "an appropriately marked police vehicle" had not been defined in statute or in Maryland case law, reviewed the case law of numerous other states and the legislative history of the statute. The court concluded that "a vehicle appropriately marked as a police vehicle" is not synonymous with a vehicle that is equipped with lights and sirens. Furthermore, the activation of lights and sirens alone did not transform an unmarked police vehicle into a vehicle "appropriately marked" as an official police vehicle. If only the activation of sirens and lights were enough to satisfy the statutory requirement that a police vehicle be "appropriately marked," then the language of the statute requiring that the vehicle be "appropriately marked" would be without meaning and, therefore, unnecessary. The court ruled that, "...without proof of each of the statutory elements, appellant's conviction of fleeing and eluding...cannot stand."

Additional Information

Prior Introductions: HB 1338 of 2012, a similar bill, was withdrawn after being heard by the House Judiciary Committee. HB 1179 of 2012, another similar bill, received an unfavorable report from the House Judiciary Committee. Its cross file, SB 254, received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: HB 732 (Delegate Parrott, *et al.*) – Judiciary.

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

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