

Department of Legislative Services

Maryland General Assembly

2004 Session

FISCAL AND POLICY NOTE

Revised

House Bill 855

(Chairman, Environmental Matters Committee)

(By Request – Departmental – State Police and Public Safety and Correctional Services)

Environmental Matters

Judicial Proceedings

**Vehicle Laws - Commercial Driver's License - Hazardous Materials
Endorsement - Criminal History Records Checks**

This departmental bill requires holders of commercial driver's licenses to obtain a national and State criminal history records check before receiving a hazardous materials endorsement from the Motor Vehicle Administration (MVA).

Fiscal Summary

State Effect: None. Because criminal history records check costs will be borne by license applicants or their employers, the bill's requirements could be handled with the existing budgeted resources of Maryland's Criminal Justice Information System (CJIS) Central Repository in the Department of Public Safety and Correctional Services (DPSCS).

Local Effect: None.

Small Business Effect: The Department of State Police has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: A licensed operator of commercial vehicles must obtain a State-issued endorsement to operate a commercial motor vehicle that is required to be placarded for

hazardous materials. To obtain a State-issued endorsement, the operator must apply to the CJIS Central Repository for a national and State criminal history records check. Upon payment of the fee, the Central Repository must provide a receipt to the operator. The operator's employer may pay the required fees or reimburse the operator. The MVA may not issue a hazardous materials endorsement of a commercial driver's license without the approval of the Transportation Security Administration (TSA) of the federal Department of Homeland Security. DPSCS and the director of the CJIS Central Repository, in consultation with the MVA, may adopt regulations to implement the endorsement provisions.

As part of the application for a criminal history records check, the operator must submit two complete sets of legible fingerprints in a format approved by the director of the central repository and the director of the FBI and the required federal and State processing fees. The central repository is required to forward to the operator and TSA a printed statement of the operator's criminal history record information. If criminal history record information is reported to the central repository after the date of the records check, the central repository must provide to TSA and the operator a revised printed statement of the operator's criminal history record information.

In accordance with regulations adopted by DPSCS, the MVA must periodically verify a list of operators of commercial motor vehicles that are required to be placarded for hazardous materials.

Information obtained from the central repository is confidential, may not be disseminated, and may be used only for the purpose of endorsement. An operator may contest the contents of the printed statement issued by the central repository as specified in statute.

Current Law: A Class A commercial driver's license authorizes the licensee to drive combinations of vehicles with a gross combination weight of 26,001 or more pounds if the gross vehicle weight (GVW) of the vehicles being towed is in excess of 10,000 pounds. The holder may also drive any vehicle or combination of vehicles that a Class B commercial driver's license holder may drive.

A Class B commercial driver's license authorizes the licensee to drive any single vehicle with a GVW of 26,001 or more pounds, any such vehicle towing a vehicle not in excess of 10,000 pounds GVW, and any vehicle that a Class C commercial driver's license holder may drive.

A Class C commercial driver's license authorizes the licensee to drive any single vehicle less than 26,001 GVW, any such vehicle towing a vehicle not in excess of 10,000 pounds

GVW, and any vehicle that a noncommercial Class C driver's license holder may drive, except for motorcycles. A Class C commercial driver's license holder may not drive or attempt to drive a motor vehicle on any highway in this State unless the license or an appropriately endorsed license authorizes the individual to drive a vehicle of the class that the individual is driving or attempting to drive.

An operator must obtain State-issued endorsements of an operator's commercial driver's license to operate double/triple trailers, vehicles designed to transport 16 or more passengers including the driver, school buses, tank vehicles, or vehicles required to be placarded for hazardous materials.

Background: On May 5, 2003, the federal Department of Homeland Security issued new regulations requiring detailed background investigations and fingerprinting of applicants for new and renewed commercial driver's licenses with a hazardous materials endorsement. States were required to implement the background check program by April 1, 2004. The bill requires a check of Maryland criminal records as well as federal criminal records because the State Police advise that Maryland criminal records contain more up-to-date information than the records maintained by the FBI.

However, the Departments of State Police, Transportation, and Public Safety and Correctional Services are working on a plan to implement an electronic criminal background check program, not just for commercial driver's license holders who need hazardous materials endorsement, but for all employment categories subject to criminal background checks. The State Police will provide facilities and security, DPSCS will provide the equipment and personnel to take fingerprints and send the information electronically to TSA, and the MVA will verify those operators of commercial motor vehicles that are required to be placarded for hazardous materials.

These State departments are working collectively with the federal Department of Homeland Security's Office of National Risk Assessment (ONRA) to develop this state-of-the-art background check program. If negotiations with ONRA are successful, Maryland would be the beta test site for the rest of the nation and would receive \$2.4 million in federal grants to implement the expanded program. The federal grant would finance 22 additional positions, equipment, and facilities. To finance most of the continuing program costs in the out-years, DPSCS would increase the fee for State and national criminal background checks for all applicants. Currently an estimated 160,000 people request criminal background checks from DPSCS.

If negotiations with ONRA are not successful, the program of manual background checks applying only to commercial drivers, as presented in this bill, would be implemented if the bill is enacted.

State Fiscal Effect: In Maryland, the total maximum cost of each criminal history records check is \$52, which includes State and national background checks plus fingerprinting. The CJIS Central Repository is authorized by law to collect an \$18 fee established for Maryland criminal history checks. This fee represents cost recovery for processing and administration and is revenue/cost neutral. The FBI charges a fee of \$24 for a national criminal history records check. There is also normally a \$10 fee for two fingerprint cards (\$5 for the State card; \$5 for the separate FBI card). The CJIS Central Repository must collect the fees from the applicant, or other payer, and reimburse the FBI through that agency's monthly billing.

The CJIS Central Repository guidelines provide that for every 20,000 cumulative criminal history checks, one additional position and one additional fingerprint workstation would be needed. This bill alone would not require additional resources since only 6,000 additional criminal checks are anticipated. Accordingly, the bill's requirements can be met with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of State Police, Maryland Department of Transportation, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - February 22, 2004
ncs/jr Revised - Enrolled Bill - April 26, 2004

Analysis by: Karen D. Morgan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510