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WRITTEN TESTIMONY IN SUPPORT OF HB 388

Please accept this submission by the Maryland State's Attorneys' Association as its support for HB 388.

To provide a brief background, when the Maryland Legislature added subsections (h) and (i) to Maryland Transportation Article, §21-902 in 2019, it did so by inadvertently failing to address a very pertinent related issue.

It has recently come to light that many drivers' being convicted under subsections (h) and (i) of TA §21-902 are not being "credited" with points on their license for their latest offenses/convictions under the (h) and (i) subsections. The Motor Vehicle Administration is now aware of the situation. Apparently, the MVA was anticipating that the (h) and (i) code sections would be sentencing enhancers and that the driver would receive points based upon the underlying conviction.

When the General Assembly passed this bill four years ago, points were not taken into consideration. As a result, at this time the MVA does not appear to have the statutory authority to issue/assign points for those (h) and (i) violations. Further complicating the situation, the MVA is often unable to determine – based upon an (h) or (i) conviction – whether the underlying offense violated was originally based upon a §21-902(a), (b), (c) or (d) arrest.

For point of clarification, subsection **(h)** of TA §21-902 applies to a person who has *twice* been previously convicted of any impaired driving offense (a, b, c, or d) and is convicted once again. At the *least*, this would be their *third* conviction. If the driver had previously received a Probation Before Judgment for an impaired driving offense – which is highly likely – this new (h) conviction could their fourth impaired driving violation.

Subsection (i) of TA §21-902 applies to a person who has *three* times been previously convicted of any impaired driving offense (a, b, c, or d) and is convicted once again. At the *least*, this would be their *fourth* conviction. If the driver had previously received a Probation Before Judgement for an impaired driving offense – again, which is highly likely – this (i) new conviction could be their *fifth* impaired driving violation.

House Bill 1406 proposes to add subsections 44 (h) and 45 (i) to §16-402 of the Transportation Article. TA §16-402 is the section of the Code that assigns points for “serious” traffic violations. Because of the nature of the (h) and (i) offenses and the number of previous convictions, HB 1406 would make a violation of both (h) and (i) 12 (twelve) point offenses. When considering that this latest impaired driving conviction could be a driver’s third (fourth, with a previous PBJ) or fourth (fifth, with a prior PBJ) violation, making them both 12-point offenses and subject to license revocation by the MVA would seem like a reasonable and prudent consequence to address public safety. Clearly, a person convicted on this many previous occasions is a highway menace and a threat to both themselves and others.

The Maryland State’s Attorneys’ Association strongly supports HB 388 and urges this Committee to give it a favorable report.

Thank you for your consideration.

Respectfully Submitted,

David Daggett
Maryland State’s Attys. Assoc.