

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 777 (Senators Montgomery and Rosapepe)
Budget and Taxation and Judicial Proceedings

Driver's Education - Income Tax Credit - Assessment of Fees for Driving Offenses

This bill establishes that an individual may claim a refundable State income tax credit for driver education costs paid during the taxable year for each eligible student who is a child, stepchild, or legal ward of the individual. The bill creates the Driver's Education Fund to assist low-income families in paying for the cost of a driver's education program that is approved by the Motor Vehicle Administration (MVA). Revenues accruing to the fund may only be used to pay for the cost of the tax credit established by the bill. The bill also establishes a new \$350 fee for an individual holding a noncommercial Class A, B, C, or M driver's license and who is charged with a drunk or drugged driving offense, reckless driving, or negligent driving. A driver subject to this fee must pay the fee annually for three years from the date of conviction.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: Special fund revenues increase by \$2.8 million in FY 2015 from fees imposed on dangerous drivers. Out-years assume no changes in caseload or fees imposed but reflect the cumulative impact of fees paid over three years. Special fund expenditures increase correspondingly by \$1.2 million for administrative expenses and by \$1.7 million to pay for the issuance of refundable tax credits. Out-years assume inflation in administrative costs. General fund revenues increase by \$48,600 beginning in FY 2015 due to additional administrative hearings. General fund expenditures increase by \$48,000 in FY 2015 only to add the tax credit to the personal income tax form.

| (in dollars) | FY 2015 | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|----------------|-------------|-------------|-------------|-------------|-------------|
| GF Revenue | \$48,615 | \$48,615 | \$48,615 | \$48,615 | \$48,615 |
| SF Revenue | \$2,814,420 | \$3,518,025 | \$4,221,630 | \$4,221,630 | \$4,221,630 |
| GF Expenditure | \$48,000 | \$0 | \$0 | \$0 | \$0 |
| SF Expenditure | \$2,814,420 | \$3,518,025 | \$4,221,630 | \$4,221,630 | \$4,221,630 |
| Net Effect | \$615 | \$48,615 | \$48,615 | \$48,615 | \$48,615 |

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Potential meaningful to the extent driver's education schools receive increased business as a result of the refundable tax credit.

Analysis

Bill Summary: An "eligible student" means a student who is eligible to receive free meals at the student's school through the School Lunch Program established under the federal Child Nutrition Act (42 U.S.C. § 1751 *et seq.*). The amount of the refundable State income tax credit may not exceed the lesser of \$175 for *each eligible student* or the individual's driver education costs during the taxable year. "Driver education costs" means the cost of participating in a driver education program that is approved by MVA.

MVA is required to administer the Driver's Education Fund under the bill. The fund is a special, nonlapsing fund. After first deducting an amount to cover administrative expenses, MVA is required to distribute the balance of the revenue derived from the fees assessed under the bill to the Driver's Education Fund.

The \$350 fee also applies to those convicted of an offense in another jurisdiction that would be a drunk/drugged driving offense or reckless or negligent driving in this State. MVA must send a notice to each individual who is assessed a fee due to a conviction for one of the aforementioned offenses. The notice must be sent no later than 30 days after the conviction is posted to the individual's driving record. MVA is required to suspend the license of an individual subject to the \$350 fee until all assessed fees are paid within a time period established by MVA. MVA may establish a payment schedule for the \$350 fee. If MVA establishes such a schedule and an individual adheres to the payment schedule, then the individual's license may not be suspended for failure to pay the fee. If the individual's license was suspended for failure to pay the fee, then MVA must reinstate the driver's license, once the driver complies with the payment schedule. Also, an individual subject to this fee may prepay the total amount of fees assessed over the three-year period at any time.

An individual who is subject to the fee may request an administrative hearing on the suspension of the license or privilege to drive for failure to pay the fee. The issue for the administrative hearing is limited, however, to whether MVA had mistaken the identity of the individual whose driver's license or privilege to drive was suspended.

Current Law/Background: State law governing income taxes does not authorize the issuance of a tax credit to individuals who pay for students to participate in a driver education program.

Driver Education: The Maryland State Department of Education has advised for other similar bills that the requirement for public high schools to offer driver education classes was terminated before 1987. State law does not require that public high schools make driver education part of the school curriculum and, at the present time, driver education is not part of any public school curriculum. As a result, parents pay for their children to take driving courses that are offered in the private sector.

As part of the Graduated Licensing Program established under Chapter 483 of 1998, MVA is required to approve driver education courses and certify driver education schools. The State Graduated Licensing Program governs the issuance of learner's permits and provisional licenses. An approved school must have at least 30 hours of classroom instruction and at least 6 hours of highway driving instruction. Information taken from the MVA website indicates that there are 198 approved driving schools in Maryland. All counties and Baltimore City have at least one approved driving school. The larger urban jurisdictions may have 20 or more approved driving schools. For example, Montgomery County contains more approved driving schools than any other jurisdiction, with 33 of these schools. Caroline and Kent counties, on the other hand, each contain only one approved driving school.

Court Costs: State law requires that, except as otherwise provided, in every traffic case, court costs of \$22.50 must be assessed, whether the driver decides to prepay the penalty (if applicable) and avoid a trial or decides to request a trial. In addition to the \$22.50 assessment, a surcharge of \$7.50 is added to help fund emergency medical and rescue services. An additional \$3.00 surcharge is attached to every criminal case processed by the District Court, including traffic cases, to fund compensation and services for victims of crime.

Drunk/Drugged Driving: 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 drugs, and/or drugs and alcohol that the vehicle cannot be driven safely; or
- impaired by a controlled dangerous substance.

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 MVA. A person convicted of driving under the

influence, under the influence of alcohol *per se*, or while impaired by a controlled dangerous substance 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.

A conviction for lesser-included offenses subjects the violator to a fine of up to \$500 and/or imprisonment for up to two months. However, for repeat offenders maximum prison terms increase to one 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. A person who is convicted of driving under the influence of alcohol, under the influence of alcohol *per se*, or while impaired by a controlled dangerous substance receives 12 points on his/her driver’s license and is subject to license revocation. A person who is convicted of driving while impaired by alcohol or driving while impaired by drugs and/or drugs and alcohol receives eight points on his/her driver’s license and is subject to license suspension. A drunk/drugged driving offense is designated as “must appear,” meaning that the offender may not dispose of the charge by prepayment of a penalty. The person must appear in court to answer the charge.

Exhibit 1 shows citations recorded for all licensed classes of drivers for drunk/drugged driving in fiscal 2013.

**Exhibit 1
Drunk/Drugged Driving Citations
Fiscal 2013**

| <u>Offense</u> | <u>Guilty Dispositions</u> | <u>Total Citations</u> |
|--|---------------------------------------|-----------------------------------|
| Driving Under the Influence of Alcohol or Under the Influence <i>Per Se</i> | 3,279 | 36,524 |
| Driving While Impaired by Alcohol | 3,170 | 22,467 |
| Driving While Impaired by Drugs and/or Drugs and Alcohol | 211 | 3,806 |
| Driving While Impaired by a Controlled Dangerous Substance | 101 | 2,079 |
| Total Citations | 6,761 | 64,876 |

Source: The District Court

Negligence and Recklessness: A person is guilty of reckless driving if a motor vehicle is driven in wanton or willful disregard for the safety of persons or property or in a manner

that indicates a wanton or willful disregard for the safety of persons or property. A violation is a misdemeanor, subject to a fine of up to \$1,000. MVA is also required to assess six points against the driver’s license upon conviction for this offense. The District Court prepayment penalty, including court costs, is \$510 for this offense.

A person is guilty of negligent driving if the motor vehicle is driven in a careless or imprudent manner that endangers any property or the life or safety of any individual. This violation is a misdemeanor, subject to a maximum fine of \$500. Upon conviction, MVA must assess one point against the driver’s license, or three points, if the offense contributes to an accident. The District Court currently assesses a prepayment penalty of \$140 for this offense or \$280 if the offense contributes to an accident.

Exhibit 2 shows the citations recorded in the District Court for all licensed classes of drivers for these offenses in fiscal 2013.

Exhibit 2
Reckless and Negligent Driving Citations
Fiscal 2013

| <u>Offense While Driving</u> | <u>Open</u> | <u>Prepaid</u> | <u>Trial</u> | <u>Total Citations</u> |
|------------------------------|-------------|----------------|--------------|------------------------|
| Reckless Driving | 1,595 | 241 | 7,238 | 9,074 |
| Negligent Driving | 3,442 | 2,932 | 16,845 | 23,219 |

Source: The District Court

Administrative Penalties: If a person accumulates five points or more on a driver’s license within two years, MVA must require attendance at a driver education conference. MVA must issue a notice of suspension to a driver who accumulates 8 points on the driver’s license and must issue a notice of license revocation to a person who accumulates 12 points within two years.

State Fiscal Effect:

Driver’s Fee Revenues: Total special fund revenues increase by \$2,814,420 in fiscal 2015. The bill requires that a portion of the revenues be used to cover MVA administrative expenses. The balance is then directed to the new Driver’s Education Fund established under the bill. As a result, special fund revenues accruing to the new fund increase by \$1,651,216 in fiscal 2015. This accounts for the July 1, 2014 effective date of the bill and the deduction of administrative costs incurred by MVA to administer

the Driver’s Education Fund. The estimate assumes that fees will be imposed as of the effective date of the bill and that the fund will immediately accrue revenues. The bill requires that individuals convicted of a drunk/drugged driving offense, reckless driving, or negligent driving must pay a fee of \$350 annually for three years from the date of conviction. Drivers may also prepay the entire fee.

MVA advises that, in fiscal 2013, 6,701 drivers who held licenses in Classes A, B, C, and M were convicted of an offense that is subject to the fee. The following assumptions were made to develop the fiscal estimate:

- the number of convicted drivers remains constant;
- fees will be successfully collected from 60% of the applicable population (based on MVA historical data);
- about 50% of those who pay the fee will prepay the whole fee at once (\$1,050);
- about 50% of those who pay the fee will pay once per year over three years;
- although MVA is authorized to establish a payment schedule for this fee, the estimate does not assume that a payment schedule is implemented; and
- additional Transportation Trust Fund (TTF) revenues will be generated from corrected license fees collected as license suspensions expire; the overall impact of these fees is minimal and is not included in this estimate.

Exhibit 3 shows the total amount of revenues projected to accrue from imposition and collection of the driver’s fee.

Exhibit 3
Revenues from Imposition and Collection of Driver’s Fee
Fiscal 2015-2019

| <u>Fees Imposed</u> | <u>FY 2015</u> | <u>FY 2016</u> | <u>FY 2017</u> | <u>FY 2018</u> | <u>FY 2019</u> |
|------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| If ½ Prepaid | \$3,518,025 | \$3,518,025 | \$3,518,025 | \$3,518,025 | \$3,518,025 |
| If ½ Paid Annually | 1,172,675 | 2,345,350 | 3,518,025 | 3,518,025 | 3,518,025 |
| <i>Gross Revenue Expected</i> | <i>4,690,700</i> | <i>5,863,375</i> | <i>7,036,050</i> | <i>7,036,050</i> | <i>7,036,050</i> |
| <u>Fees Collected (60%)</u> | | | | | |
| ½ Actually Prepaid | 2,110,815 | 2,110,815 | 2,110,815 | 2,110,815 | 2,110,815 |
| ½ Paid Annually | 703,605 | 1,407,210 | 2,110,815 | 2,110,815 | 2,110,815 |
| Total Driver’s Fee Revenues | \$2,814,420 | \$3,518,025 | \$4,221,630 | \$4,221,630 | \$4,221,630 |

Source: Maryland Department of Transportation, Department of Legislative Services

MVA Administration: The bill specifies that MVA is to deduct from generated revenues an amount required for administration of the Driver’s Education Fund and imposition of the driver’s fees as required by the bill; DLS assumes that these revenues accrue to TTF. Thus, the Department of Legislative Services (DLS) estimates that TTF expenditures increase by \$1,163,204 in fiscal 2015, accounting for the July 1, 2014 effective date of the bill, for three fiscal technicians for the accounts receivable system to handle inquiries, send notifications, process license suspensions, and verify the specialized payments for drivers subject to the fees in the bill. The estimate includes four fiscal technicians in fiscal 2016 to address the cumulative impact of additional drivers and anticipated backlogs that are likely to result from processing notifications and license suspensions, handling inquiries, and verifying payments.

In fiscal 2015 only, the Maryland Department of Transportation advises that \$944,333 is needed for computer programming changes, from an external vendor, including establishment of a dedicated Internet payment system, and programming to calculate estimated payments due, depending on whether the driver pays the fee at one time, pays annually for three years, or complies with another payment schedule that may be established by MVA. The estimate includes postage and expenditures for additional administrative hearings, as well as other operating expenses.

| | |
|---|--------------------|
| Positions | 3 |
| Salaries and Fringe Benefits | \$162,900 |
| Computer Programming – Specialized | 944,333 |
| Hearings | 32,410 |
| Other Operating Expenses | <u>23,561</u> |
| Total FY 2015 State Expenditures | \$1,163,204 |

Future year expenditures reflect annual increases and employee turnover as well as annual increases in ongoing operating expenses.

The following assumptions were made to develop the Driver’s Education Fund administrative costs estimate:

- MVA uses permanent staff for the program comprising three fiscal technicians in fiscal 2015 and four fiscal technicians in fiscal 2016 for a total of seven additional staff to manage the program;
- those who do not pay the fee are subject to license suspension; however, those who are charged with drunk/drugged driving offenses (3,460 of the total 6,701 drivers estimated to be subject to the fee) are already subject to license suspension or revocation under current law for commission of the offense;

- any resulting administrative hearings from drivers charged with an alcohol- and/or drug-related driving offense are already occurring under current law; and
- of the drivers charged with reckless or negligent driving annually (3,241), about 10% will file an appeal for an administrative hearing, but most appeals are rejected as the only allowed issue relates to mistaken identity.

Exhibit 4 shows the revenues remaining in the Driver’s Education Fund after deduction of administrative costs by MVA.

Exhibit 4
Projected Revenues Accruing to Driver’s Education Fund
Fiscal 2015-2019

| | <u>FY 2015</u> | <u>FY 2016</u> | <u>FY 2017</u> | <u>FY 2018</u> | <u>FY 2019</u> |
|---|--------------------|--------------------|--------------------|--------------------|--------------------|
| Driver’s Fee Revenues | \$2,814,420 | \$3,518,025 | \$4,221,630 | \$4,221,630 | \$4,221,630 |
| MVA Expenditures | | | | | |
| Computer Programming | 944,333 | 0 | 0 | 0 | 0 |
| Staff | 162,900 | 392,158 | 411,014 | 430,796 | 451,551 |
| Hearings | 32,410 | 32,410 | 32,410 | 32,410 | 32,410 |
| Other Operating | 23,561 | 39,003 | 30,274 | 29,776 | 30,358 |
| <i>Total TTF Expenditures</i> | <i>1,163,204</i> | <i>463,571</i> | <i>473,698</i> | <i>493,522</i> | <i>514,319</i> |
| Revenues for Driver’s Education Fund | \$1,651,216 | \$3,054,454 | \$3,747,932 | \$3,728,108 | \$3,707,311 |

Source: Department of Legislative Services

Income Tax Credit for Driver’s Education Students: The bill establishes a refundable credit against the State income tax for expenses incurred from purchasing a driver’s education course for an eligible student. As noted above, the bill specifies that an “eligible student” is a high school student who qualifies for a free meal under the federal Child Nutrition Act. According to the Maryland State Department of Education, an estimated 79,814 high school students in public schools will qualify for free or reduced-price meals during the 2013 school year. The tax credit is applied only to those students who qualify for free meals. This estimate assumes that half of the estimated 79,814 students qualify for free meals and are, therefore, eligible for the tax credit in the bill.

Of those students who would be the correct age to take driver’s education, it is unknown how many students would actually take a driver’s education course because of the refundable tax credit offered in the bill. The credit is limited to the lesser of \$175 or the expenses actually incurred to take a course. Driver education courses from some of the

larger schools can cost from \$300 to \$500. As a result, the cost of driver's education may still be difficult to undertake for some low-income families, even with the refundable tax credit provided by the bill.

Based on the estimated amount of fees generated by the bill, likely number of eligible students who will claim the credit, and the maximum value of the credit specified by the bill, the estimate assumes that the special fund revenue generated by the bill is sufficient to offset general fund revenue losses resulting from credits being claimed against the personal income tax. As a result, special fund revenues for this purpose increase by \$1,651,216 in fiscal 2015 and special fund expenditures are intended to increase by a corresponding amount to offset these general fund revenue losses. The projected revenue stream in fiscal 2015 is sufficient to cover approximately 9,400 eligible students if all claim a credit of \$175. In future years, more eligible students may be covered by projected revenues due to the cumulative impacts of fees assessed and collected. For example, in fiscal 2017, about 21,400 students could be covered.

While the bill caps the amount of each credit claimed at \$175, it does not impose a cap on the total credits that may be claimed. Thus, to the extent credits are claimed in excess of the fee revenue generated in each year, general fund losses occur. Conversely, if the tax credits claimed in any one fiscal year do not exhaust the revenues in the Driver's Education Fund, the estimate reflects the excess revenues remaining with and accruing to the fund.

Comptroller's Office: **The Comptroller's Office did not provide an estimate of the impact of the tax credit on the State general fund or of any costs to the office required by the bill in enough time for inclusion in this analysis.** Based on information that was provided for HB 1336 of 2013, the prior introduction of this bill, the estimate includes \$48,000 in fiscal 2015 only to add the tax credit to the personal income tax form. This includes data processing changes to the SMART income tax return processing and imaging systems and system testing.

Administrative Hearings: General fund revenues increase by about \$48,615 annually beginning in fiscal 2015, accounting for the bill's July 1, 2014 effective date due to additional administrative hearings to appeal the suspension of driver's licenses due to nonpayment of the \$350 annual fee. It is anticipated that the Office of Administrative Hearings can handle these hearings with existing resources. As noted above, TTF expenditures increase by about \$32,410 annually beginning in fiscal 2015, which represents funds transferred from MVA to the Office of Administrative Hearings to reimburse the office for adjudicating administrative hearings.

Additional Comments: The bill specifies that the fee revenues distributed to the Driver's Education Fund may only be used to pay for the cost of the tax credit created by

the bill. However, the bill does not provide a mechanism for the transfer of special fund revenues to the State general fund to defray the cost of the income tax credit. Even so, this analysis assumes special funds are used for this purpose rather than general funds.

Additional Information

Prior Introductions: HB 1336 of 2013 received an unfavorable report from the House Environmental Matters Committee.

Cross File: HB 1286 (Delegate A. Miller, *et al.*) - Environmental Matters.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Maryland State Department of Education, Legal Information Institute-Cornell University Law School, National Center for Education Statistics, U.S. Bureau of the Census, Easy Method Driving School, U.S. Code Annotated, Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2014
ncs/ljm

Analysis by: Karen D. Morgan

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