

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 809
Judiciary

(Delegate B. Wilson, *et al.*)

Marijuana - Smoking or Consuming in a Vehicle or Vessel - Prohibition

This bill prohibits (1) smoking or consuming marijuana while operating or attempting to operate a vessel and (2) smoking or consuming marijuana by a passenger or driver in the passenger area of a motor vehicle that is being driven, has stopped, is standing, or otherwise is located on a highway. In addition, a passenger may not consume marijuana in any area of the vehicle that is readily accessible to the driver while in a seated position. The passenger area of the vehicle, under the bill, means an area designed to seat the driver and any passenger while the motor vehicle is in operation; it does not include a locked glove compartment or the trunk of a motor vehicle. A person who violates these prohibitions is guilty of a misdemeanor and on conviction is subject to a fine of up to \$500.

Fiscal Summary

State Effect: General fund revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court. Enforcement can be handled with existing resources.

Local Effect: Enforcement can be handled with existing resources. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law:

Operating a Vessel While Impaired: Under the Natural Resources Article, “vessel” means every description of watercraft, including an ice boat, but not including a seaplane, that is used or capable of being used as a means of transportation on water or ice.

A person may not operate or attempt to operate a vessel while the person (1) is so far impaired by any drug, combination of drugs, or combination of one or more drugs and alcohol that the person cannot operate a vessel safely or (2) is impaired by any controlled dangerous substance (CDS). A violator is guilty of a misdemeanor and upon conviction subject to maximum penalties of:

- for a first offense, a \$500 fine and/or two months imprisonment; and
- for a second or subsequent offense, a \$1,000 fine and/or one year imprisonment.

Driving a Motor Vehicle While Impaired: 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 person who drives or attempts to drive a vehicle while impaired by a CDS, is subject to the following maximum penalties: (1) for a first offense, a \$1,000 fine and/or one year imprisonment; (2) for a second offense, a \$2,000 fine and/or two years imprisonment; and (3) for a third or subsequent offense, a \$3,000 fine and/or three years imprisonment.

A person who drives or attempts to drive a vehicle while impaired by alcohol or while impaired by a drug, a combination of drugs, or a combination of one or more drugs and alcohol is subject to the following maximum penalties:

- for a first offense, a \$500 fine and/or two months imprisonment;
- for a second offense, a \$500 fine and/or one year imprisonment; and
- for a third or subsequent offense, a \$3,000 fine and/or three years imprisonment.

A person who commits the above drugged-driving offenses while transporting a minor is subject to more stringent penalties.

Possession of Marijuana, Generally: In general, a defendant in possession of marijuana is guilty of a misdemeanor and subject to imprisonment for up to one year and/or a fine of up to \$1,000. However, pursuant to Chapter 158 of 2014, possession of less than 10 grams of

marijuana is a civil offense punishable by a fine of up to \$100 for a first offense and \$250 for a second offense. The maximum fine for a third or subsequent offense is \$500. If a person is younger than age 21 or commits a third or subsequent violation, the court must summon the person for trial upon issuance of a citation. Additionally, the court must order a person who (1) commits a third or subsequent violation or (2) is younger than age 21 and commits a violation, to attend a Department of Health and Mental Hygiene-approved drug education program and refer the person to an assessment for a substance abuse disorder. After the assessment, the court must refer the person to substance abuse treatment, if necessary.

Chapter 4 of 2016 repealed the criminal prohibition on the use or possession of marijuana paraphernalia and eliminated the associated penalties. However, the law also established that the use or possession of marijuana involving smoking marijuana in a public place is a civil offense, punishable by a fine of up to \$500.

A citation for a violation for possession of less than 10 grams of marijuana, and the related public court record, are not subject to public inspection and may not be included on the public website maintained by the Maryland Judiciary. Existing criminal penalties continue to apply to the use or possession of 10 grams or more of marijuana.

Medical Cannabis: Chapter 403 of 2013 established, Chapters 240 and 256 of 2014 expanded, and Chapter 251 of 2015 further modified the State's medical cannabis program. The Natalie M. LaPrade Medical Cannabis Commission currently allows for the licensure of growers, processors, and dispensaries and the registration of their agents. The program also establishes a framework to certify physicians and qualifying patients (and their caregivers) to provide qualifying patients with medical cannabis legally under State law via written certification. Specifically, a qualifying patient who has been provided with a written certification from a certifying physician in accordance with a bona fide physician-patient relationship may obtain a 30-day supply of medical cannabis.

The statute does not authorize any individual to engage in (and does not prevent the imposition of any civil, criminal, or other penalties for) any of the following: (1) undertaking any task under the influence of marijuana or cannabis, when doing so would constitute negligence or professional malpractice; (2) operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or boat while under the influence of marijuana or cannabis; or (3) smoking marijuana or cannabis in any public place, in a motor vehicle, or on a private property that is subject to specified policies prohibiting the smoking of marijuana or cannabis on the property.

Background: According to the National Conference of State Legislatures, 20 states and the District of Columbia have decriminalized small amounts of marijuana. Additionally, in 2014, voters in Alaska, the District of Columbia, and Oregon joined Colorado and

Washington by legalizing limited amounts of marijuana for adult recreational use. Alaska's Measure 2 authorizes the legalization, taxation, and regulation of marijuana for individuals age 21 or older. Oregon's Measure 91 allows for the possession, licensing, taxation, and regulation of marijuana by adults, while maintaining medical marijuana laws. Voters in the District of Columbia approved Initiative 71 to make it lawful for individuals age 21 or older to possess marijuana, but congressional proposals to limit or repeal the initiative are under consideration.

State Revenues: General fund revenues increase minimally due to the bill's penalty provisions. The fine penalty under current law for possession of marijuana ranges from \$100 to \$1,000, depending on the amount of marijuana and whether it is a first or subsequent offense. The penalty established in the bill could be added to other fines already imposed for the existing civil or criminal offenses that could be charged. There is no data available at this time to reliably estimate how many people may be subject to the fines imposed by this bill, but it is anticipated that the overall impact is likely to be minimal.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 29, 2016
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