

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1393
Judiciary

(Delegate Glass, *et al.*)

Vehicle Laws - Drunk Driving - Mandatory Minimum Sentences

This bill establishes mandatory minimum imprisonment penalties that apply to a person who is convicted for a violation of driving while (1) under the influence of alcohol or under the influence of alcohol *per se* or (2) transporting a minor while under the influence of alcohol, as specified.

The mandatory minimum imprisonment penalty is three months for a person who is convicted of any of the above offenses within three years after the person is placed on probation before judgement for driving while (1) under the influence of alcohol or under the influence of alcohol *per se*; (2) transporting a minor while under the influence of alcohol; (3) impaired by alcohol; or (4) transporting a minor while impaired by alcohol. The mandatory minimum imprisonment penalty is six months for a person who is convicted of any of the above offenses within three years after a prior conviction for driving while (1) under the influence of alcohol or under the influence of alcohol *per se*; (2) transporting a minor while under the influence of alcohol; (3) impaired by alcohol; or (4) transporting a minor while impaired by alcohol.

Fiscal Summary

State Effect: Potential operational impact on the Office of the Public Defender. Minimal increase in general fund expenditures due to the bill's penalty provisions. No effect on revenues.

Local Effect: Minimal increase in local expenditures due to the bill's penalty provisions. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law: “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.

Driving Under the Influence of Alcohol: An individual convicted of driving under the influence of alcohol or under the influence of alcohol *per se* is subject to maximum penalties of (1) a first offense, a fine of \$1,000 and/or imprisonment for one year; (2) for a second offense, a fine of \$2,000 and/or imprisonment for two years; and (3) for a third or subsequent offense, a fine of \$3,000 and/or imprisonment for three years.

Driving Under the Influence While Transporting a Minor: An individual convicted of driving under the influence of alcohol or under the influence of alcohol *per se* while transporting a minor is guilty of a misdemeanor and is subject to maximum penalties of (1) for a first offense, a fine of \$1,000 and/or imprisonment for six months; (2) for a second offense, a fine of \$2,000 and/or imprisonment for one year; and (3) for a third or subsequent offense, a fine of \$4,000 and/or imprisonment for four years.

Repeat Offender Penalties for Driving Under the Influence Offenses: 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.

Driving While Impaired by Alcohol: An individual convicted of driving while impaired by alcohol is guilty of a misdemeanor and is subject to maximum penalties of (1) for a first offense, a fine of \$500 and/or imprisonment for two months; (2) for a second offense, a fine of \$500 and/or imprisonment for one year; and (3) for a third or subsequent offense, a fine of \$3,000 and/or imprisonment for three years.

Driving While Impaired by Alcohol While Transporting a Minor: An individual convicted of driving while impaired by alcohol while transporting a minor is guilty of a misdemeanor and is subject to maximum penalties of (1) for a first offense, a fine of \$1,000 and/or imprisonment for six months; (2) for a second offense, a fine of \$2,000 and/or imprisonment for one year; and (3) for a third or subsequent offense, a fine of \$4,000 and/or imprisonment for four years.

Background: The District Court reports that for fiscal 2015, 34,463 cases of driving under the influence of alcohol or under the influence of alcohol *per se* were filed in the court, and 21,613 cases of driving while impaired by alcohol were filed. The Department of Public Safety and Correctional Services received 111 offenders with at least one conviction for driving under the influence of alcohol or under the influence of alcohol *per se*. There is no way to determine how many of these offenders had prior convictions or probation before judgement for other alcohol-related offenses.

State Expenditures: General fund expenditures increase minimally as a result of the bill's mandatory minimum incarceration penalties due to more people being committed to State correctional facilities for convictions in Baltimore City.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Local Expenditures: Expenditures increase minimally as a result of the bill's mandatory minimum incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. 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: None.

Information Source(s): Carroll, Harford, Montgomery, and Queen Anne's counties; Maryland Association of Counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Health and Mental Hygiene; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Department of Legislative Services

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