

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 1227 (Delegate Parrott, *et al.*)
Environmental Matters

Law Enforcement Procedures - Traffic Stops and Safety Checkpoints

This bill requires that, if a State or local law enforcement officer detains an individual at a “traffic stop,” before the officer searches the individual or the individual’s property or vehicle, the officer must provide or recite a statement of the individual’s rights to the individual. A law enforcement officer may not post or display a deceptive, materially false, or misleading sign concerning a “safety checkpoint” on a highway.

Fiscal Summary

State Effect: Minimal. The bill is procedural in nature. It is assumed that any increase in caseloads for the courts or the Office of the Public Defender can be handled with existing budgeted resources. Any additional training for State law enforcement officers can be handled via annual in-service law enforcement training programs.

Local Effect: Minimal. Some jurisdictions may experience some minor printing costs if they choose to print cards to inform individuals of their rights during a traffic stop. Any additional training for local law enforcement officers can be handled via annual in-service law enforcement training programs.

Small Business Effect: None.

Analysis

Bill Summary: “Traffic stop” means any instance when a law enforcement officer stops the driver of a motor vehicle and detains the driver for any period of time for a violation of the Maryland Vehicle Law.

“Safety checkpoint” means a predetermined fixed location at which a police officer stops a motor vehicle or a specific sequence of motor vehicles to conduct safety inspections, check drivers’ licenses and registrations, and evaluate drivers for impairment.

Current Law: In Maryland, a police officer may make arrests, conduct investigations, and otherwise enforce the laws of the State throughout the State without limitations as to jurisdiction. That provision does not authorize a police officer to enforce the Maryland Vehicle Law beyond the police officer’s sworn jurisdiction, unless the officer is acting under an authorized mutual aid agreement.

The Fourth Amendment to the U.S. Constitution is the part of the Bill of Rights that prohibits unreasonable searches and seizures and requires any warrant to be judicially sanctioned and supported by probable cause.

Generally, observations by officers of things in “plain view” do not constitute a search. Under the Fourth Amendment, a seizure is lawful under the plain view doctrine if the officer is lawfully in a position to observe the items and it is immediately apparent to the officer that the items are evidence of a crime, contraband, or otherwise subject to seizure.

Under the concept of the “motor vehicle exception” to the Fourth Amendment, the search of a motor vehicle is allowed without the search warrant normally required by the Fourth Amendment. The motor vehicle exception was first established by the U.S. Supreme Court in 1925, in *Carroll v. United States*, 267 U.S. 132 (1925). This concept or rule allows an officer to search a vehicle without a search warrant as long as the officer has probable cause to believe that evidence or contraband is located in the vehicle. The U.S. Supreme Court based this exception on the idea that there is a lower expectation of privacy in motor vehicles due to the regulations under which they are operated. In addition, the ease of mobility creates an inherent exigency to prevent the removal of evidence and contraband. In *Pennsylvania v. Labron*, the U.S. Supreme Court stated, “If a car is readily mobile and probable cause exists to believe it contains contraband, the Fourth Amendment permits the police to search the vehicle...” without a warrant. (*Pennsylvania v. Labron*, 518 U.S. 938 (1996))

Generally, a police officer may charge a person with a violation of Maryland Vehicle Law if the officer has probable cause to believe that the person has committed or is committing the violation. In *Terry v. Ohio*, the U.S. Supreme Court held that a person can be stopped and briefly detained by a police officer based on a reasonable suspicion of involvement in a punishable crime. If the officer has a reasonable suspicion that the person is armed and/or dangerous, the officer may perform a search of the person’s outer garments for weapons. Such a detention was held not to violate the Fourth Amendment, though the search must be brief. Reasonable suspicion does not provide grounds for arrest; however, an arrest can be made if facts discovered during the detention provide

probable cause that the suspect has committed a crime. (*Terry v. Ohio*, 392 U.S. 1(1968)) In *Ferris v. State*, 355 Md. 356 (1999), the Maryland Court of Appeals held that a warrant *was* needed after the traffic stop was completed by the issuance of a citation by the law enforcement officer to the vehicle’s driver.

In Maryland, under the Transportation Article, a “highway” means:

- the entire width between the boundary lines of any way or thoroughfare of which any part is used by the public for vehicular travel, whether or not the way or thoroughfare has been dedicated to the public and accepted by any proper authority; and
- for purposes of the application of State laws, the entire width between the boundary lines of any way or thoroughfare used for purposes of vehicular travel on any property owned, leased, or controlled by the U.S. government and located in the State.

State Fiscal Effect: The Administrative Office of the Courts (AOC) advises that the bill may increase the number of payable traffic citations elected for trial due to a possible defense created under the bill. An increase in the number of payable citations elected for trial would result in additional clerical and court time necessary for the adjudication of those cases. Quantifying such an operational impact on court caseloads is difficult to project. However, AOC does not anticipate a significant fiscal or operational impact on the Judiciary.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; cities of Frederick and Havre de Grace; Montgomery, Talbot, and Wicomico counties; Department of General Services; Judiciary (Administrative Office of the Courts); Department of State Police; Office of the Public Defender; *Ferris v. State*, 355 Md. 356 (1999); *Pennsylvania v. Labron*, 518 U.S. 938 (1996); *Carroll v. United States*, 267 U.S. 132 (1925); *Terry v. Ohio*, 392 U.S. 1 (1968); Department of Legislative Services

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