

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 208

(Delegate Lehman, *et al.*)

Environment and Transportation and
Judiciary

Judicial Proceedings

Street Racing and Exhibition Driving - Prohibited Acts, Enforcement, and
Penalties

This bill increases penalties and points assessments for violations related to participation in racing or speed contests. The bill also establishes a statewide prohibition on exhibition driving on any highway or private property that is used for driving by the general public. Additionally, the bill authorizes a police officer to order the towing and impounding of a vehicle that is driven in a race or speed contest or is the subject of an exhibition driving violation. **The bill takes effect June 1, 2023.**

Fiscal Summary

State Effect: Due to penalty provisions, minimal increase in general fund revenues and potential minimal increase in general fund expenditures. Transportation Trust Fund (TTF) revenues are not materially affected; the Motor Vehicle Administration (MVA) can implement the bill with existing resources. The Judiciary can handle the increased workload with existing resources. Enforcement can be handled with existing resources.

Local Effect: Potential minimal increase in expenditures due to the bill's penalty provisions. Any changes to enforcement can be absorbed within existing resources. The bill is not anticipated to materially affect local revenues.

Small Business Effect: Potential minimal.

Analysis

Bill Summary/Current Law: Exhibit 1 contains a summary of the bill's changes to existing penalties for offenses related to participation in racing or speed contests as well as the penalties for the new prohibitions established by the bill related to exhibition driving.

Exhibit 1
Comparison of Maximum Fines, Points Assessments, and Terms of Imprisonment Under
Current Law and the Bill Related to Racing or Speed Contests and Exhibition Driving

<u>Violation</u>	<u>Fine</u>		<u>Points Assessed</u>		<u>Possible Term of Imprisonment</u>	
	<u>Current Law</u>	<u>The Bill</u>	<u>Current Law</u>	<u>The Bill</u>	<u>Current Law</u>	<u>The Bill</u>
Driving in a race or speed contest (general)	Up to \$500	Up to \$1,000	5 points	8 points	n/a	Up to 60 days
Driving in a race or speed contest (if serious bodily injury to another person occurs)	Up to \$1,000	Up to \$1,000	5 points	12 points	Up to 1 year	Up to 1 year
Participating in a race or speed contest as a timekeeper or flagman	Up to \$500	Up to \$1,000	5 points	8 points	n/a	Up to 60 days
<i>Engaging in exhibition driving (general)*</i>	<i>n/a</i>	<i>Up to \$1,000</i>	<i>n/a</i>	<i>8 points</i>	<i>n/a</i>	<i>Up to 60 days</i>
<i>Engaging in exhibition driving (if serious bodily injury to another person occurs)*</i>	<i>n/a</i>	<i>Up to \$1,000</i>	<i>n/a</i>	<i>12 points</i>	<i>n/a</i>	<i>Up to 1 year</i>

* Indicates new prohibition established by the bill.

Note: Under current law, imprisonment is a possible penalty for driving in a race or speed contest only if serious bodily injury occurs. Because the bill establishes imprisonment as a possible penalty for *all* of the above offenses, prepayment (*i.e.*, admitting guilt and paying the fine without appearing in court) is no longer an option, and a person cited for any of the above offenses must appear in court.

Source: Department of Legislative Services

Racing and Speed Contests and Exhibition Driving

As shown in Exhibit 1, the bill alters several existing penalties and establishes new prohibitions related to exhibition driving. Specifically, the bill:

- increases the maximum fine for participation in a race or speed contest (as a driver or as a timekeeper or flagman) that does not result in serious bodily injury to another person from \$500 to \$1,000 and subjects a violator to up to 60 days of imprisonment, thereby requiring a person cited to appear in court;
- increases, from 5 points to 8 points, the points MVA must assess against the driver's license of a participant in a race or speed contest (including as a timekeeper or flagman) that does not result in serious bodily injury to another person;
- increases, from 5 points to 12 points, the points MVA must assess against the driver's license of a driver in a race or speed contest that results in serious bodily injury to another person; and
- prohibits exhibition driving on a statewide basis and subjects violators to the same enhanced penalties as those established for race or speed contests (including for violations that result in serious bodily injury to another person).

Current law prohibits exhibition driving in certain designated areas in Worcester County. The bill expands the prohibition on exhibition driving to cover the State as a whole.

Under current law, "exhibition driving" is defined as (1) the transportation of a passenger on or in an area of a motor vehicle that is not designed or intended for passenger transport, such as the hood or roof or (2) the operation of a motor vehicle in a manner that results in:

- the excessive, abrupt acceleration or deceleration of the motor vehicle;
- the skidding, squealing, burning, or smoking of the tires of the motor vehicle;
- the swerving or swaying of the motor vehicle from side to side while skidding;
- the engine of the motor vehicle producing an unreasonably loud, raucous, or disturbing noise;
- the grinding of the gears or the backfiring of the engine of the motor vehicle; or
- any of the wheels of the motor vehicle losing contact with the ground.

The bill modifies "exhibition driving" to mean the operation of a motor vehicle in close proximity to a crowd or gathering in a manner that intentionally results in two or more of the following:

- the excessive, abrupt acceleration or deceleration of the motor vehicle;
- the skidding, squealing, burning, or smoking of the tires of the motor vehicle;

- the swerving or swaying of the motor vehicle from side to side while skidding;
- the engine of the motor vehicle producing an unreasonably loud, raucous, or disturbing noise;
- the grinding of the gears or the backfiring of the engine of the motor vehicle;
- any of the wheels of the motor vehicle losing contact with the ground; or
- the transportation of a passenger on the hood or roof of a motor vehicle.

State Revenues: General fund revenues increase minimally as a result of both the higher fines established by the bill and the establishment of new prohibitions. Though the bill increases the points assessed for specified offenses, which may result in changes in administrative actions taken by MVA against the driver’s licenses of affected drivers, any such changes are not expected to materially affect TTF revenues.

As noted above, the bill increases the maximum fine for participation in a race or speed contest (including as a timekeeper or flagman) that does not result in serious bodily injury from \$500 to \$1,000. **Exhibit 2** shows citations and conviction data for these offenses. Any increase in general fund revenues due to the bill’s higher penalties for these offenses is expected to be minimal due to the relatively small number of citations and convictions for the related offenses each year.

Exhibit 2
Citation and Conviction Data for Existing Offenses Addressed by the Bill

<u>Violation</u>	<u>Fiscal 2021</u>		<u>Fiscal 2022</u>	
	<u>Citations</u>	<u>Convictions</u>	<u>Citations</u>	<u>Convictions</u>
Driving in a race or speed contest (general)	332	63*	186	57*
Participating in a race or speed contest as timekeeper or flagman	2	0	3	0

*Of the 63 convictions in fiscal 2021 for driving in a race or speed contest, 30 defendants were found guilty at trial and 33 defendants prepaid (*i.e.*, admitted guilt and paid the fine without appearing in court); in fiscal 2022, 29 defendants were found guilty at trial, and 28 defendants prepaid.

Note: Under current law, imprisonment is not a possible penalty for driving in a race or speed contest (general) or for participating in a race or speed contest as a timekeeper or flagman. Because the bill establishes imprisonment as a possible penalty for the above offenses, a person cited for either of them must appear in court – prepayment is no longer permitted.

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

The number of citations that may be issued for the new exhibition driving prohibitions established by the bill cannot be determined at this time. However, the annual number of citations and convictions for these new prohibitions is not expected to be significant.

State Expenditures: General fund expenditures may increase minimally as a result of the bill's establishment of new incarceration penalties due to more people being committed to State correctional facilities for convictions in Baltimore City. As noted above, the number of additional people convicted under the bill is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Local Expenditures: Expenditures may increase minimally as a result of the bill's new incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. *Per diem* operating costs of local detention facilities have ranged from approximately \$90 to \$300 per inmate in recent years.

Additional Comments: Although the General Assembly passed similar legislation in the 2022 session (Senate Bill 612), the Governor vetoed the bill due to unintended consequences of amendments to the bill.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 612 of 2022.

Designated Cross File: SB 147 (Senator Beidle) - 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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