

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 250
Judiciary

(Delegate Dumais)

Drunk and Drugged Driving - Subsequent Offenders - Concurrent Jurisdiction

This bill establishes concurrent jurisdiction for the District Court and circuit courts over second and subsequent violations of driving while (1) under the influence of alcohol or under the influence of alcohol *per se*; (2) impaired by alcohol; (3) impaired by drugs or drugs and alcohol; or (4) impaired by a controlled dangerous substance (CDS).

Fiscal Summary

State Effect: Potential minimal decrease in general fund revenues, as discussed below. Expenditures are not materially affected.

Local Effect: Potential minimal increase in revenues, as discussed below. Expenditures are not materially affected.

Small Business Effect: None.

Analysis

Current Law: Under the Transportation Article, a “vehicle” means any device in, on, or by which any individual or property is or might be transported or towed on a highway, including a low-speed vehicle and an off-highway recreational vehicle. 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.

“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 or While Impaired by Alcohol/Drugs/Controlled Dangerous Substance: Under the Transportation Article, 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 CDS.

Exhibit 1 shows the current 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

Administrative Penalties: In addition to the current 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 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.

District Court and Circuit Court Jurisdiction: Generally, misdemeanors are heard in the District Court and felonies are heard in the circuit courts. The District Court also generally has exclusive original jurisdiction over violations of vehicle and boating laws. The District Court has concurrent jurisdiction with the circuit courts for some cases, including (1) misdemeanors for which the penalty may be confinement for three years or more or a fine of \$2,500 or more; (2) manslaughter by vehicle or vessel – gross negligence; and (3) homicide by vehicle or vessel while under the influence of alcohol or impaired by alcohol, drugs, or a CDS. Additionally, if the charge is one for which the defendant is entitled to and demands a jury trial, the case goes to circuit court.

Background: Exhibit 2 shows the number of violations brought in the District Court and circuit courts for specified offenses in fiscal 2016, the latest information readily available. Additionally, in fiscal 2017, there were 5,558 guilty dispositions for alcohol- and/or drug-related driving offenses in the District Court.

Exhibit 2
Violations for Specified Offenses in the District Court and Circuit Courts
Fiscal 2016

<u>Offense</u>	<u>District Court</u>	<u>Circuit Court</u>
Driving Under the Influence of Alcohol	20,023	1,185
Driving Under the Influence of Alcohol <i>Per Se</i>	11,967	2,553
Driving Under the Influence of Alcohol/Transporting Minor	271	109
Driving While Impaired by Alcohol	20,137	4,381
Driving While Impaired by Alcohol/Transporting Minor	251	73
Driving While Impaired by Drugs or Drugs and Alcohol	4,349	989
Driving While Impaired by Drugs or Drugs and Alcohol/Transporting Minor	69	17
Driving While Impaired by a CDS	2,193	508
Driving While Impaired by a CDS/Transporting Minor	54	20

CDS: controlled dangerous substance

Note: Circuit court violations include jury trials and appeals from cases that originated in the District Court. Therefore, there may be some overlap between the number of District Court and circuit court violations.

Source: Judiciary (Administrative Office of the Courts)

According to the Department of Public Safety and Correctional Services, in fiscal 2017, there were 53 intakes for driving under the influence of alcohol, with an average sentence of 16.7 months; 35 intakes for driving while impaired by alcohol, with an average sentence of 8.9 months; and 1 intake for driving while impaired by a CDS, with an average sentence of 18.0 months.

State Fiscal Effect: General fund revenues may decrease minimally as a result of fewer cases being heard in the District Court. Although there were 5,558 guilty dispositions in the District Court for alcohol- and/or drug-related driving offenses in fiscal 2017, it is unknown how many of these dispositions were for second or subsequent violations, although this number is expected to be minimal.

Further, although the District Court generally has exclusive jurisdiction over violations of Maryland vehicle laws, the District Court and circuit courts have concurrent jurisdiction over misdemeanors for which the penalty may be confinement for three years or more or a fine of \$2,500 or more.

Thus, the District Court and circuit courts already have concurrent jurisdiction over the following offenses, based on the maximum criminal penalties as shown in Exhibit 1: (1) third or subsequent offense of driving under the influence of alcohol, under the influence of alcohol *per se*, or while impaired by a CDS; (2) second or subsequent offense of driving under the influence of alcohol, under the influence of alcohol *per se*, or while impaired by a CDS while transporting a minor; (3) third or subsequent offense of driving while impaired by alcohol and/or drugs; and (4) third or subsequent offense of driving while impaired by alcohol and/or drugs while transporting a minor. Accordingly, any shift in cases to the circuit courts as a result of the bill is expected to be minimal.

Local Fiscal Effect: Revenues may increase minimally as a result of more cases being heard in the circuit courts. Again, although there were 5,558 guilty dispositions in the District Court for alcohol- and/or drug-related driving offenses in fiscal 2017, it is unknown how many of these dispositions were for second or subsequent violations, although this number is expected to be minimal.

Additionally, as noted above, any shift in cases to the circuit courts as a result of the bill is expected to be minimal.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Maryland Department of Transportation; Department of Legislative Services

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mm/kdm

Analysis by: Sasika Subramaniam

Direct Inquiries to:

(410) 946-5510

(301) 970-5510