

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 398

(Delegates Cassilly and Jalisi)

Environment and Transportation

Judicial Proceedings

Vehicle Laws – Overtaking and Passing Bicycles, EPAMDs, or Motor Scooters

This bill specifies that the driver of a vehicle may drive on the left side of the roadway in a no-passing zone, including to the left of any pavement striping marking a no-passing zone, to make the minimum adjustment necessary to overtake and pass at a safe and lawful distance a bicycle, an electric personal assistive mobility device (EPAMD), or a motor scooter that is traveling in the same direction. Passing and overtaking in this manner (1) is authorized only if the driver reasonably believes, based on weather, road, and vehicular or pedestrian traffic conditions, that the adjustment does not endanger, impede, or interfere with another vehicle and (2) must be in accordance with existing limitations on overtaking or driving on the left. In addition, the bill repeals a specified exception to the three-foot clearance rule applicable to a vehicle overtaking a bicycle, EPAMD, or motor scooter.

Fiscal Summary

State Effect: Potential minimal decrease in general fund revenues to the extent that fewer citations are issued due to the exemption created by the bill. 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

Bill Summary: The bill repeals an exception that permits a vehicle to pass a bicycle, EPAMD, or motor scooter at a distance of less than three feet if on a highway that is not

wide enough to lawfully pass at the minimum three-foot distance. The bill also clarifies that, except with regard to left-hand turns and authorized overtaking on the left of bicycles, EPAMDs, or motor scooters, a driver of a vehicle must obey the directions on the signs or markings if the signs or markings are in place and clearly visible to an ordinarily observant individual. Existing penalties apply to violations of the bill's provisions.

Current Law:

No-passing Zones

The State Highway Administration is authorized to determine those parts of any highway within its jurisdiction where overtaking and passing or driving on the left of the roadway is especially dangerous. Accordingly, the beginning and end of those zones may be indicated by appropriate signs or markings on the roadway. Where the signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle must obey their directions. If signs or markings properly define a no-passing zone, a driver may not drive on the left side of the roadway within the no-passing zone. Also, where such markings exist, a driver may not drive on the left side of any pavement striping, throughout its length, that is designed to mark a no-passing zone. Notwithstanding the prohibitions on passing to the left in a no-passing zone, a driver may drive across the left side of the roadway in a no-passing zone while making a left turn but only if it is safe to do so.

A violation of the no-passing rule is a misdemeanor, subject to a maximum fine of \$500. The prepayment penalty for these violations is \$90 and, upon conviction, one point is assessed against the driver's license. If the violation contributes to an accident, the prepayment penalty increases to \$130, and three points are assessed against the license.

Overtaking Bicycles, Electric Personal Assistive Mobility Devices, and Motor Scooters

Generally, a driver must exercise due care to avoid colliding with any bicycle, EPAMD, or motor scooter being ridden by a person. A violation of these provisions is a misdemeanor subject to a maximum fine of \$500. The prepayment penalty for this violation is \$290.

A driver of a vehicle must, when overtaking a bicycle, EPAMD, or motor scooter, safely pass the bicycle, EPAMD, or motor scooter at a distance of at least three feet, except as otherwise specified. The requirement does not apply if, at the time, (1) the bicycle, EPAMD, or motor scooter rider fails to ride to the right side of the roadway as required by the Maryland Vehicle Law; (2) the rider fails to comply with the requirement to ride in a bicycle lane that is paved to a smooth surface; (3) a passing clearance of less than three feet is caused solely by the failure of the bicycle, EPAMD, or motor scooter rider to maintain a steady course; or (4) the highway on which the vehicle is being driven is not wide enough to lawfully pass the bicycle, EPAMD, or motor scooter at a minimum distance of three feet.

Unless otherwise specified, the driver of a vehicle must yield the right-of-way to a person who is lawfully riding a bicycle, an EPAMD, or a motor scooter in a designated bicycle lane or shoulder if the driver of the vehicle is about to enter or cross the designated bicycle lane or shoulder. A violation of these provisions is a misdemeanor, subject to a maximum fine of \$500. The prepayment penalty for these violations is \$80 and, upon conviction, one point is assessed against the driver's license. If the violation contributes to an accident, the prepayment penalty is \$120 and three points are assessed against the license.

Lawfully Passing or Overtaking Another Vehicle – Generally

The driver of a vehicle overtaking another vehicle that is going in the same direction must pass to the left of the overtaken vehicle at a safe distance and may not drive his or her vehicle directly in front of the overtaken vehicle until safely clear of the overtaken vehicle. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle must, upon audible signal, give way to the right in favor of the overtaking vehicle and may not increase the speed of the vehicle until it is completely passed by the overtaking vehicle.

A violation of these provisions is a misdemeanor, subject to a maximum fine of \$500. The prepayment penalty established by the District Court for these violations is \$90 and, upon conviction, one point is assessed against the driver's license. If the violation contributes to an accident, the prepayment penalty is \$130, and three points are assessed against the license.

Overtaking or Driving to Left – Limitations

A driver of a vehicle may not drive to the left of the center of the roadway in overtaking and passing another vehicle going in the same direction unless specifically authorized. The authorization to pass on the left is limited to circumstances where the left side of the roadway is clearly visible and free of approaching traffic for a sufficient distance ahead to permit the overtaking and passing to be completed without interfering with the operation of any other vehicle approaching from the opposite direction or any other vehicle overtaken. The overtaking vehicle must return to an authorized lane of travel as soon as practicable and, if the passing movement uses a lane authorized for vehicles approaching from the opposite direction, before coming within 200 feet of any approaching vehicle.

Except on a one-way road, the driver of a vehicle may not drive on the left side of any roadway if (1) the vehicle is approaching the crest of a grade or is on a curve in the highway where the driver's view is obstructed for such a distance as to be dangerous if another vehicle approaches from the opposite direction; (2) the vehicle is crossing or approaching within 100 feet of any intersection or railroad grade crossing; or (3) the driver's view is obstructed while approaching within 100 feet of any bridge, viaduct, or tunnel.

A violation of these provisions is a misdemeanor, subject to a maximum fine of \$500. The prepayment penalty established by the District Court for these violations is \$90 and, upon conviction, one point is assessed against the driver's license. If the violation contributes to an accident, the prepayment penalty is \$130, and three are points assessed against the license.

Definitions

A "vehicle" is any device (except an EPAMD) in, on, or by which an individual or property may be transported or towed on a highway, including a low-speed vehicle and an off-highway recreational vehicle.

A "bicycle" is a vehicle that (1) is designed to be operated by human power; (2) has two or three wheels, one of which is at least 14 inches in diameter; and (3) has a drive mechanism, other than pedals, directly attached to a drive wheel.

An "EPAMD" is a pedestrian device that (1) has two nontandem wheels; (2) is self-balancing; (3) is powered by an electric propulsion system; (4) reaches a maximum speed of up to 15 miles per hour; and (5) is designed to transport one person.

A "motor scooter" is a nonpedal vehicle that (1) has a seat for the operator; (2) has two wheels, one of which is at least 10 inches in diameter; (3) has a step-through chassis; (4) has a specified motor; and (5) is equipped with an automatic transmission.

Background: According to the District Court, in fiscal 2018, a total of 816 citations were issued for unlawful driving on the left side of the roadway or to the left of pavement striping in a posted no-passing zone. Of those citations, 270 went to trial, 313 were prepaid, and 233 remained open.

In addition, the District Court reports that, in fiscal 2018, there were 18 violations and 2 guilty dispositions for failure to exercise due care to avoid colliding with a bicycle, EPAMD, or motor scooter, and there were 3 violations and 3 guilty dispositions for unlawfully passing a bicycle, EPAMD, or motor scooter at a distance of less than three feet.

According to the Maryland Department of Transportation *2019 Annual Attainment Report*, 11 bicycle fatalities and 85 serious bicycle injuries occurred on Maryland roads in 2017.

Additional Information

Prior Introductions: HB 222 of 2018, a similar bill, was referred to the House Environment and Transportation Committee, but then was withdrawn. Its cross file,

SB 268, received a favorable with amendments report from the Senate Judicial Proceedings Committee. However, the bill was recommitted to the Senate Judicial Proceedings Committee, and no further action was taken.

Cross File: SB 354 (Senators Lee and Smith) - Judicial Proceedings.

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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