

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 716

(Senator Raskin, *et al.*)

Judicial Proceedings

Rules and Executive Nominations

Motor Vehicles - Checkpoints - Prohibition on Targeting Motorcycles

This bill specifically prohibits a police officer from targeting *only* motorcycles for inspection and evaluation at a motor vehicle checkpoint. An exception is created, however, if the targeting of motorcycles is appropriate at a police checkpoint established as part of a police search or investigation. Accordingly, the bill also limits a person's duty to obey *any* lawful order or direction of a police officer by establishing that the duty may not be construed to authorize a police officer to target only motorcycles for inspection and evaluation at a motor vehicle checkpoint, unless the checkpoint is part of a police search or investigation, which may target motorcycles as appropriate.

Fiscal Summary

State Effect: None, as enforcement can be handled with existing resources. No effect on revenues.

Local Effect: None, as enforcement can be handled with existing resources. No effect on revenues.

Small Business Effect: None.

Analysis

Bill Summary: For purposes of the bill, "checkpoint" means a predetermined fixed location where a police officer stops a motor vehicle or a specific sequence of motor vehicles to conduct safety inspections, inspect drivers' licenses or registrations, or evaluate drivers for signs of impairment.

Current Law/Background: A “motorcycle” is a motor vehicle that (1) has motive power; (2) has a seat or saddle for the rider’s use; (3) is designed to travel on not more than three wheels in contact with the ground and at speeds in excess of 35 miles per hour; and (4) is of a type required to comply with all motor vehicle safety standards applicable under federal law.

Duty to Obey Law Enforcement Officer: The Maryland Vehicle Law establishes that, with regard to the driving of vehicles, as specified, a person may not do a prohibited act or fail to do any act required by the Maryland Vehicle Law. Accordingly, a person may not willfully disobey a lawful direction or order of any police officer. A person who willfully disobeys a lawful order is guilty of a misdemeanor and is subject to a maximum fine of \$500. The prepayment penalty established by the District Court is \$290 and one point against the driver’s license. If the violation contributes to an accident, the prepayment penalty is \$330, with three points against the driver’s license.

The District Court advises that 779 citations were issued in fiscal 2014 for willfully disobeying a lawful order or direction of a police officer. Of those citations, 94 were prepaid, 438 went to trial, and 247 remained open.

Authority for Safety Checkpoints: No specific provision of the Maryland Vehicle Law addresses safety checkpoints that target the general public or the authority of police to detain drivers based on whether the motor vehicle is a motorcycle or not. The term “checkpoint” with regard to traffic safety is not defined in the Maryland Vehicle Law.

Nevertheless, it is a well-settled principle of constitutional law that police have the authority to set up roadblocks or checkpoints to enforce traffic laws and regulations, as long as the purpose of the checkpoints or roadblocks complies with the Fourth Amendment and Fourteenth Amendment guarantees against unreasonable search and seizure.

For example, in *Little v. State* 300 Md. 485 (1984), the Maryland Court of Appeals observed that a long-standing principle of common law recognizes that stopping an automobile and detaining its occupants is a “seizure” within the meaning of the Fourth and Fourteenth Amendments to the U.S. Constitution, although the purpose of the stop is limited and the detention is brief. (*See Delaware v. Prouse*, 440 U.S. 648 (1979).) However, these seizures do not, in and of themselves, violate the Fourth and Fourteenth Amendments just because they are not based on reasonable cause or suspicion that the motorist was violating criminal law. The Court of Appeals further observed that the purpose of the Fourth and Fourteenth Amendments is to protect against *unreasonable* search and seizure. Accordingly, it imposes a standard which requires a balancing of the interest of the State in using its police power to protect citizens from crime against the right of an individual to be able to conduct his or her business without fear of interference or

being accosted by police. In the *Little* case, the Court of Appeals found that the State had a compelling interest in using sobriety checkpoints to detect and deter drunk driving. Given that compelling interest, the intrusion on individual liberties caused by checkpoints was considered minimal. The court ruled:

The brief detention of the motorist at the sobriety checkpoints here involved does not constitute an arrest under Maryland common law. Drivers are not stopped for the purpose of taking them into custody and prosecuting them. They are not under the control or subject to the will of the officer; they may leave the checkpoint without talking to the authorities or avoid the roadblock altogether by making a U-turn. The stops made at the checkpoints are investigatory in nature and limited in scope; they are comparable to the accosting of an individual in a public area and are not inconsistent with the restrictions on authority imposed by the common law of arrest.

Additional Information

Prior Introductions: SB 640 of 2014 was heard in the Senate Judicial Proceedings Committee but received no further action. Its cross file, HB 666 of 2014, was heard in the Environmental Matters Committee but received no further action.

Cross File: HB 917 (Delegate Kramer, *et al.*) - Environment and Transportation.

Information Source(s): Baltimore City; Kent, Montgomery, Washington, and Worcester counties; City of Salisbury; Town of Leonardtown; Governor's Office of Crime Control and Prevention; Maryland Department of Transportation; Department of State Police; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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