

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE

Senate Bill 192 (Senator King, *et al.*)
 Judicial Proceedings

Vehicle Laws - Child Safety Seats and Seat Belts - Penalty

This bill increases, from \$25 to \$75, the penalty for violating the requirement to use a child safety seat or a seat belt, as specified, when transporting certain children in a motor vehicle. The bill also repeals the requirement that court costs be included in the \$25 fine for violating the mandatory seat belt use law. Accordingly, a person must pay court costs in addition to a penalty of up to \$25 for violating the mandatory seat belt requirement.

Fiscal Summary

State Effect: General fund revenues increase by \$1.3 million in FY 2014 due to the increased penalty for those who violate child restraint provisions and the requirement to pay court costs for those who violate mandatory seat belt provisions. Special fund revenues increase by \$0.6 million in FY 2014 due to additional revenues generated from court costs and distributed to the Volunteer Company Assistance Fund (VCAF), Maryland Emergency Medical Systems Operating Fund (MEMSOF), and Criminal Injuries Compensation Fund (CICF). Out-years reflect annualization and assume no changes in citations issued, fees assessed, or distribution of court costs. Enforcement can be handled with existing resources.

(\$ in millions)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
GF Revenue	\$1.3	\$1.8	\$1.8	\$1.8	\$1.8
SF Revenue	\$0.6	\$0.7	\$0.7	\$0.7	\$0.7
Expenditure	0	0	0	0	0
Net Effect	\$1.9	\$2.5	\$2.5	\$2.5	\$2.5

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

Local Effect: As VCAF is expected to reach its \$20 million threshold in FY 2014 even absent this bill, any impact on support provided to volunteer fire companies by local governments is expected to be negligible. Enforcement can be handled with existing resources.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: A person is subject to a \$75 fine if the person (1) transports a child younger than age 8 in a motor vehicle without securing the child in a child safety seat (unless the child meets existing height requirements); (2) transports a child younger than age 16 in a motor vehicle without securing the child in a child safety seat or a seat belt, as required (unless all suitable locations are in use); or (3) allows a child safety seat or seat belt to restrain more than one individual at a time.

A person is subject to a fine of up to \$25 and additional court costs of \$33 if the person (1) operates a motor vehicle without being restrained by a seat belt or (2) operates a motor vehicle with an individual age 16 or older in the outboard front seat of a motor vehicle who is not restrained by a seat belt.

Current Law:

Court Costs: State law requires that, except as otherwise provided, in every traffic case, court costs of \$22.50 must be assessed, whether the driver decides to prepay the penalty and avoid a trial or decides to request a trial. In addition to the \$22.50 assessment, a surcharge of \$7.50 is added to help fund emergency medical and rescue services. An additional \$3.00 surcharge is attached to every criminal case processed by the District Court, including traffic cases, to fund compensation and services for victims of crime.

Appropriate Restraint Required for All Vehicle Occupants when Driver Has a Provisional License: Notwithstanding the licensee's driving record, the Motor Vehicle Administration (MVA) is required to impose a restriction on the provisional driver's license that prohibits that driver from operating a motor vehicle unless the driver and each passenger in the motor vehicle are restrained by a seat belt or child safety seat, as appropriate. The mandate does not apply to an individual who has a written statement from a physician certifying that the use of a child safety seat or seat belt is not practical due to physical disability or other medical reason. The restriction expires when the provisional license holder becomes age 18.

Vehicle Restraint Equipment: A "child safety seat" does not mean a seat belt but is a device, including a child booster seat, that the manufacturer certifies complies with applicable federal safety standards and is intended to restrain, seat, or position a child who is transported in a motor vehicle. A "seat belt" is any belt, strap, harness, or similar device and includes a combination seat belt-shoulder harness.

Every motor vehicle registered in Maryland and manufactured and assembled after June 1, 1964, must be equipped with two sets of seat belts on the front seat. Every motor vehicle registered in Maryland and manufactured or assembled with a rear seat after June 1, 1969, must have two sets of seat belts on the rear seat. This provision does not apply to motorcycles, buses, trucks, or taxicabs. Failure to have the required front and/or rear seat belts in a registered motor vehicle is a misdemeanor with a maximum fine of \$500. The prepayment penalty assessed by the District Court is \$70.

Required Restraints for Children: The mandatory use of child safety seats applies to the transportation of all children younger than age eight, unless the child is 4 feet 9 inches or taller. The requirement applies to passenger, truck, or multipurpose vehicles that are registered or capable of being registered in Maryland or registered in another state or Puerto Rico that are of the same type.

A person is prohibited from transporting a child younger than age 16 in a motor vehicle unless the child is secured in a child safety seat (in accordance with the manufacturer's instructions) or a seat belt. A particular child may be exempted from the child safety seat or seat belt requirement if a physician who is licensed in the state where the vehicle transporting the child is registered provides written certification that use of a child safety seat by that particular child would be impractical due to the child's height, weight, physical unfitness, or other medical reason.

A child safety seat may not be used to restrain more than one individual at a time. However, if the number of children subject to this law exceeds the number of suitable passenger-securing locations for children and all of the securing locations are in use by children, then the person transporting the children is not in violation of the mandate.

A violation of the mandatory use of a child safety seat or seat belt for children is not evidence of negligence or contributory negligence and may not be admitted as evidence in any civil trial. It is also not a moving violation for which points may be assessed. The failure to provide a child safety seat or seat belt for more than one child in the same vehicle at the same time has to be treated as a single violation. A violator of these provisions is subject to a fine of \$25. The prepayment penalty assessed by the District Court is \$58, which also includes court costs.

A judge may waive the \$25 fine if the person charged did not possess a child safety seat at the time of the violation, acquires a child safety seat before the hearing date, and provides proof of acquisition to the court. The Maryland Department of Transportation and the Department of Health and Mental Hygiene have to jointly implement the Child Safety Seat Program and encourage compliance through educational and promotional efforts.

Seat Belts and Other Restraint Requirements: For purposes of the seat belt requirement, “motor vehicle” means a vehicle that is registered or capable of being registered in this State as a passenger vehicle, a truck, tractor, multipurpose, or passenger bus vehicle and is required to have seat belts under federal motor vehicle safety standards. Historic vehicles are not subject to the mandatory seat belt requirement.

A person may not operate a motor vehicle unless the person and each occupant younger than age 16 are restrained by a seat belt or a child safety seat, as specified. A person who is age 16 or older may not be a passenger in the outboard front seat of a motor vehicle unless restrained by a seat belt. A person who violates these provisions is subject to a maximum fine of \$25, which includes court costs.

The mandatory seat belt provisions do not apply to a person if a Maryland licensed physician determines and certifies in writing that the person’s disability or another medical reason prevents appropriate restraint by a seat belt. The certification must state the nature of the physical disability and the reason that restraint by a seat belt is inappropriate. The mandatory seat belt provisions also do not apply to U.S. Postal Service and contract carriers while delivering mail to local box routes. A violation is not a moving violation nor may it be considered evidence of negligence or contributory negligence.

MVA and the Department of State Police (DSP) must establish prevention and education programs to encourage compliance. MVA must include information on the State’s experience with seat belt compliance in the annual evaluation report on the State’s highway safety plan that is submitted to the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration.

Background: According to the Governors Highway Safety Association (GHSA), 49 states and the District of Columbia mandate the use of seat belts. The District of Columbia and 32 states, including Maryland, Delaware, and New Jersey, require primary enforcement of seat belt laws. The remaining 17 states, including Pennsylvania and Virginia, require secondary enforcement only. New Hampshire is the only state that does not mandate use of seat belts for adults in motor vehicles. New Hampshire does, however, have a child passenger safety law that covers children younger than age 18 and is subject to primary enforcement.

According to NHTSA, seat belt use in Maryland was surveyed to be 94.2% in 2011, among the highest in the nation. In 2011, 287 passenger vehicle occupant fatalities were documented. Data reported to NHTSA from the State Highway Administration (SHA) found that, in traffic accidents with fatalities involving passenger occupants age five and older, about 49% of occupants were identified as unbelted at the time of a crash. NHTSA estimates that an additional 26 lives could have been saved in 2011 with 100% seat belt use by all vehicle occupants.

A majority of states (32, including Maryland, Delaware, Virginia, and Pennsylvania) impose a fine of \$25 or less for violation of their seat belt laws. In some states, the addition of court and other administrative fees can greatly increase the amount to be paid. For example, in California, the seat belt violation fine is \$25, but a violator must pay \$122 in court fees in addition to the fine. In Minnesota, a violator must pay \$75 in court fees in addition to the \$25 fine.

Ten states (Florida, Maine, Missouri, New Jersey, North Carolina, New York, Ohio, Tennessee, Texas, and Utah) and the District of Columbia impose fines between \$25 and \$50. In North Carolina, a violator pays a fine of \$25.50 but must also pay an additional \$135.50 for court and administrative fees. Five states (Colorado, Connecticut, Hawaii, Kansas, and Rhode Island) impose a fine of between \$50 and \$100 for a violation. Two states (Oregon and Washington) impose fines greater than \$100.

All 50 states and the District of Columbia mandate the use of child safety seats for infants and other children fitting certain criteria, according to GHSA. Forty-eight states and the District of Columbia (Florida and South Dakota are the exceptions) require booster seats or another appropriate device to restrain children in motor vehicles who have outgrown child safety seats but are still too small to safely use a seat belt.

According to NHTSA, motor vehicle crashes are the leading cause of death for children age 4 and ages 11 to 14, based on 2009 figures, which are the latest mortality data available. In the United States, there were 1,210 traffic fatalities among children ages 14 and younger during 2010. In Maryland, NHTSA documented 12 traffic fatalities during the same period for children ages 3 to 14.

In 2010, 4,960 passenger vehicle occupants ages 14 and younger were involved in fatal crashes in the United States. Among those children who were fatally injured, 41% were unrestrained. NHTSA research indicates that correct use of child safety seats reduces fatal injuries by 71% for infants and 54% for toddlers. Among children younger than age five in passenger vehicles, an estimated 303 lives were saved in 2010 by the use of child safety and booster seat devices.

A goal of the *Maryland Strategic Highway Safety Plan, 2011-2015* is to increase seat belt use to 96.7% or greater by 2015. SHA also plans to continue an incentive/recognition program for law enforcement efforts, the targeting of pick-up truck drivers and passengers, continuation of high-visibility enforcement efforts, more paid media in highly populated metropolitan areas, the use of focus groups to improve compliance, and additional outreach to teens.

State Revenues: Total revenues increase by approximately \$1.9 million in fiscal 2014, given the bill's October 1, 2013 effective date and by almost \$2.5 million annually

thereafter. About 70% of the revenue increase is directed to the general fund, and the balance goes to various special funds as discussed below. The revenue estimate is based on the following assumptions:

- the estimate for mandatory seat belt citations is based on a two-year average of citations prepaid to the District Court and totals 53,199 citations in fiscal 2014 and 70,932 citations in out-years;
- those who violate the seat belt requirement and prepay the penalty pay an additional \$33 for court costs in addition to the \$25 penalty;
- of the \$33.00 in court costs, \$22.50 is allocated to the general fund; \$7.50 is allocated to VCAF until VCAF accumulates \$20 million, then the entire amount is allocated to MEMSOF; and \$3.00 is allocated to CICF;
- the Department of Legislative Services (DLS) advises that VCAF is likely to reach the \$20 million threshold by the fourth quarter of fiscal 2014; thus, the estimate shows distribution to MEMSOF as of the fourth quarter of fiscal 2014;
- the estimate for the increase in general fund revenues from the \$50 increase in the penalty for child restraint violations is based on a two-year average of citations prepaid to the District Court and totals 2,535 citations in fiscal 2014 and 3,380 in out-years; and
- the estimate assumes no changes in the total number of citations issued for each violation, the fines or fees assessed, or the distribution of court costs to various funds.

Exhibit 1 shows the number of citations, both prepaid and the total for child safety seat and seat belt violations, for fiscal 2011 and 2012. Generally, the District Court processes 100,000 such citations annually, although the number fluctuates from year to year. Thus, to the extent the number of citations that are prepaid differs from the two-year average, the revenue increases discussed below fluctuate accordingly.

Exhibit 1
Enforcement of Child Safety Seat and Seat Belt Provisions

<u>Citation</u>	<u>Fiscal 2011</u>	<u>Fiscal 2012</u>
Child Younger than Age 8 Not in Child Safety Seat		
Prepaid Citations	3,264	3,373
Total Citations	5,829	5,800
Failure to Restrain Child Younger than Age 16		
Prepaid Citations	49	74
Total Citations	109	122
Prepaid Revenue for Child Safety Seat Citations (\$58 prepay)	\$192,154	\$199,926
Operating Vehicle with Occupant Younger than 16 or Driver Not Restrained		
Prepaid Citations	66,446	64,807
Total Citations	84,574	83,294
Passenger Age 16 or Older in Outboard Front Seat without Seat Belt		
Prepaid Citations	5,368	5,242
Total Citations	7,745	7,696
Prepaid Revenue for Seat Belt Citations (\$25 prepay)	\$1,795,350	\$1,751,225
Total Prepaid Revenue for Safety Seat and Seat Belt Citations	\$1,987,504	\$1,951,151

Source: District Court of Maryland

General Fund: General fund revenues increase \$1,323,728 in fiscal 2014, accounting for the bill's October 1, 2013 effective date. The additional revenues are due to the \$50 increase in the penalty for those who violate child restraint provisions and from those who must pay court costs of \$33 in addition to the \$25 fine for those who violate the requirement to wear a seat belt. General fund revenues are generated from \$22.50 of the \$33 assessed in court costs for traffic cases. On an annual basis, general fund revenues increase by \$1,764,970.

VCAF: Special fund revenues for VCAF increase by \$265,995 in fiscal 2014 due to the allocation of a \$7.50 surcharge added to traffic cases. State law requires that this surcharge be allocated entirely to VCAF until the fund reaches a threshold of \$20 million. Then, the surcharge is to be allocated entirely to MEMSOF.

The estimate assumes that VCAF will reach its \$20 million threshold by the fourth quarter of fiscal 2014. DLS advises that, as of the end of fiscal 2012, VCAF had accumulated \$11.7 million. The fund is projected to increase to about \$16 million by the

end of fiscal 2013. Accordingly, the \$7.50 surcharge is likely to accrue to MEMSOF in the final quarter of fiscal 2014, assuming revenues remain constant.

MEMSOF: Special fund revenues for MEMSOF increase by \$132,998 beginning in the fourth quarter of fiscal 2014. In out-years, \$531,990 accrues annually to MEMSOF.

CICF: Special fund revenues increase by \$159,597 for CICF in fiscal 2014 from a \$3.00 surcharge assessed in every criminal case, including traffic citations. The estimate accounts for the October 1, 2013 effective date of the bill. State law requires that the first \$500,000 from the \$3.00 surcharge be equally distributed between CICF and the State Victims of Crime Fund; any revenue in excess of \$500,000 must be distributed only to CICF. DLS advises the \$500,000 threshold is met under current law; thus, all revenues from the surcharge under this bill are allocated to CICF in this estimate. On an annual basis, the fund is estimated to accrue \$212,796 in additional revenues.

Additional Information

Prior Introductions: HB 343 of 2012 received an unfavorable report from the House Environmental Matters Committee. Its cross file, SB 460, received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: HB 158 (Delegate Reznik, *et al.*) - Environmental Matters.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Governors Highway Safety Association, National Highway Traffic Safety Administration, Department of Legislative Services

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