

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 1241 (Delegate Hucker)
Environmental Matters

**Motor Vehicles - Use of Headlights When Windshield Wipers Operating -
Enforcement**

This bill enhances the enforcement and related penalty for failing to use headlamps or fog lights while operating a vehicle on a highway when windshield wipers are continuously operated due to weather conditions that impair visibility. Specifically, the bill repeals the authorization for only secondary enforcement, thereby expanding police authority to primary enforcement, and increases the maximum fine from \$25 to \$500. Other aspects of existing law that limit the consequences of a conviction for a violation are retained.

Fiscal Summary

State Effect: Significant increase in general fund revenues from expanded enforcement authority and the increased maximum fine applicable to the offense under the bill. No effect on expenditures as enforcement can be handled with existing resources.

Local Effect: Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: If a driver of a vehicle on a highway operates the vehicle's windshield wipers for a continuous period due to weather conditions that impair visibility, the driver is required to light the vehicle's headlamps or fog lights. A person who violates this provision is guilty of a misdemeanor and is subject to a maximum fine of \$25. The prepayment penalty established by the District Court is \$50, which includes court costs.

A violation is not considered a moving violation for which points may be assessed. A conviction may not be considered evidence of negligence, or contributory negligence, limit the liability of a party or insurer, or diminish recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle. Reference to violating the requirement to turn on headlamps or fog lights may not be made by a party, witness, or counsel in a court action. However, this provision may not be construed to prohibit the right of a person to initiate a civil action for damages against a dealer, manufacturer, distributor, factory branch, or other appropriate entity that relates to a defectively installed or operating headlamp or fog light.

A police officer may only enforce this requirement as a secondary action when the officer detains a driver of a motor vehicle for a suspected violation of another provision of State law.

Generally, a violation of any provision of the Maryland Vehicle Law is considered a misdemeanor with a maximum fine of \$500 unless the violation is declared to be a felony, a different criminal penalty is established, or the violation is punishable by a civil penalty.

Background: District Court records indicate that, in fiscal 2013, a total of 355 citations were filed for failing to turn on headlamps or fog lights while operating a vehicle with windshield wipers due to unfavorable visibility conditions. Of the 355 citations issued, drivers admitted guilt and prepaid 219 citations, 85 went to trial, and 51 remained open.

The Department of State Police advises that, from calendar 2008 through 2013, a total of 4,107 citations were issued to drivers for failing to use headlamps or fog lights when operating windshield wipers due to unfavorable visibility conditions. Of the total issued during that period, 827 were tickets that the motorist was required either to pay or to contest in District Court. The majority of citations (3,280) were warnings.

State Revenues: General fund revenues increase significantly from the expanded application and increased penalty applied to this offense.

This estimate is based on citations for which the penalty was prepaid, which amounted to less than \$11,000 in fiscal 2013. There is insufficient data to determine the revenue generated from citations that are disposed of at a trial. The estimate anticipates that the expansion to primary enforcement substantially increases the number of citations that police officers issue. Although the bill also increases the maximum fine to \$500, the magnitude of additional revenues from this change depends on the prepayment penalty set by the District Court, as most of these types of violations are prepaid and will likely remain so.

For misdemeanors under the Maryland Vehicle Law, the District Court has wide discretion to set the prepayment penalty to any amount up to the maximum fine. Except as otherwise provided, court costs of \$33 are attached to every issued citation, whether prepaid or disposed of at trial.

Generally, for misdemeanor violations subject to primary enforcement that involve the failure to use required vehicle equipment or devices, the District Court has set the prepayment penalty from \$60 to \$70. *For illustrative purposes only*, if the number of citations increased tenfold, with a corresponding increase in prepaid penalties, and the District Court also increased the prepayment penalty to \$70, general fund revenues could increase to \$114,975 in fiscal 2015, accounting for the bill's October 1 effective date and to \$153,300 on an annual basis.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City, Montgomery County, cities of Bowie and Takoma Park, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2014
ncs/ljm

Analysis by: Karen D. Morgan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510