

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 526
Economic Matters

(Delegate Shewell, *et al.*)

Vehicle Laws - Required Insurance - Minimum Amounts for Vehicles of Drunk Drivers

This bill increases the minimum security required on a motor vehicle liability insurance policy for motor vehicles owned by those individuals who have been granted probation before judgment (PBJ) or convicted of driving while (1) under the influence of alcohol, under the influence *per se* or (2) impaired by alcohol.

Fiscal Summary

State Effect: General fund revenues may increase minimally from collection of premium taxes, including taxes from the Maryland Automobile Insurance Fund (MAIF). Minimal additional increase in special and general fund revenues from lapsed required security penalties. Minimal general fund revenue increase from the penalty provision applicable to this offense.

Maryland Automobile Insurance Fund Effect: MAIF nonbudgeted revenues may increase due to increased premiums by 169,700 in FY 2011 and up to \$226,300 annually thereafter. MAIF nonbudgeted expenditures increase by \$1,700 in FY 2011 and \$2,300 annually thereafter to pay additional premium taxes. Enforcement and any other additional workload can be handled with existing resources.

Local Effect: Potential minimal increase in motor vehicle liability insurance costs to the extent that local governments are required to increase insurance coverage for employees that have received PBJs or have been convicted of the relevant alcohol-related driving offenses.

Small Business Effect: Potential minimal, to the extent that businesses are required to increase insurance coverage for employees who are convicted of or receive PBJs for the relevant alcohol-related driving offenses. Minimal revenue increase for premium finance

companies from the interest on additional loans financed to pay higher insurance premiums.

Analysis

Bill Summary: For payment of claims for bodily injury or death arising from an accident for one person, the minimum required coverage increases from \$20,000 to \$100,000, and for more than one individual, from \$40,000 to \$300,000. For claims of property damage or destruction, the minimum coverage increases from \$15,000 to \$100,000. The policies must also continue personal injury protection benefits and uninsured motorist coverage unless waived.

Current Law: The minimum security required on a motor vehicle liability insurance policy for the bodily injury or death of a single individual is \$20,000. The minimum security required increases to \$40,000 for the bodily injury or death of more than one individual arising from one accident. The minimum security required for property damage is \$15,000, in addition to interest and costs.

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.

Penalties – Alcohol-related Driving Offenses: With a conviction for an alcohol- and/or drug-related driving offense, 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 or under the influence *per se* is subject to fines ranging from \$1,000 to \$3,000 and/or a maximum imprisonment term of one to three years. A repeat conviction within five years requires a mandatory minimum penalty of imprisonment from 5 to 10 days or community service from 30 to 60 days, as well as a mandatory alcohol abuse assessment. A conviction for lesser included offenses subjects the violator to a fine of \$500 and/or imprisonment for up to two months. However, for repeat offenders, maximum prison terms increase to a year. 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.

Penalties – Lapse of Required Vehicle Insurance: A vehicle owner who lets vehicle insurance lapse is guilty of a misdemeanor and is subject to a maximum fine of \$500. The prepayment penalty for failing to maintain required insurance or failing to surrender evidence of registration after notification by MVA is \$280. If a vehicle owner charged with knowingly driving an uninsured vehicle cannot prepay a penalty, that person must appear in court to answer the charge.

In addition to the misdemeanor penalty, the vehicle owner is subject to additional administrative penalties imposed by MVA. Once a required vehicle insurance lapses, the vehicle registration is suspended automatically until the owner restores the insurance and pays an uninsured motorist fee. Except as otherwise specified, motor vehicle insurance companies are required to notify MVA of each insurance lapse. MVA is then required to make a reasonable effort to notify the vehicle owner about the lapse. Within 48 hours after notification by MVA, the owner must surrender all evidence of vehicle registration. MVA is authorized to suspend the vehicle owner's driver's license until the evidence is surrendered to MVA.

In addition to any other penalty, MVA has authority to impose an administrative penalty of \$150 for each vehicle that is uninsured for a period of 1 to 30 days. After the thirty-first day, the penalty increases by \$7 each day. Each period in which the required insurance remains lapsed is a separate violation. This administrative penalty may not exceed \$2,500 for each violation in a 12-month period.

Background: While only limited data is available concerning the private insurance industry, MAIF advises that 99% of all MAIF insureds subject to this bill would be required to increase their insurance coverage payments to attain the coverage minimums required by the bill. MAIF also advises that more than 60% of its insureds are with MAIF, not due to poor driving records, but due to inability to pay required premiums. Accordingly, at least 50% of those drivers subject to this bill are likely to let coverage lapse or transfer vehicle ownership rather than pay the higher required premiums. However, MAIF's experience may not accurately reflect the choices of the policyholders in the private insurance market because MAIF policyholders are, by definition, those who are unable to afford insurance from the private market.

State Revenues: General fund revenues may increase minimally from the 2% insurance premium tax. On an annualized basis, MAIF premium tax payments could increase by \$2,263 (that is 2% of anticipated revenues of \$226,257, reduced by 50% to account for lapses or transfers of vehicle ownership). However, MIA was unable to estimate how large the increase in premium tax revenues would be for the general fund. As noted above, information as to what percentage of private passenger auto insurance holders who have received PBJs or have been convicted under the provisions of this bill and carry less than the minimum required by the bill is not available. Also, some proportion

of these drivers may already carry insurance coverage that conforms to the bill's requirements.

According to the District Court, 8,439 citations were disposed of with a finding of guilt for an alcohol- and/or drug-related driving offense in fiscal 2009. The vast majority, that, 8,196 citations, were convictions for either driving under the influence of alcohol, under the influence of alcohol *per se*, or driving while impaired by alcohol. During the same period, 11,839 citations for alcohol- and/or drug-related driving offenses were disposed of by PBJ. Of the citations filed in fiscal 2009, 94% were for driving while under the influence of alcohol, under the influence of alcohol *per se*, or while impaired by alcohol. *By way of illustration only*, if each citation represented one insured driver and it is assumed that 94% of the PBJ dispositions were for the offenses referenced in the bill, then it is likely that a total of 19,325 drivers would be required to carry coverage of at least \$100,000 for bodily injury or death for one person, \$300,000 coverage for bodily injury or death for multiple persons stemming from the same accident, and \$100,000 for property damage or destruction stemming from an accident. The increase in insurance premium taxes collected produces the greatest share of the bill's fiscal impact; however, a reliable estimate cannot be made at this time, although the overall impact is likely to be minimal. The insurance premium tax MAIF pays is discussed below.

Since MAIF and most insurers offer the policy required by this bill, the submission of new rate filings and the accompanying \$125 fee is not required.

Higher insurance costs may discourage some people from maintaining the required minimums for auto insurance coverage. Therefore, penalty revenues for failure to maintain the required minimum security (liability insurance) may increase; however, the magnitude of any such increase cannot be reliably estimated. Nevertheless, the penalty revenues are distributed among various special funds and the general fund.

MAIF Effect: MAIF estimates that the bill affects approximately 454 of its insureds. This only includes those that have been convicted of driving under the influence of alcohol, under the influence *per se*, or while impaired by alcohol. MAIF does not rate those drivers that receive PBJs. MAIF further estimates that an increase in the mandatory bodily injury liability limit may result in increased premium revenues of approximately \$226,257 annually beginning in fiscal 2012; however, MAIF also advises that at least 50% of those subject to the bill's minimum coverage limits are likely to let coverage lapse rather than pay the higher premiums. Payment of premium taxes by MAIF may, therefore, increase by \$2,263 beginning in fiscal 2012. The impact in fiscal 2011 is slightly lower due to the bill's October 1, 2010 effective date. Thus, premium revenues could increase by \$169,693 and premium tax payments could increase by \$1,697 in fiscal 2011. **Exhibit 1** shows the projected impact of the increased limits by territory in the State.

Exhibit 1
Impact of Proposed Increased Limits on MAIF Territories

<u>Territories</u>	<u>New 100/300/100 Drivers</u>	<u>Average Premium Increase</u>	<u>Total Additional Premiums</u>
Baltimore City	13	\$943	\$12,259
Baltimore Inner	30	758	22,740
Montgomery County Outer	15	471	7,065
Prince George's County Outer	24	487	11,688
Baltimore Outer	23	675	15,525
Montgomery County Inner	20	607	12,140
Prince George's County Inner	46	565	25,990
Lower Eastern Shore	42	305	12,810
Remainder	241	440	106,040

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Insurance Administration, Judiciary (Administrative Office of the Courts), Maryland Automobile Insurance Fund, Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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