



HOUSE COMMITTEE ON APPROPRIATIONS

2009-10 Legislative Session

FISCAL NOTE

HOUSE BILL: 2070

PRINTER'S NO: 2883

PRIME SPONSOR: Markosek

FISCAL IMPACT SUMMARY	FY 2009/10	FY 2010/11
Estimated Expenditure Increase/(Decrease):		
Motor License Fund—Distracted Driver Education and Awareness Program Account (NEW).....	\$0	\$17,500
Motor License Fund.....	\$0	Minimal
General Fund.....	\$0	\$0
Local Government Funds.....	\$0	See Analysis
Estimated Revenue Increase/(Decrease):		
Motor License Fund—Distracted Driver Education and Awareness Program Account (NEW).....	\$0	\$17,500
General Fund.....	\$0	\$7,160
Emergency Medical Services Operating Fund.....	\$0	\$4,680
Medical Care Availability and Reduction of Error Fund...	\$0	\$14,040
Judicial Computer System Augmentation Account.....	\$0	\$3,744
Access to Justice Account.....	\$0	\$936
County Funds.....	\$0	\$9,706
Local Government (Municipal) Funds.....	\$0	\$5,850
Philadelphia Towing and Storage Agent.....	\$0	\$630
Pittsburgh Towing and Storage Agent.....	\$0	\$30

OVERVIEW:

Brief Summary

This bill amends Titles 42 (Judiciary and Judicial Procedures) and 75 (Vehicles), Pa.C.S., to ban texting while driving and to prohibit junior drivers and persons with learner's permits from using an interactive wireless device while driving.

Specifically, the bill creates a new §3316 in Title 75 to create the ban. It amends §3571 and §3573 in Title 42 to specify the distribution of the fine revenue. It amends in Title 75 §3326 to make the new offense subject to the doubling of fines for violations in construction zones, §3327 to make the new offense subject to the doubling of fines in emergency response areas, §3752 to change accident report forms, §3753 to require a report from the Department of Transportation (PennDOT), and §6101 to require local governments to reimburse certain legal expenses.

Bill Summarized

This bill would impose a \$50 fine on those convicted of violating the proposed ban on texting and the limited ban on cell phone usage. If, however, the violation occurred within an officially-marked school zone, construction zone, or emergency response area, the fine would be \$100.

Seventy-five percent of the fine revenue are appropriated on a continuing basis to PennDOT for a statewide public education and awareness program to combat distracted driving and promote awareness of the dangers. PennDOT, in consultation with the Department of Education, shall issue guidelines for this program within six months of the effective date. The bill requires PennDOT to submit annually a report on this program to the Transportation Committees of the House of Representatives and the Senate.

When enforcement is due to State Police action, the remaining 25% of the fine revenue will be distributed to all municipalities using the Liquid Fuels Tax Municipal Allocation Law (1955 P.L. 1944, No. 655). When enforcement is due to local police action, however, the remaining 25% will be payable to the municipal corporation under which the police department is organized.

The bill amends §3752 of the Vehicle Code to require PennDOT to expand accident report forms to include information relating to interactive wireless communication device usage, and it requires PennDOT to submit annually a report on accident data related to interactive wireless communication devices to the Transportation Committees of the House of Representatives and the Senate.

The bill also provides that a local government will pay the court costs and attorney fees for anyone defending against a violation of an ordinance of that local government *if* that ordinance is found to be in violation of §6101 of the Vehicle Code. This section prohibits local authorities from enacting or enforcing any ordinance on a matter covered by the Vehicle Code unless expressly authorized by the Vehicle Code.

The bill further restricts police from seizing interactive communication devices relating to violating the provision of this proposed bill, and it restricts insurance companies from increasing insurance rates on individuals convicted under this new provision.

Governmental Entities Impacted

The responsibilities for the licensing of drivers, regulation of motor vehicles, and compiling accident reports fall under the Deputy Secretary for Safety Administration within PennDOT. The General Appropriation Act of 2009 (S.B. 850 and Act No. 1A), which the Governor vetoed in part, provided \$126,939,000 for Safety Administration and Licensing for FY 2009/ 10. As passed by the General Assembly, S.B. 850 had provided \$128,429,000 for this line item but the Governor used his veto power to reduce the amount. The Supplemental General Appropriation Act of 2009 (H.B. 1416 and Act 10A of October 9, 2009) kept the appropriation at \$126,939,000, which is the same amount in Act No. 1A as it had been reduced by the Governor.

The Pennsylvania State Police and local police departments enforce the Vehicle Code. According to the Pennsylvania Local Fact Sheet (October 2009) published by the Governor's Center for Local Government Services, Department of Community and Economic Development, 1,021 of the 2,562 municipalities in Pennsylvania have traditional police forces. In addition, there are thirty-two consolidated police services serving 111 jurisdictions and 124 contractual police departments. 1,255 municipalities are exclusively patrolled by the Pennsylvania State Police. The General Appropriation Act of 2009 (Senate Bill 850 and Act No. 1A), which the Governor vetoed in part, provided a \$447,184,000 appropriation out of the Motor License Fund to the State Police for traffic control and safety.

As passed by the General Assembly, Senate Bill 850 had provided \$480,027,000 for this line item but the Governor used his veto power to reduce the amount. The Supplemental General Appropriation Act of 2009 (House Bill 1416 and Act 10A of October 9, 2009) increased the appropriation to \$479,018,000. Local governments reported police expenses of \$1,752,266,562 for 2007 (most recent year available) according to financial reports filed with the Department of Community and Economic Development. 2,439 out of the 2,562 municipalities filed reports for 2007.

The Philadelphia Traffic Court and Magisterial District Judge Courts are the proper courts for cases dealing with enforcement of the Vehicle Code. The General Appropriation Act of 2009 (Senate Bill 850 and Act No. 1A) provided \$58,986,000 for Magisterial District Judges for FY 2009/10, which the Governor did not reduce with his veto power. The Governor, however, vetoed the entire \$912,000 appropriation for the Philadelphia Traffic Court. The Supplemental General Appropriation Act of 2009 (House Bill 1416 and Act 10A of October 9, 2009) kept the appropriation for the Magisterial District Judges at the same level and restored the \$912,000 appropriation for Philadelphia Traffic Court.

The duties imposed upon the Department of Education would likely be funded by the general government operations line item. The General Appropriation Act of 2009 (Senate Bill 850 and Act No. 1A) provided \$24,816,000 for this line item. The Governor did not use his veto power to reduce this appropriation. The Supplemental General Appropriation Act of 2009 (House Bill 1416 and Act 10A of October 9, 2009) increased the appropriation to \$26,409,000.

Vehicle Code Fines and Surcharges

Sections 3571 and 3573 of Title 42 (Judiciary And Judicial Procedure), Pa.C.S., regulate the deposits of the fine revenue in the Vehicle Code. For the fines relating to this bill, there are two formulae on where the money is deposited based upon whether the enforcement action was taken by local police or the State Police. If the fine is the result of local action, then half the funds is deposited in the Motor License Fund, less transfers to the Judicial Computer System Augmentation Account pursuant to Title 42 §3733(a)(1), and the remaining half is returned to the local government that initiated the action. If the fine is the result of State Police action, then half the money is still deposited in the Motor License Fund less transfers as before, but the remaining half is distributed to all municipalities based on the formula in section 4 of the act of June 1, 1956 (P.L.1944, No.655), relating to partial allocation of liquid fuels and fuel use tax proceeds, also known as the Liquid Fuels Distribution Formula. This formula distributes half the funds based on each municipality's population in proportion to the total state population and the other half based on each municipality's local road miles in proportion to the total local road mileage in the state. In FY 2008/09, \$30.041 million was deposited in the Motor License Fund from Vehicle Code fines and \$18.1 million from Vehicle Code fines was transferred to the Judicial Computer System Augmentation Account. For FY 2008/09, \$12,978,464.06 was distributed to municipalities via the Liquid Fuels Distribution Formula for Vehicle Code fines collected from State Police action, and \$27.9 million, estimated from Department of Revenue data, was returned to municipalities because of local law enforcement.

In addition to fines imposed by the Vehicle Code, several surcharges are added onto traffic citations as follows:

- \$34.50 Court costs, if no hearing is requested, pursuant to §1725.1 of Title 42 (Judiciary and Judicial Procedure), Pa.C.S., and as annually adjusted for inflation by the Pennsylvania Supreme Court and published in the Pennsylvania Bulletin.
- \$41.50 Court costs, if a hearing is requested, pursuant to §1725.1 of Title 42 (Judiciary and Judicial Procedure), Pa.C.S., and as annually adjusted for inflation by the Pennsylvania Supreme Court and published in the Pennsylvania Bulletin.
- \$10 Emergency Medical Services (EMS) Operating Fund pursuant to §14 of the Emergency Medical Services Act (Act of Jul. 3, 1985, P.L. 164, No. 45).
- \$30 Catastrophic Loss Benefits Continuation Fund (CAT), pursuant §6506 of the Vehicle Code, and transferred to the Medical Care Availability and Reduction of Error Fund (MCARE) pursuant to the Medical Care Availability and Reduction of Error Act (Act of Mar. 20, 2002, P.L. 154, No. 13). In FY 2007/08, \$47.2 million was deposited in this Fund due to this surcharge.
- \$8 Judicial Computer System Augmentation Account pursuant to Chapter 37, Subchapter C, subsections 3733 (a.1)(iv) and 3733(2)(iii) of Title 42 (Judiciary and Judicial Procedure), Pa.C.S.
- \$2 Access to Justice Account pursuant to §§4904, 3733 (a.1) (iv), and 3733(2)(iii) of Title 42 (Judiciary and Judicial Procedure), Pa.C.S.
- \$10 For Philadelphia or Pittsburgh only, pursuant to §6506 of the Vehicle Code, and transferred to each city's towing and storage agent as set forth in §6309.2(e), which is the Philadelphia Parking Authority for Philadelphia and such entity as adopted by ordinance of the City of Pittsburgh.

Pursuant to §3571(c)(2) and (4) of Title 42, Pa.C.S., the Commonwealth currently receives \$15.30 of the amount charged for court costs, which is deposited in the General Fund, and the remainder—\$19.20 for when no hearing is requested or \$26.20 when a hearing *is* requested—is returned to the respective county. These amounts are annually adjusted for inflation as measured by the Consumer Price Index.

A \$50 fine, as for violating the proposed §3316 on prohibitive use of interactive wireless communication devices, has a total penalty cost of \$134.50 (no hearing requested) or \$141.50 (hearing requested) after the surcharges are added to it, or \$144.50 (no hearing requested) or \$151.50 (hearing requested) for Philadelphia or Pittsburgh. A \$100 fine, if the violation of §3316 happened in an active school zone or was subject to §3326 (construction zones) or §3327 (emergency response areas), has a total penalty cost of \$184.50 (no hearing requested) or \$191.50 (hearing requested) after the surcharges are added to it, or \$194.50 (no hearing requested) or \$201.50 (hearing requested) for Philadelphia and Pittsburgh.

Effective Date

The effective date is sixty days.

ANALYSIS:

For simplicity, it is assumed that the effective date will be July 1, 2010, and that the total fiscal impact will begin in FY 2010/11.

Additional Enforcement Expenditures

The addition of a new §3316 will not cause any increase in costs to the Commonwealth or local governments. The State Police, local police departments, and the courts already enforce traffic law, and this additional offense will not require additional resources.

Additional Revenue

The addition of §3316, however, will increase revenue to the Commonwealth and local governments. The amount of the increase will depend upon enforcement, and no reliable Pennsylvania data exists for making a reliable prediction on how much enforcement would occur. Eighteen other states, however, have recently banned texting while driving. Connecticut, New Jersey, and Washington have enacted their laws sufficiently early enough to have complete data. The law for the State of Washington is the most similar to the proposed ban in House Bill 2070, and its data will be used as a proxy for forecasting Pennsylvania's enforcement.

Washington State enacted its law—the Revised Code of Washington (RCW) 46.61.668—on May 11, 2007, and the ban became effective on January 1, 2008. From November 2008 through October 2009, there were 333 convictions from Washington State Patrol and local law enforcement for violations of RCW 46.61.668. For the same period of time, the total number of convictions issued for vehicle-related offenses was 1,098,418. The percent of all citations issued for texting, therefore, is 0.03%.

For calendar year 2008, there were 1,561,106 convictions of Vehicle Code violations in Pennsylvania, according to data from the Administrative Offices of the Courts and the Philadelphia Traffic Court. Assuming that Pennsylvania will experience the same percentage of convictions as there was experienced in the State of Washington, there will be an estimated 468 statewide convictions on an annual basis due to the new §3616. Because 211,277 of the 1,561,106 convictions occurred in Philadelphia, an estimated 63 convictions will occur in Philadelphia. For Pittsburgh, 8,917 convictions occurred, which calculates to an estimate of just 3 convictions.

Given the estimated number of convictions, the revenue amounts are simply the product of the fine or surcharge amounts and the number of estimated convictions.

Seventy-five percent of the revenue from the \$50 fine, or \$37.50, will be appropriated on a continuing basis to the Department of Transportation (PennDOT) for a statewide public education and awareness program. The estimated annual revenue is \$17,500.

Twenty-five percent of the revenue from the \$50 fine, or \$12.50, will be returned to municipalities either through the Liquid Fuels Distribution formula if the fine is the result of State Police Action or directly due to local law enforcement. The estimated annual revenue is \$5,850.

The \$10 surcharge for the Emergency Medical Services (EMS) Operating Fund will yield an estimated \$4,680.

The \$30 Catastrophic Loss Benefits Continuation Fund (CAT) surcharge pursuant §6506 of the Vehicle Code, and transferred to the Medical Care Availability and Reduction of Error Fund (MCARE), will yield an estimated \$14,040.

The Judicial Computer System Augmentation Account surcharge of \$8 will yield an estimated \$3,744.

The Access to Justice Account surcharge of \$2 will yield an estimated \$936.

The General Fund would receive an estimated \$7,160 for its portion (\$15.30) of the court costs.

The counties would receive \$9,706 in court costs. This was calculated using a weighted average of \$20.74 in court costs the counties would receive based on data from the Administrative of Pennsylvania Courts that show 22% of all convictions in 2008 resulted from hearings and 78% from guilty pleas.

The Philadelphia Parking Authority would receive \$630 from the \$10 surcharge imposed within the city, and the towing agent for the City of Pittsburgh would receive \$30.

Note: The above estimates do not account for the impact of the proposed prohibition of cell-phone usage for persons with Junior Drivers' Licenses and permits nor for the doubling of fines in school zones, construction zones or emergency response areas because of insufficient data to make reliable projections. The actual revenue realized, therefore, may be higher than the amounts estimated above.

Accident Report and New Reporting Requirements

According to PennDOT, the requirements imposed by this bill to expand accident report forms and submit annually a report on accident data related to interactive wireless communication devices to the Transportation Committees of the House of Representatives and the Senate will not add any significant costs to PennDOT and will be implemented with current resources.

Education and Awareness Program

According to the Department of Education, there will be no costs for it to provide advice to PennDOT on the proposed Education and Awareness Program. This program is subject to available funding, thus the expenditures would not exceed the available revenue, estimated to be \$17,500, unless PennDOT can secure other funding, such as Federal grants.

Local Government General Funds—Legal Costs

The amendment to §6101 that provides for a local government to pay court costs and attorney fees for anyone defending against a violation of an ordinance of that local government *if* that ordinance is found to be in violation of §6101 may cost local governments legal expenses in certain and limited cases. If a local government believes that it has an ordinance in violation of §6101, it has the option of not pressing charges and thus avoiding any potential costs. If, however, the local government presses charges and the court finds that the local ordinance violates §6101, then the local government would incur legal expenses.

It is not possible to make a prediction on how many court cases will result in costs for local governments or what these costs may be.

The following sources were used in the preparation of this fiscal note: the Department of Transportation, the Pennsylvania State Police, the Administrative Office of Pennsylvania Courts, the Philadelphia Traffic Court, the Administrative Office of the Courts for Washington State, the Department of Community and Economic Development, the Department of Revenue, the Department of Education, the National Conference of State Legislatures, and the American Automobile Association.

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General Note and Disclaimer: *This Fiscal Note was prepared pursuant to House Rule 19(a), and the elements considered and reported above are required by Section 5 of the rule. Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*