

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 42

(Delegate Turner)

Environment and Transportation

Judicial Proceedings

Vehicle Laws - Use of Handheld Telephone While Driving - Penalty

This bill increases the maximum fine to \$500 for the unlawful use of a handheld telephone while driving; the bill applies to licensed, adult drivers, including an adult learner's permit holder. The bill repeals the existing, tiered maximum fines for a violation of \$75 for a first offense, \$125 for a second offense, and \$175 for a third or subsequent offense.

Fiscal Summary

State Effect: Alteration of the maximum fine is not expected to materially impact State finances. 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:

Handheld Telephones

A "handheld telephone" means a handheld device used to access a wireless telephone service. The driver of a school vehicle that is carrying passengers and is in motion is prohibited from using a handheld telephone while operating a motor vehicle. The prohibition against using a handheld telephone while operating a motor vehicle also applies

to the holder of a learner's instructional permit or provisional driver's license who is age 18 or older. Any other adult driver of a motor vehicle that is in motion may only use the driver's hands to initiate or terminate a wireless telephone call or to turn the handheld telephone on or off; otherwise, the driver may not use a handheld telephone. These prohibitions do not apply to the emergency use of a handheld telephone, including calls to a 9-1-1 system, hospital, ambulance service provider, fire department, law enforcement agency, or first aid squad. These prohibitions also do not apply to law enforcement or emergency personnel when acting within the scope of official duty or the use of push-to-talk technology by a commercial operator. A court may waive the penalty for a first offender who provides proof that the person has acquired hands-free equipment to comply with State law.

A violation of the above provisions is a misdemeanor, subject to a maximum fine of \$175 for a third or subsequent offense; the maximum fines for a first and second offense are \$75 and \$125, respectively. The prepayment penalty established by the District Court is (1) \$83 for a first offense; (2) \$140 for a second offense; and (3) \$160 for a third or subsequent offense. The Motor Vehicle Administration (MVA) does not assess points for this offense unless the violation contributes to an accident, in which case three points are assessed against the driver's license.

Other Wireless Devices

An individual who is younger than age 18 may not use a wireless communication device to access a wireless telephone system while operating a motor vehicle. In addition, any individual (regardless of age) may not use a text messaging device to write, send, or read a text message or an electronic message while operating a motor vehicle in the travel portion of the roadway. Exceptions are made for use of these devices to contact a 9-1-1 emergency system or as a global positioning system. A violator of either prohibition who is younger than age 18 is subject to license suspension by MVA for up to 90 days.

A violation of the above provisions is a misdemeanor with a maximum fine of \$500. The prepayment penalty established by the District Court is \$70. If the violation contributes to an accident, the prepayment penalty increases to \$110. MVA is required to assess one point against the driver's license for a violation, or three points if the violation contributes to an accident.

Penalty for an Accident Resulting in Death or Serious Bodily Injury

If an individual uses a handheld telephone or text messaging device while operating a motor vehicle and causes an accident that results in death or serious bodily injury, the maximum penalty increases to one year imprisonment and/or a \$5,000 fine. This offense requires an appearance in court to answer the charge, so there is no prepayment penalty

available. MVA is required to assess 12 points against the driver's license for this offense, which subjects the driver to license revocation.

Background: The District Court reports that, in fiscal 2017, a total of 42 citations were issued for using a handheld telephone while operating a school bus or other Class H vehicle that was carrying passengers and was in motion. A total of 100 citations were issued to provisional license holders who violated the prohibition against using a handheld telephone while operating a motor vehicle. During the same period, 31,286 citations were issued to fully licensed adult drivers who used a handheld telephone while operating a motor vehicle.

State Revenues: For misdemeanors under the Maryland Vehicle Law, the District Court has wide discretion to set the prepayment penalty at any amount up to the maximum fine. The existing prepayment penalties for the unlawful use of a handheld telephone while driving are \$83 for a first offense, \$140 for a second offense, and \$160 for a third or subsequent offense. Court costs of \$33 are attached to every issued citation for this offense, whether prepaid or disposed of at trial.

The District Court advises that the prepayment penalty under the bill may be between \$83 and \$160 – essentially the same level as one of the tiered prepayment penalties for this offense. Thus, general fund revenues may increase or decrease, depending on the amount of the prepayment penalty actually set and whether the total number of prepaid fines under the new prepayment amount set by the court exceeds or falls short of fine revenues collected under the existing tiered penalties. Generally, a prepayment penalty of \$83 could decrease revenues, but if more individuals opt to prepay because of the lower amount, revenues could instead increase. Similarly, a higher prepayment penalty of \$160 could increase revenues, or if fewer people prepay and instead go to court in an effort to lower the fine, revenues could decrease. Any impact cannot be reliably quantified due to the unavailability of data regarding the number of prepaid fines in each offense category (first, second, and third or subsequent) and the amount of the prepayment penalty that might be set by the District Court. However, the Department of Legislative Services advises that the alteration of the maximum fine proposed by the bill is not expected to materially impact State finances.

Additional Information

Prior Introductions: HB 242 of 2017 passed the House but received an unfavorable report from the Senate Judicial Proceedings Committee. HB 212 of 2016 passed the House as amended but received no further action after being heard in the Senate Judicial Proceedings Committee.

Cross File: None.

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

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