

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 966 (Delegate Alston)
 Environment and Transportation and
 Judiciary

**Motor Vehicles - Modified Exhaust Systems and Noise Abatement Devices -
 Testing and Penalties**

This bill expands the Vehicle Emissions Inspection Program (VEIP) by generally requiring each vehicle in the State to undergo a biennial “exhaust sound test.” The bill also alters penalty and enforcement provisions related to the modification of exhaust systems on motor vehicles.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by approximately \$64.4 million in FY 2024 for the Motor Vehicle Administration (MVA) to expand VEIP testing facilities, hire staff, and pay the VEIP vendor for additional testing. TTF revenues increase, potentially significantly, beginning in FY 2024 due to administrative flag fee revenues and, potentially, late fees for testing. General fund expenditures increase by approximately \$70,200 in FY 2024 for the Maryland Department of the Environment (MDE) to hire staff. General fund revenues are also likely minimally affected beginning in FY 2024, as discussed below. Future years reflect annualization and ongoing costs. Enforcement can be handled with existing resources.

(\$ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF Revenue	-/(-)	-/(-)	-/(-)	-(-)	-/(-)
SF Revenue	-	-	-	-	-
GF Expenditure	\$0.07	\$0.08	\$0.09	\$0.09	\$0.10
SF Expenditure	\$64.29	\$18.89	\$18.90	\$18.91	\$18.92
Net Effect	(-)	(-)	(-)	(-)	(-)

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

Local Effect: The bill has an operational impact on local governments, as discussed below. Enforcement can be handled with existing resources. Revenues are not affected.

Analysis

Bill Summary/Current Law:

Maximum Sound Limits Established by the Motor Vehicle Administration

Under current law, MVA must adopt regulations establishing maximum sound level limits for each type of motor vehicle or combination of vehicles (including new motor vehicles). Generally, MVA must set the most restrictive level that (through the application of the best available technology at a reasonable cost) is consistent with attaining environmental noise standards adopted by MDE. For motor carriers engaged in interstate commerce, MVA must consider any noise emission regulations established under federal law.

Modification of Exhaust Systems on Motor Vehicles

Under current law, a person is prohibited from modifying the exhaust system (or any other noise abatement device) of a motor vehicle driven (or to be driven) on any highway in the State in such a way that the noise emitted by the vehicle exceeds that emitted by the vehicle as originally manufactured. Further, a person may not drive on any highway in the State a motor vehicle with an exhaust system or noise abatement device modified in a prohibited way. A violation of either of these provisions is a misdemeanor with a maximum \$500 fine. The prepayment penalty for either violation is \$70.

Under the bill, if a police officer observes a vehicle being operated in violation of the existing prohibition related to driving with an improperly modified exhaust system or noise abatement device, the officer may stop the driver of the vehicle and, in addition to a citation charging the driver with the offense, must issue to the driver a safety equipment repair order. Also, under the bill, a person convicted of such a violation is subject to a fine of \$250 (instead of the penalties noted above). For a second or subsequent conviction, MVA *must* suspend the registration of the motor vehicle that was involved in the violation. MVA may not reinstate the registration until evidence of a repair is provided.

Expansion of Vehicle Emissions Inspection Program

The bill modifies the definition of “emissions control program” to include an “exhaust sound test,” which the bill defines as the sampling and measurement of a vehicle’s exhaust sound to determine if the vehicle complies with the maximum sound level limits established by MVA for each type of motor vehicle.

Current statutory provisions generally require all model year 1977 and newer vehicles in the State to be inspected and tested every two years, unless specifically exempt. The bill expands this requirement by establishing that an exhaust sound test is also required under essentially the same parameters as emissions inspections. MVA must adopt a schedule for the exhaust sound tests and establish sound standards to be used for exhaust sound tests.

The bill also makes several other conforming changes to provisions related to vehicle repairs, testing, retesting (*i.e.*, in the event a vehicle fails an initial test), and inspections facilities to incorporate exhaust sound tests and sound standards into VEIP.

State Revenues:

Administrative Flag Fee Revenues

If a vehicle owner does not comply with the requirement to have an exhaust sound test performed, MVA may flag the registration of the vehicle and refuse to re-register the vehicle until the test has been performed. (This enforcement provision also applies to vehicle owners who fail to complete required emissions testing under current law.) If a vehicle registration is flagged, the owner must pay a \$30 administrative fee to have the flag removed prior to re-registering the vehicle.

Given the significant expansion of VEIP under the bill, many more individuals are likely to have a registration flagged in this manner. TTF revenues increase as a result. However, the exact number of registrations that may be flagged can only be determined with experience under the bill; thus, a reliable estimate cannot be provided at this time.

Also under the bill, MVA is required to suspend the registration of drivers stopped for subsequent offenses related to driving with an improperly modified exhaust or noise abatement device. This likely results in additional administrative flag fee revenues, although the effect on TTF revenues from this provision of the bill is assumed to be minimal.

Late Testing Fees

Late fees tend to comprise a relatively large share of overall VEIP revenues (typically between 30% and 40% of total program revenues). MVA indicates it is unclear whether a late fee will be assessed if an individual does not complete the exhaust sound test within the required timeframe. However, should MVA charge the same late fee as for emissions testing (\$15), TTF revenues likely increase significantly, particularly given the bill applies to all jurisdictions in the State.

Modification of Exhaust System on Motor Vehicles

Exhibit 1 shows the number of violations and guilty dispositions for exhaust system/noise abatement device violations in fiscal 2022. The effect on general fund revenues is unclear. Under current law, a driver who operates a vehicle with an improperly modified exhaust system is subject to a \$500 maximum penalty under current law. The fine may be prepaid at \$70. The bill *requires* a \$250 citation to be issued for such a violation. While this amount is less than the \$500 maximum under current law, the modified penalty is higher than the prepayment amounts established by the District Court under current law (*i.e.*, \$70).

Thus, individuals who would otherwise prepay may be more likely to contest a violation in District Court under the bill given the higher penalty level.

Exhibit 1
Violations for Modifications of Exhaust Systems or Noise Abatement Devices
Fiscal 2022

<u>Violation</u>	<u>Charges</u>	<u>Guilty (Prepaid)</u>	<u>Guilty After Trial</u>
Modifying an exhaust system or noise abatement device on a motor vehicle causing excessive noise emission	474	165	167
Motor vehicle equipped with unlawfully modified exhaust system or noise abatement device	532	248	90

Source: Judiciary (Administrative Office of the Courts); Department of Legislative Services

Because the Judiciary does not currently track the average penalties that are assessed after a trial conviction, the amount of general fund revenues currently received from these violations is unknown. The penalty level specified in the bill is assumed to be prepayable; thus, to the extent a similar number of individuals prepay and/or are found guilty after a trial, general fund revenues may increase. On the other hand, if more individuals contest a violation and are either found not guilty or assessed a penalty that is lower than the average amount that is assessed for violations (*i.e.*, under current law), revenues may decrease. However, given the number of guilty dispositions in fiscal 2022, any impact on general fund revenues from this provision is not expected to be significant.

State Expenditures: VEIP is jointly administered by MVA and MDE. Under the bill, both MVA and MDE realize operational and fiscal impacts to implement the program expansion.

Motor Vehicle Administration

TTF expenditures increase by \$64,288,155 in fiscal 2024, which accounts for the bill’s October 1, 2023 effective date. This estimate reflects the cost of hiring one administrative officer to manage the program expansion. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. The estimate also assumes the following:

- MVA immediately establishes new facilities in fiscal 2024 to accommodate exhaust sound testing in counties that do not already have VEIP facilities.
- The cost to the vendor to perform an exhaust sound test is covered by TTF (rather than a fee paid by vehicle owners), as the existing inspection fee MVA is authorized to charge is already set at the maximum statutory level (\$14).
- MVA covers the cost of equipment that measures a vehicle’s exhaust sound and purchases 106 sound level test kits for full-service VEIP stations and an additional 10 kits at self-service kiosks (at approximately \$1,000 for each piece of equipment).
- The number of annual tests remains constant over the five-year projection period.

Position	1.0
Salary and Fringe Benefits	\$86,526
Expansion of VEIP Facilities	50,000,000
Payments to Vendor	13,703,220
Equipment	116,000
Operating Expenses	<u>382,409</u>
Total FY 2024 TTF Expenditures	\$64,288,155

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses. Ongoing maintenance costs for the new facilities are likely also incurred but cannot be reliably estimated at this time; therefore, the estimate does not reflect any such costs.

The subsections below include a more detailed discussion of the major factors used to estimate the costs associated with expanding VEIP facilities and reimbursing the vendor for additional tests.

Expansion of Vehicle Emissions Inspection Program Facilities: Under the bill, VEIP is expanded to require an exhaust sound test. Currently, only vehicles registered in certain counties (*i.e.*, nonattainment areas for ozone under the federal Clean Air Act) are subject to emissions testing under VEIP. However, the bill generally requires an exhaust sound test to be performed on all vehicles in the State (even those in counties not currently subject to emissions testing). Thus, MVA anticipates expanding VEIP facilities in certain parts of the State (primarily Western Maryland and Eastern Shore counties). The cost for each facility is estimated at about \$5.0 million. Assuming 10 facilities are added under the bill, the total cost for new VEIP facilities is estimated at approximately \$50.0 million in fiscal 2024. VEIP facilities are State-owned, with a vendor performing the tests and maintaining the facilities under State oversight.

Payments to Vendor: MVA estimates that approximately 5.1 million vehicles are subject to an exhaust sound test under the bill. As tests are conducted biennially, about half of that figure (approximately 2.6 million vehicles) must be tested annually. The additional cost for the vendor is estimated at \$7.12 per test. Current statutory provisions authorize MVA to set a fee (up to \$14) to be charged for each vehicle inspected and tested. Testing fees are retained by the vendor and used to offset contract costs. However, the current VEIP testing fee is already set at the maximum statutory amount; thus, MVA cannot charge an additional fee under the bill and must cover the cost of any additional tests performed by the vendor. Accordingly, assuming 2,566,146 tests are conducted annually, TTF expenditures increase by \$18,270,960 annually (\$13,703,220 in fiscal 2024 due to the bill's October 1, 2023 effective date) to pay the vendor for the cost of performing the exhaust sound tests.

This analysis assumes most vehicles are subject to exhaust sound testing, with limited exemptions.

Maryland Department of the Environment

MDE advises that it is responsible for managing the technical aspects of VEIP, including program design, establishment of testing procedures, quality assurance and auditing activities, data analysis and air quality benefits modeling, and management of [State Implementation Plans](#). Because of the significant program expansion, one additional staff position is required to implement the bill.

Therefore, general fund expenditures increase by \$70,211 in fiscal 2024, which accounts for the bill's October 1, 2023 effective date. This estimate reflects the cost of hiring one regulatory compliance engineer to, among other things, set exhaust sound standards and develop supporting regulations and test procedures. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$62,802
Operating Expenses	<u>7,409</u>
Total FY 2024 MDE Expenditures	\$70,211

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses. Although MDE notes that certain agency activities related to VEIP are covered through a reimbursement agreement with MVA (and, thus, paid by TTF), this analysis assumes the position is covered by general funds.

Effect on State Fleet

As noted above, MVA must cover the cost of any exhaust sound test conducted under the bill. State-owned vehicles are already subject to emissions tests under VEIP. Thus, there is likely no significant operational impact to State agencies, as the exhaust sound test is assumed to be completed along with emissions testing. Any vehicles that fail the exhaust sound test are required to obtain repairs, although it is assumed that most State vehicles comply with the sound standards. The Department of Budget and Management advised in 2021 that the State vehicle fleet consists of approximately 9,121 vehicles, including law enforcement vehicles; of those, 6,556 are light-duty vehicles.

Local Expenditures: Local government vehicles in certain jurisdictions are already subject to VEIP; in those jurisdictions, the additional exhaust sound level test required under the bill is assumed to be conducted at the same time as the required emissions test and, thus, there is no significant operational impact.

However, local government vehicles in counties not subject to VEIP must undergo the exhaust sound test under the bill. As a result, there is an operational impact in those counties (*e.g.*, to transport government-owned vehicles to testing facilities). Any vehicles that fail the exhaust sound test are also required to obtain repairs. As with State-owned vehicles, local governments are not subject to an exhaust sound testing fee under the bill.

Small Business Effect: Small businesses that own vehicles are subject to exhaust sound tests under the bill. Any vehicle that fails the exhaust sound test must be repaired, which may result in additional costs for small businesses that own vehicles. Conversely, facilities that repair vehicle exhausts may benefit under the bill due to additional required repairs.

Additional Information

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

Designated Cross File: None.

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

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