

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1105
Judiciary

(Delegate Ciliberti, *et al.*)

Driving While Impaired By Alcohol - Penalties

This bill increases the maximum incarceration penalty for a first offense of driving while impaired by alcohol from two months to six months. Additionally, the bill increases the maximum incarceration penalties for driving while impaired by alcohol while transporting a minor from six months to one year for a first offense and from one year to two years for a second offense.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill's penalty provisions. Revenues are not affected.

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

Small Business Effect: None.

Analysis

Current Law: A person may not drive or attempt to drive any vehicle while:

- under the influence of alcohol or under the influence of alcohol *per se*;
- impaired by alcohol;
- impaired by a drug, any combination of drugs, or any combination of drugs and alcohol; or
- impaired by a controlled dangerous substance (CDS).

Exhibit 1 shows the maximum penalties for these offenses.

Exhibit 1
Current Maximum Penalties for Alcohol- and/or Drug-related Driving Offenses

Driving Under the Influence of Alcohol, Under the Influence *Per Se*, or While Impaired by a CDS

First Offense	1 year imprisonment and/or fine of \$1,000
Second Offense	2 years imprisonment and/or fine of \$2,000
Third or Subsequent Offense	3 years imprisonment and/or fine of \$3,000

**Driving Under the Influence of Alcohol, Under the Influence *Per Se*, or While Impaired by a CDS
While Transporting a Minor**

First Offense	2 years imprisonment and/or fine of \$2,000
Second Offense	3 years imprisonment and/or fine of \$3,000
Third or Subsequent Offense	4 years imprisonment and/or fine of \$4,000

**Driving While Impaired by Alcohol or While Impaired by a Drug, a Combination of Drugs, or a
Combination of One or More Drugs and Alcohol**

First Offense	2 months imprisonment and/or fine of \$500
Second Offense	1 year imprisonment and/or fine of \$500
Third or Subsequent Offense	3 years imprisonment and/or fine of \$3,000

**Driving While Impaired by Alcohol or While Impaired by a Drug, a Combination of Drugs, or a
Combination of One or More Drugs and Alcohol While Transporting a Minor**

First Offense	6 months imprisonment and/or fine of \$1,000
Second Offense	1 year imprisonment and/or fine of \$2,000
Third or Subsequent Offense	4 years imprisonment and/or fine of \$4,000

CDS: controlled dangerous substance

Notes: All listed offenses are misdemeanors. Additionally, for the offense of driving under the influence of alcohol, under the influence *per se*, or while impaired by a CDS, a repeat conviction or convictions within five years requires a mandatory minimum penalty of imprisonment from 5 to 10 days or community service from 30 to 60 days, as specified, as well as a mandatory alcohol or drug abuse assessment.

Source: Department of Legislative Services

In addition to the maximum penalties noted in Exhibit 1, all of the listed offenses are subject to points assessment by the Motor Vehicle Administration (MVA), which makes the driver subject to either suspension or revocation of the driver's license.

A conviction of driving under the influence of alcohol, under the influence of alcohol *per se*, 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.

Background: According to the Department of Public Safety and Correctional Services, in fiscal 2016, there were 24 intakes for which the most serious offense was driving while impaired by alcohol, with an average sentence of 7.8 months.

Additionally, according to the Judiciary, there were 20,137 violations in the District Court and 4,381 violations in the circuit courts for driving while impaired by alcohol; there were 251 violations in the District Court and 73 violations in the circuit courts for driving while impaired by alcohol while transporting a minor (the Judiciary advises that there may be some overlap between District Court and circuit court data).

The Maryland State Commission on Criminal Sentencing Policy advises that, in fiscal 2016, 25 individuals were convicted in the circuit courts for driving while impaired by alcohol. It is unknown how many of these convictions involved the driver transporting a minor while he or she was impaired by alcohol.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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