

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 957
Judiciary

(Delegate Valentino-Smith, *et al.*)

Judicial Proceedings

Impaired Driving - Repeat Offenders - Penalties

This bill increases the penalties for a third or subsequent violation of (1) driving while impaired by alcohol; (2) driving while so far impaired by any drug, and/or drugs and alcohol, that the person cannot drive a vehicle safely; and (3) committing either of these offenses while transporting a minor.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. Enforcement can be handled with existing resources.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's penalty provisions. Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The penalty for a third or subsequent violation of either (1) driving while impaired by alcohol or (2) driving while so far impaired by any drugs, and/or drugs and alcohol, that the person cannot drive safely is increased from a maximum of one year imprisonment and/or a fine of up to \$500 to a maximum of three years imprisonment and/or a fine of up to \$3,000. If either of these offenses is committed while transporting a minor, the maximum fine increases from a maximum of one year imprisonment and/or a fine of up to \$2,000 to a maximum of four years imprisonment and/or a fine up to \$4,000.

Current Law: Under § 21-902 of the Transportation Article 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;
- so far impaired by any drugs, and/or drugs and alcohol, that the person cannot drive safely; or
- impaired by a controlled dangerous substance.

A person may not commit any of the above offenses while transporting a minor.

With a conviction for an alcohol- and/or drug-related driving offense, a violator is subject to a range of penalties involving fines and imprisonment, as well as suspension or revocation of the driver's license by the Motor Vehicle Administration (MVA). A person convicted of driving under the influence or under the influence *per se* is subject to fines ranging from \$1,000 to \$3,000 and/or a maximum imprisonment term of one to three years. A repeat conviction within five years requires a mandatory minimum penalty of imprisonment from 5 to 10 days or community service from 30 to 60 days, as well as a mandatory alcohol or drug abuse assessment. Imprisonment includes confinement in an inpatient rehabilitation or treatment center or home detention that includes electronic monitoring for the purpose of participation in a certified or court-approved alcohol or drug treatment program.

A conviction for lesser included offenses subjects the violator to a fine of \$500 and/or imprisonment for up to two months. However, for repeat offenders, maximum prison terms increase to a year. If an offender is transporting a minor at the time of the alcohol- and/or drug-related driving offense, fines and sanctions increase beyond those already specified for lesser included offenses.

Background: The Department of State Police reports that, in 2013, 1,111 people were arrested for suspicion of driving while so far impaired by drugs, a combination of drugs and/or alcohol, or a controlled dangerous substance.

Exhibit 1 shows the citations filed and available data on guilty dispositions in the District Court in fiscal 2013 for driving while impaired by alcohol as well as driving while so far impaired by drugs and/or drugs and alcohol that the person cannot drive a vehicle safely. The number of offenders cited for repeat violations is not readily available.

Exhibit 1
Driving Under the Influence/Driving While Impaired Citations
Fiscal 2013

<u>Offense</u>	<u>Citations Filed</u>	<u>Guilty Dispositions</u>
Driving While Impaired by Alcohol	22,467	3,170
Driving While Impaired/Transport Minor	199	N/A
Driving While So Far Impaired – Drugs/Alcohol	3,806	211
Driving While So Far Impaired/Transport Minor	58	N/A

Source: District Court of Maryland

State Revenues: Potential minimal increase in revenues as a result of the bill’s monetary penalties for cases heard in the District Court.

State Expenditures: Potential minimal increase in general fund expenditures as a result of the bill’s incarceration penalties due to people being committed to State facilities for longer periods of time. The number of people subject to longer incarceration sentences is expected to be minimal. The Department of Public Safety and Correctional Services (DPSCS) advises that, in fiscal 2013, there were 50 intakes of offenders with at least one conviction for driving while impaired by alcohol. Of those, 37 had the driving while impaired conviction as their most serious offense. The 37 offenders had an average sentence length of about 12.7 months. The Community Supervision program of DPSCS advises that, in fiscal 2012, 695 individuals were received who were subject to probation for driving while impaired by alcohol, and 40 individuals were received for the offense of driving while so far impaired by drugs and/or drugs and alcohol.

It is unknown how many of these individuals were convicted for third or subsequent offenses, which would subject them to the enhanced penalties proposed by the bill.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,100 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including variable health care costs) is about \$735 per month. Excluding all health care, the average variable costs total \$185 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between

12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues may increase minimally as a result of the bill's monetary penalties from cases heard in the circuit courts.

Local Expenditures: Expenditures may increase minimally as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Additional Information

Prior Introductions: None.

Cross File: SB 710 (Senator Forehand) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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