

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 361
Finance

Delivery Employees - Reimbursement for Mileage - Requirement

This bill requires an employer who uses a delivery employee to deliver a product to reimburse the employee for mileage in an amount that is at least equal to the most recent Internal Revenue Service (IRS) standard mileage rate. “Delivery employee” means an employee whose employment requires the employee to customarily and regularly use the employee’s personal vehicle to perform delivery jobs, delivery services, and other duties inside the usual course of business. The employer must also conspicuously post a written notice of the requirement. For calculating reimbursement, a delivery employee must calculate the driving distance using a recognized, reputable, Internet mapping system. The Commissioner of Labor and Industry may investigate whether the bill has been violated on receipt of a written complaint of an employee.

Fiscal Summary

State Effect: General fund expenditures increase by \$310,900 in FY 2024 for the Maryland Department of Labor (MDL) to enforce the bill. Out-year expenditures reflect annualization, inflation, and elimination of one-time costs. The bill does not apply to the State as an employer. Revenues are not directly affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	310,900	312,900	326,400	340,700	358,300
Net Effect	(\$310,900)	(\$312,900)	(\$326,400)	(\$340,700)	(\$358,300)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not apply to local governments as employers and does not materially affect local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Current Law: State law does not require employers to reimburse delivery employees for miles driven.

Generally, the Commissioner of Labor and Industry may investigate all labor laws enacted in Title 3 of the Labor and Employment Article (to which the bill is drafted) on either the commissioner's own initiative or may require a written complaint; however, some labor laws require a written complaint from an employee or applicant prior to investigation.

The IRS standard mileage rate is 65.5 cents per mile driven as of January 1, 2023, up 3 cents from mid-2022. The standard mileage rate for business use is based on an annual study of the fixed and variable costs of operating an automobile.

State Fiscal Effect: MDL advises that, typically, employees are not reimbursed by employers for mileage driven under the scope of this bill unless there is a separate agreement between the employer and the employee. Additionally, the bill affects delivery *employees*, but many delivery drivers associated with food delivery services are considered by those companies to be independent contractors. As independent contractors, those delivery drivers would not be covered by the bill, which could cause confusion and generate phone calls and inquiries to MDL.

MDL estimates that it could receive 800 inquiries and 200 complaints alleging violations of the bill each year. MDL cannot absorb the additional workload within existing resources and requires additional staffing to enforce the bill, which includes investigations, and respond to the increase in inquiries and complaints prompted by the bill. Additionally, changes must be made to the complaint tracking database.

Accordingly, general fund expenditures increase by \$310,933 in fiscal 2024, which accounts for the bill's October 1, 2023 effective date. This estimate reflects the cost of hiring three wage and hour investigators and one wage and hour supervisor to investigate complaints and enforce new requirements. It includes salaries, fringe benefits, one-time start-up costs, programming costs, and ongoing operating expenses

Positions	4.0
Salaries and Fringe Benefits	\$227,597
Programming Costs	44,900
Other Operating Expenses	<u>38,436</u>
Total FY 2024 State Expenditures	\$310,933

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Small Business Effect: Small businesses are required to reimburse delivery employees for mileage in certain circumstances. The effect on any particular small business is unknown but could be significant, depending on existing business practices. As mentioned above, the current IRS mileage rate is 65.5 cents per mile driven.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Labor; Internal Revenue Service; Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2023
km/mcr

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