

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 630
Judiciary

(Delegate Vallario, *et al.*)

Drunk and Drugged Driving - Reinstatement of Revoked License

This bill expands the definition of “alcohol-related or drug-related driving incident” for the purposes of applying for the reinstatement of a license that has been revoked due to commission of an alcohol- and/or drug-related driving offense, as specified. The definition includes a conviction for, or probation before judgement for, (1) homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*; (2) homicide by motor vehicle or vessel while impaired by alcohol; (3) homicide by motor vehicle or vessel while impaired by drugs; (4) homicide by motor vehicle or vessel while impaired by a controlled dangerous substance (CDS); (5) life-threatening injury by motor vehicle or vessel while under the influence of alcohol and related crimes; or (6) similar laws of another jurisdiction. The bill expands the authority of the Motor Vehicle Administration (MVA) to impose conditions, including participation in the Ignition Interlock System Program (IISP), on those involved in alcohol-related or drug-related incidents and who have had their licenses revoked, before considering reinstatement of those licenses. The bill also lowers the test result for an alcohol-related incident from 0.10 to 0.08 blood alcohol concentration.

Fiscal Summary

State Effect: Transportation Trust Fund revenues decrease minimally to the extent that additional drivers do not qualify for reinstatement under the bill’s procedures. MVA can handle the bill’s requirements with existing resources.

Local Effect: The bill does not directly affect local government operations or finances.

Small Business Effect: Minimal. Ignition interlock operators and organizations that offer substance abuse treatment may be impacted to the extent that additional persons require these services.

Analysis

Bill Summary: The bill adds involvement in two alcohol-related or drug-related driving incidents within the previous five years to those circumstances that require MVA to conduct an investigation to determine the safety of reinstatement of the driver's license.

The bill also specifies that, regardless of the number of alcohol-related or drug-related incidents, MVA may require evidence of satisfactory completion of a certified substance abuse treatment program of at least 90 days in length if it finds, as a result of an investigation or assessment, that an applicant for reinstatement suffers from alcoholism or substance abuse that has not been addressed. MVA may also require an applicant to undergo review by or appear for an interview with the Medical Advisory Board (MAB). MVA may impose restrictions, limitations, or other requirements as a condition of reinstatement, as follows:

- participation in the IISP and successful program completion;
- participation or continued participation in a certified substance abuse treatment program for a specified time period;
- attendance at support group meetings such as Alcoholics Anonymous or Narcotics Anonymous for a specified time period;
- enrollment in the Drinking Driver Monitor Program of the Division of Parole and Probation, Department of Public Safety and Correctional Services in the manner prescribed by the program's monitor;
- attendance at an approved alcohol education program for a specified time period, as prescribed by the program's director; or
- compliance with recommendations of MAB.

MVA may modify a suspension or revocation imposed under another provision of State law to allow an eligible person to participate in reinstatement under the bill.

Current Law: "Life-threatening injury" is not defined in statute.

"Under the influence of alcohol *per se*" means having an alcohol concentration at the time of testing of at least 0.08 as measured by grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

"Impaired by alcohol" means *prima facie* evidence as indicated, at the time of testing, by an alcohol concentration of at least 0.07, but less than 0.08, as measured by grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

Homicide by Motor Vehicle or Vessel Under the Influence: A person may not cause the death of another as a result of negligently driving, operating, or controlling a motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*.

Homicide by Motor Vehicle or Vessel While Impaired: A person may not cause the death of another as a result of negligently driving, operating, or controlling a motor vehicle or vessel while (1) impaired by alcohol; (2) so far impaired by a drug, any combination of drugs, or any combination of drugs and alcohol that the person cannot drive, operate, or control a motor vehicle or vessel safely; or (3) impaired by a CDS that the person is not entitled to use by State law.

Life-threatening Injury by Motor Vehicle or Vessel and Related Crimes: A person may not cause life-threatening injury to another as a result of negligently operating or controlling a motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*; likewise, a person may not cause life-threatening injury to another as a result of negligently operating a vehicle or vessel while impaired by alcohol, impaired by drugs, or impaired by a CDS.

Exhibit 1 shows the maximum penalties for the offenses included in the bill.

Exhibit 1
Current Maximum Penalties for Alcohol/Drug-related Motor Vehicle and Vessel
Offenses Covered by the Bill

Offense		Maximum Penalties	
		Imprisonment	Fine
Homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol <i>per se</i>	felony	5 years	\$5,000
Homicide by motor vehicle or vessel while impaired by alcohol	felony	3 years	\$5,000
Homicide by motor vehicle or vessel while impaired by drugs	felony	3 years	\$5,000
Homicide by motor vehicle or vessel while impaired by a CDS	felony	3 years	\$5,000
Causing life-threatening injury by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol <i>per se</i> or while impaired by a CDS	misdemeanor	3 years	\$5,000
Causing life-threatening injury by motor vehicle or vessel while impaired by alcohol, by drugs, or by a CDS	misdemeanor	2 years	\$3,000

Note: The maximum penalties may be the imprisonment term noted, the fine noted, or both.

Source: Department of Legislative Services

Administrative Penalties: In addition to the current maximum penalties noted in Exhibit 1, all of the offenses in the bill are subject to points assessment by MVA, which makes the driver subject to revocation of the driver's license.

For convictions of all manslaughter by motor vehicle or vessel, homicide by motor vehicle or vessel, and life-threatening injury by motor vehicle or vessel offenses, MVA must assess 12 points against the driver's license, and the license is subject to revocation. A conviction of driving under the influence of alcohol or driving while impaired by a CDS also requires assessment of 12 points against the license by MVA, and the license is subject to revocation. A conviction for driving while impaired by alcohol or impaired by a drug, any combination of drugs, or any combination of drugs and alcohol requires assessment of 8 points against the driver's license by MVA, and the license is subject to suspension. A driver who accumulates 8 or 12 points against his or her driver's license within a two-year period is subject to license suspension or revocation, respectively.

License Revocation/Reinstatement: Any individual whose license or privilege to drive has been revoked may apply for reinstatement. For individuals convicted of the alcohol- and/or drug-related driving offenses listed below, MVA may reinstate a license or privilege to drive only if, after an investigation of an individual's habits and driving ability, it is satisfied it will be safe to reinstate the license or privilege of an individual who has been (1) involved in any combination of three or more separate alcohol-related or drug-related driving incidents; (2) involved in a vehicular accident resulting in the death of another person; or (3) convicted of a violation for failing to stop after a vehicular accident resulting in bodily injury or death and has previously:

- been convicted of or on probation before judgement for driving while under the influence of alcohol or under the influence of alcohol *per se*, while impaired by alcohol, while impaired by drugs or drugs and alcohol, or while impaired by a CDS;
- has refused to submit to a test of the blood or breath; or
- had a test result that indicates an alcohol concentration of 0.10 or more at the time of testing.

Mandatory IISP Participation: A driver must participate in IISP as a condition of modification of a license suspension or revocation of a license or the issuance of a restrictive license if the driver:

- is required to participate by a court order;
- is convicted of driving while under the influence of alcohol or under the influence of alcohol *per se* and had a blood alcohol concentration (BAC) at the time of testing of 0.15 or greater;
- is convicted of driving under the influence of alcohol, under the influence of alcohol *per se*, or while impaired by alcohol and transporting a minor younger than age 16;

- is convicted of driving while under the influence of alcohol, under the influence of alcohol *per se*, or impaired by alcohol and within the preceding five years was convicted of any specified alcohol- and/or drug-related driving offense; or
- was younger than age 21 and violated the alcohol restriction imposed on the driver's license or committed the specified alcohol-related driving offense.

A driver who is required to participate in the program must be in the program for six months the first time the requirement is imposed. For the second time, the driver must participate for one year. For the third or any subsequent time the requirement is imposed, the driver must participate for three years. A court and MVA may also impose a longer participation period in accordance with other Maryland Vehicle Law provisions.

MVA must immediately issue a license to a driver who successfully completes the program and whose license is not otherwise suspended, revoked, refused, or canceled.

Sanctions for Program Participants: A driver who is convicted of the following offenses is subject to a mandatory indefinite license suspension until the driver successfully completes IISP: (1) driving while under the influence of alcohol or under the influence of alcohol *per se* and having a BAC of 0.15 or greater; or (2) driving while under the influence of alcohol, under the influence of alcohol *per se*, or impaired by alcohol and transporting a minor younger than age 16. The other categories of drivers who are mandated to participate in the program (as noted above) are subject to mandatory license suspension for one year if they fail to participate in the program or do not complete it. Periods of mandatory participation must run concurrently for a driver who is subject to participation in the program due to more than one provision of the law.

Reconsideration of Refusal or Program Reentry: If a driver who is eligible or required to participate in IISP does not initially become a participant, that driver may apply to MVA to become a participant at a later time. MVA may reconsider any suspension or revocation of the driver's license arising out of the same circumstances and allow the driver to participate in the program.

If MVA removes a driver from the program due to violation of the program requirements, MVA may allow the driver to reenter the program after a period of 30 days from the date of removal. If the driver reenters the program under these circumstances, that driver must participate in the program for the entire period that was initially assigned for successful completion of the program without any credit for participation that occurred before the driver was removed from the program.

Medical Advisory Board: Appointed by the Motor Vehicle Administrator, MAB consists of qualified physicians of various specialties who advise the administrator on medical aspects of driver licensing. MAB currently lists 20 disorders that require further medical

review before board approval may be granted to license or reinstate an applicant. When examining an individual who has one of these disorders, the board examiners take many factors into consideration before determining whether to approve the individual for licensure.

A “vehicle” includes a motor vehicle, streetcar, locomotive, engine, or train. A “motor vehicle” is a vehicle that is self-propelled or propelled by electric power obtained from overhead electrical wires and is not operated on rails. A “vessel” is any watercraft that is used or capable of being used as a means of transportation on water or ice, but it does not include a seaplane.

Background: MVA advises that 21 cases involving fatalities were processed for reinstatement in fiscal 2015, and 24 were processed for reinstatement in fiscal 2014.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 23, 2016
kb/kdm

Analysis by: Michelle Davis

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