

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 783
Judiciary

(Delegates Kramer and Fraser-Hidalgo)

Vehicle Equipment - Driver Alcohol Detection System for Safety Program

This bill requires each motor vehicle registered in the State and manufactured on or after January 1, 2022, to be equipped with an alcohol detection device that is calibrated to prevent a driver from operating the motor vehicle if the driver has a blood alcohol content of at least the lower of 0.07 or the blood alcohol concentration (BAC) deemed to be driving under the influence of alcohol *per se* or more when the vehicle is registered. Violation of this requirement is a misdemeanor subject to a maximum fine of \$500 (under existing penalty provisions of the Maryland Vehicle Law). A person may not tamper with, or in any way attempt to circumvent, the operation of a motor vehicle's alcohol detection device that is registered in the State and manufactured on or after January 1, 2022. A person who violates this provision is subject to imprisonment for up to two months and/or a fine of up to \$500. A person who violates the tampering provision may not prepay the fine but must appear in court to answer the charge.

The bill does not apply to motorcycles.

Fiscal Summary

State Effect: General fund revenues may increase by an indeterminate amount as early as FY 2022 but likely not until FY 2023, under the assumptions discussed below. Any impact on expenditures cannot be reliably estimated at this time and is likely beyond the five-year timeframe of this fiscal and policy note.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: “Alcohol detection device” means a fully functional driver alcohol detection system certified as approved by (1) the National Highway Traffic Safety Administration (NHTSA) or any other federal agency with authority to approve a driver alcohol detection system developed under the federal Driver Alcohol Detection System for Safety (DADSS) Program or (2) a State agency designated by the Governor, if no federal agency has the legal authority to approve the specified system.

Current Law: State law does not mandate the use of an alcohol detection system in motor vehicles.

However, a driver may be required to use an ignition interlock system, due to a violation of or conviction of specified alcohol-related driving offenses. The ignition interlock system is designed to detect alcohol levels from the breath of the driver. The device then “locks” the ignition system of the automobile if alcohol concentration of specified levels is detected in the driver’s breath. As a result, the automobile does not start until testing indicates that alcohol concentration levels have dissipated to an acceptable level.

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 a drug, any combination of drugs, or any combination of drugs and alcohol; or
- impaired by a controlled dangerous substance (CDS).

“Under the influence of alcohol *per se*” means having an alcohol concentration at the time of testing of at least 0.08 as measured by grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

“Impaired by alcohol” means *prima facie* evidence as indicated, at the time of testing, by an alcohol concentration of at least 0.07, but less than 0.08, as measured by grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

With a conviction for an alcohol- and/or drug-related driving offense under the Transportation Article, a violator is subject to a range of penalties involving fines and imprisonment, as well as suspension or revocation of the driver’s license by the Motor Vehicle Administration (MVA). A person convicted of driving under the influence of alcohol, under the influence of alcohol *per se*, or while impaired by a CDS is subject to fines ranging from \$1,000 to \$3,000 and/or a maximum imprisonment term of one to

three years – depending on whether it is a first or subsequent offense. A repeat conviction or convictions within five years requires a mandatory minimum penalty of imprisonment from 5 to 10 days or community service from 30 to 60 days, as specified, as well as a mandatory alcohol or drug abuse assessment.

A conviction for lesser included offenses subjects the violator to a fine of up to \$500 and/or imprisonment for up to two months. However, for repeat offenders, maximum fines increase to \$3,000 and maximum prison terms increase to three years. If an offender is transporting a minor at the time of the alcohol- and/or drug-related driving offense, fines and sanctions increase beyond those already specified for lesser included offenses.

Administrative Penalties: A conviction of driving under the influence of alcohol, under the influence of alcohol *per se*, or while impaired by a CDS also requires assessment of 12 points against the license by MVA, and the license is subject to revocation. A conviction for driving while impaired by alcohol or impaired by a drug, any combination of drugs, or any combination of drugs and alcohol requires assessment of 8 points against the driver's license by MVA, and the license is subject to suspension. A driver who accumulates 8 or 12 points against his or her driver's license within a two-year period is subject to license suspension or revocation, respectively.

Background: DADSS is a federally funded, collaborative research program between NHTSA and the Automotive Coalition for Traffic Safety (ACTS). NHTSA and ACTS entered into a cooperative agreement in 2008 to research and test technologies to reduce drunk driving nationally. The collaboration identified two potential systems for vehicle integration: (1) a breath-based system that measures the alcohol level in a driver's naturally exhaled breath unobtrusively and that can take instantaneous readings as the driver breathes normally, while also distinguishing between the driver's breath and passengers; or (2) a touch-based system that measures blood alcohol levels under the skin's surface through an infrared light that is integrated into existing vehicle controls, such as the start button and steering wheel, and that can take multiple accurate readings in less than a second.

NHTSA and ACTS extended their agreement in 2013; however, the program is still in the research phase. The DADSS website states that (as of February 2017) system vehicle integration could begin in five to eight years. Manufacturers will have the choice as to whether to install the system, and customers will be able to choose whether to purchase the system as a safety option (akin to automatic braking, lane departure warnings, etc.). The system will be calibrated at 0.08 BAC, as this was the performance specification for the program's funding.

State Fiscal Effect: Although the bill takes effect October 1, 2017, the bill's provisions only apply to vehicles registered in the State and that are manufactured on or after January 1, 2022 (fiscal 2022). However, this analysis assumes that vehicles that are

manufactured on or after January 1, 2022, are not available for purchase until at least July 1, 2022 (fiscal 2023). Thus, to the extent individuals fail to equip these vehicles with the specified technology, general fund revenues increase in fiscal 2023. Although a potential increase in general fund revenues is anticipated due to the bill's penalty provisions, the extent of this impact cannot be reliably estimated at this time as it depends on several factors: (1) whether the technology is available for vehicles manufactured on or after January 1, 2022; (2) whether a specified federal agency or State agency certifies the technology in accordance with the bill's requirements; and (3) whether and to what extent manufacturers offer the technology for vehicle integration.

Any potential impact on the number of individuals who commit alcohol- and/or drug-related driving offenses has not been accounted for in this estimate, as it also depends on these factors. Likewise, any potential impact associated with moderating the need for the State's existing Ignition Interlock System Program has not been accounted for in this estimate.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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