

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 494 (Delegate Stein, *et al.*)

Environment and Transportation

Judicial Proceedings

Motor Vehicles - Use of Fog Lights When Windshield Wipers Operating - Repeal

This bill repeals the authorization for a driver to use fog lights instead of headlamps when the driver is continuously operating the windshield wipers of a vehicle on a highway due to weather conditions that impair visibility.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: The bill's changes are not expected to have a material impact on State revenues. 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: If a driver of a vehicle on a highway operates the vehicle's windshield wipers for a continuous period due to weather conditions that impair visibility, the driver is required to light the vehicle's headlamps *or* fog lights. A person who violates this provision is guilty of a misdemeanor and is subject to a maximum fine of \$25. The prepayment penalty established by the District Court is \$50, which includes court costs.

A violation is not considered a moving violation for which points may be assessed. A conviction may not be considered evidence of negligence or contributory negligence, limit

the liability of a party or insurer, or diminish recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle. Reference to violating the requirement to turn on headlamps or fog lights may not be made by a party, witness, or counsel in a court action. However, this provision may not be construed to prohibit the right of a person to initiate a civil action for damages against a dealer, manufacturer, distributor, factory branch, or other appropriate entity that relates to a defectively installed or operating headlamp or fog light.

A police officer may only enforce this requirement as a secondary action when the officer detains a driver of a motor vehicle for a suspected violation of another provision of State law.

The Maryland Vehicle Law requires every vehicle on a highway, at any time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles 1,000 feet ahead are not clearly discernible, to display the vehicle's lighted lamps and/or illuminating devices, as specified. A violation is a misdemeanor, subject to primary enforcement, with a maximum fine of \$500. The prepayment penalty for this offense is \$60.

Generally, a violation of any provision of the Maryland Vehicle Law is considered a misdemeanor with a maximum fine of \$500 unless the violation is declared to be a felony, a different criminal penalty is established, or the violation is punishable by a civil penalty.

Background: District Court records indicate that, in fiscal 2016, a total of 349 citations were filed for failing to turn on headlamps or fog lights while operating a vehicle with windshield wipers due to unfavorable visibility conditions. Of the 349 citations issued, drivers prepaid 195 citations, 80 went to trial, and 74 remained open.

Additional Information

Prior Introductions: SB 232 of 2016, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 294, passed the House and was referred to the Senate Judicial Proceedings Committee, but had no further action taken on it.

Cross File: SB 86 (Senator Norman) - Judicial Proceedings.

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

Fiscal Note History: First Reader - February 16, 2017
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