

Department of Legislative Services
 Maryland General Assembly
 2006 Session

FISCAL AND POLICY NOTE
 Revised

Senate Bill 53

(Senator Giannetti)

Judicial Proceedings

Judiciary

Vehicle Laws - Drunk Driving Penalties - High Alcohol Concentration -
 Mandatory Ignition Interlock System

This bill provides that the Motor Vehicle Administration must require a person to participate in the Ignition Interlock System Program for one year if the person refuses to take a test of blood or breath to determine alcohol concentration or if a test to determine alcohol concentration indicates a blood alcohol concentration of 0.15 or higher. In addition, the bill sets forth procedures for a police officer to follow when detaining a person who refuses to take a test of blood or breath or takes a test that indicates a blood alcohol level of 0.15 or higher.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) revenues increase by \$213,800 in FY 2007 from fees for corrected driver's licenses. Out-years assume a stable caseload and annualization. TTF expenditures increase by \$370,400 in FY 2007 for additional personnel and related expenses to monitor drivers in the Ignition Interlock System Program. Out-years include annualization and inflation and assume a stable caseload.

| (in dollars) | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|----------------|-------------|-------------|-------------|-------------|-------------|
| SF Revenue | \$213,800 | \$285,000 | \$285,000 | \$285,000 | \$285,000 |
| SF Expenditure | 370,400 | 436,100 | 462,700 | 491,300 | 522,100 |
| Net Effect | (\$156,600) | (\$151,100) | (\$177,700) | (\$206,300) | (\$237,100) |

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

Local Effect: None.

Small Business Effect: Minimal. Motor Vehicle Administration (MVA) approved vendors who install ignition interlock systems could receive additional income under this bill.

Analysis

Bill Summary: This bill provides that for a test refusal or a test of blood or breath indicating a blood alcohol concentration of 0.15 or more at the time of testing, the Motor Vehicle Administration (MVA) must require a person who was requested or directed to take the test to participate in the Ignition Interlock System Program (the program) for a period of one year from the date of the hearing by the MVA regarding the violation.

A police officer who detains a person on suspicion on an alcohol-related driving offense where the person refuses the test or the test of blood or breath indicated a blood alcohol concentration of 0.15 or above must fully advise the person of the administrative sanctions that may be imposed for a test result of 0.15 or above, including the required participation in the program for at least one year.

A person who receives this administrative sanction has the right to an administrative hearing and to raise specified issues, including: (1) whether the police office requested a test after fully informing the person of required participation in the program; (2) whether the police officer informed the person that he/she would be ineligible for modification of the suspension unless the person agreed to program participation; and (3) whether the person drove or attempted to drive with a blood alcohol level of 0.15 or more at the time of testing.

After a hearing, the MVA must suspend the driver's license of a person requested to take a test of blood or breath or directed to take such a test if it is determined that the police officer fully advised the person of the administrative sanctions, including required participation in the program for at least one year and ineligibility for modification of the suspension unless the person participated in the program for the required period.

Current Law: A person may not drive or attempt to drive any vehicle while:

- under the influence of alcohol or under the influence of alcohol per se;
- impaired by alcohol;
- impaired by drugs or drugs and alcohol; or
- impaired by a controlled dangerous substance.

A person who drives or attempts to drive a motor vehicle is deemed to have consented to take a test. This applies to a person detained by a police office on suspicion of committing an alcohol- and/or drug-related driving offense. However, a person may not be compelled to submit to a test to determine the alcohol or drug concentration of a person's blood or breath, unless there is a motor vehicle accident that results in death or life-threatening injury to another person and the police officer detains the person due to a

reasonable belief that the person committed an alcohol- and/or drug-related driving offense.

If a person takes a test of blood or breath that indicates an alcohol concentration of .08 or more at the time of testing, the MVA must suspend the driver's license or privilege for 45 days for a first offense, and 90 days for a second or subsequent offense. If a person refuses to take a test, the MVA must suspend the driver's license or privilege for 120 days for a first offense and 1 year for subsequent offenses.

If a person is convicted of an alcohol- and/or drug-related driving offense and the trier of fact finds beyond a reasonable doubt that the person knowingly refused to take the requested test, the person is subject to a penalty in addition to any other penalty that may be imposed for the alcohol- and/or drug-related driving conviction. A person who knowingly refuses to take a test of blood or breath under these circumstances is subject to a maximum fine of \$500, imprisonment for up to two months, or both. The court may not impose the additional penalty unless the State's Attorney serves notice of the alleged test refusal on the defendant or the defendant's counsel before acceptance of a plea of *nolo contendere* or guilty, or at least 15 days before a circuit court trial or 5 days before a District Court trial, whichever is earlier.

A person may participate in the Ignition Interlock System Program if the person's driving license is suspended or revoked for an alcohol- and/or drug-related driving offense or for the accumulation of points that lead to license suspension or revocation for these offenses. A person may participate if he/she is ordered to participate by a court. Also, a person may participate if the person's driving license has an alcohol restriction or if the MVA modifies a suspension or issues a restricted license to the person.

The MVA is authorized to issue a restrictive license to a person who participates in the program during the period that the driver's license is suspended. If the driver's license has been revoked for specified alcohol- and/or drug-related driving offenses or for the accumulation of points resulting from driving while under the influence of alcohol or under the influence of alcohol per se, the MVA may reinstate the license and impose a period of suspension in lieu of the license revocation. A notice of suspension or revocation for alcohol- and/or drug-related driving offenses must include information about the program and the qualifications for admission. The MVA is also authorized to establish a fee for program participation. A person who is required to participate must be monitored by the MVA and pay the fee required by the MVA.

State Revenues: TTF revenues could increase by an estimated \$213,750 in fiscal 2007, accounting for the October 1 effective date of the bill from fees for corrected licenses. Each person who participates in the Ignition Interlock Program is required to get a corrected license showing a restriction for program participation.

According to the Maryland State Police, 5,733 individuals tested 0.15 or higher in the first 10 months of calendar 2005 when detained by police. The revenue estimate assumes that in one full year 6,880 individuals could test at 0.15 and be affected by the bill. In calendar 2004, the Maryland State Police advises that 27,597 people were arrested for alcohol and/or drugged driving violations. Of those arrests, 7,125 or 31.5% refused to take a test. This estimate assumes that in one calendar year 7,125 people would refuse a test of blood or breath.

Accordingly, 14,005 people annually could be affected by this bill for either refusing to take a test of blood or breath or for a test result that indicates a blood alcohol level of 0.15 or higher. It is likely that some of these people would already be ignition interlock participants because they received a suspension modification at an administrative hearing or they were convicted of an alcohol-related driving offense and receive a suspension modification. The MVA advises that at any one time, about 4,500 drivers are participants in the Ignition Interlock Program. This estimate assumes that after accounting for current participants, an additional 9,500 people annually could become participants in the Ignition Interlock Program as a result of this bill's provisions.

While many factors could cause the number of people affected by this bill to fluctuate, this estimate assumes that the caseload of 9,500 remains constant. The revenue estimate assumes that all drivers required to participate in the Ignition Interlock Program under the bill's provisions would pay the \$30 fee for a corrected license. Out-years assume a stable caseload and include annualization.

State Expenditures: TTF expenditures could increase by an estimated \$370,402 in fiscal 2007, accounting for the October 1 effective date. This estimate reflects the cost of hiring nine customer service agents to monitor driver participation in the Ignition Interlock Program and process driver records. The penalty in the bill is administrative, and the MVA has the primary responsibility for issuing the penalty and monitoring drivers who are subject to the penalty. For this administrative penalty, the MVA advises that one customer service agent that monitors Ignition Interlock Program participants could manage a caseload of 1,000 drivers annually. The estimate includes salaries, fringe benefits, one-time start-up costs, and other ongoing operating expenses.

| | |
|---|------------------|
| Positions | 9 |
| Salaries and Fringe Benefits | \$314,917 |
| Related Operating Expenses | <u>55,485</u> |
| Total FY 2007 State Expenditures | \$370,402 |

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% turnover; (2) 1% annual increases in ongoing operating expenses; and (3) a stable caseload.

The MVA advises that computer programming modifications to the driver licensing system that could be required by the bill could result in a one-time expenditure of \$67,500 in fiscal 2007 only. However, the Department of Legislative Services (DLS) advises that, if other legislation is passed requiring computer programming changes, economies of scale could be realized. This would reduce computer programming costs associated with this bill and other legislation affecting the MVA system. Further, DLS advises that the increased computer expenditure is an estimate, and that the MVA may be able to handle the changes with existing resources.

Additional Information

Prior Introductions: This bill is similar to SB 852/HB 815 of 2005. SB 852 was heard by the Judicial Proceedings Committee, which took no further action. HB 815 was heard by the Judiciary Committee, but was then withdrawn.

Cross File: HB 125 (Delegate Zirkin and Simmons) – Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Department of Legislative Services

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