

Department of Legislative Services

Maryland General Assembly

2002 Session

FISCAL NOTE

House Bill 1191

(Delegate Giannetti)

Commerce and Government Matters

**Commercial Driver's License - Endorsement to Transport Hazardous Materials -
Criminal History Records Checks**

This bill requires the Motor Vehicle Administration (MVA) to apply for a national and State criminal history records check of an applicant for a hazardous materials endorsement on the applicant's commercial driver's license (CDL). As part of the application, the MVA must submit to the Criminal Justice Information System (CJIS) Central Repository two complete sets of the applicant's legible fingerprints on specified forms and two mandatory processing fees (one State and one federal) to be paid by the applicant. The repository must forward the applicant's criminal history records information to the MVA and the applicant. The MVA may deny an endorsement based on the information obtained from the repository. Information obtained by the background check is confidential and may not be redisseminated and must be used only for the purpose authorized by the bill.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures could increase by \$103,800 in FY 2003. Out-year costs reflect annualization and inflation.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	103,800	112,900	116,900	121,200	126,700
Net Effect	(\$103,800)	(\$112,900)	(\$116,900)	(\$121,200)	(\$126,700)

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

Local Effect: None.

Small Business Effect: Potential meaningful. Trucking companies that are small businesses would be required to pay the fees required by the bill and comply with the specified procedures.

Analysis

Current Law: Federal law enacted on October 26, 2001 (the USA Patriot Act) prohibits states from issuing a license to operate a motor vehicle transporting in commerce a hazardous material unless the Secretary of the U.S. Department of Transportation (USDOT) has first determined that the individual does not pose a security risk warranting denial of the license. This prohibition also applies to license renewals. Upon the request of a state regarding issuance of a CDL, the Attorney General must carry out a background records check regarding the individual and notify the Secretary of Transportation of the results. A background records check shall consist of the following:

- a check of the relevant criminal history databases;
- in the case of an alien, a check of the relevant databases to determine the status of the alien under the immigration laws of the United States; and
- as appropriate, a check of the relevant international databases through Interpol-U.S. National Central Bureau or other appropriate means.

Each state must submit to the USDOT Secretary, the name, address, and such other information as required concerning each alien to whom the state issues a hazardous materials CDL and any other individual to whom such a license is issued. The regulations necessary to administer this law have not yet been issued by the Federal Motor Carrier Safety Administration (FMCSA).

Background: According to FMCSA, the interim final rule to implement the new federal law may be published in April 2002. FMCSA advises that once the final rule is issued, it will pre-empt similar state laws. The agency also advises that the regulations will not designate who is responsible for taking the fingerprints; however, the FBI will only accept fingerprints from authorized sources. Applicants will likely go to the local motor vehicle department to take the licensing test, and then be directed to the local police department or other authorized agency to be fingerprinted; the criminal background check will be conducted by the Department of Justice (DOJ). DOJ will forward the information to USDOT for analysis. If the applicant is not determined to be a security risk or further investigation is required, USDOT will notify the local motor vehicle agency.

It could take approximately two months for a driver to renew or get the endorsement on a new CDL. The fingerprinting and background check are estimated to cost \$25 each and will be paid by the applicant. The new law may cost each state approximately \$15,000 to implement. FMCSA expects the new requirements to generate approximately 860,000 background checks annually.

Under current procedure, the FBI charges a \$24 fee for a national records check and \$18 for volunteers who work with children, the elderly or people with disabilities.

State Fiscal Effect:

Motor Vehicle Administration

TTF expenditures could increase by \$103,780 in fiscal 2003 to hire two customer agents to administer the bill's requirements and to conduct hearings for applicants who are denied an endorsement of their commercial license. This estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- two customer service agents will be needed to submit fingerprints, track correspondence between the MVA and the Department of Public Safety and Correctional Services (DPSCS), communicate with the applicant regarding the results, and update the CDL information system;
- training will be needed for 200 MVA examiners; and
- the MVA will conduct approximately 420 administrative hearings annually for applicants who are denied an endorsement.

Salaries and Fringe Benefits	\$50,048
Operating Expenses	<u>53,732</u>
Total FY 2003 State Expenditures	\$103,780

Future year expenditures reflect: (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

This estimate assumes that organizations such as the State Police or the CJIS Customer Service Center will take the fingerprints required by the bill, rather than the MVA. The Department of Legislative Services (DLS) advises that the MVA would need to hire additional personnel if it assumes that responsibility as only two MVA personnel are

trained in fingerprinting. The estimate is based on the number of drivers who qualify for the commercial license each year (6,563); the MVA advises that the majority of these drivers also obtain a hazardous material endorsement. The MVA provides commercial hazardous material endorsements at 16 of its branches. The bill is silent regarding the requirements for background checks for renewals of an endorsement. The MVA anticipates that it will deny approximately 70 applications for an endorsement per month, based on the number of applicants who were screened following the terrorist attacks on September 11, 2001, and that half of the applicants will request a hearing. The MVA must pay \$92 per hearing or \$38,640 annually (\$28,980 in fiscal 2003).

The MVA also estimates that it will need \$60,000 to modify its computer systems and \$5,000 to update an internal manual. DLS advises that economies of scale could be realized if other legislation that requires changes to the computer system and the manual is enacted. The agency also notes that it will cost \$125,000 to update the commercial driver's manual distributed to applicants and driving schools but indicates that the pending federal law will require the manual to be updated regardless of State legislation.

The MVA does not charge for the endorsement if it is requested as part of the CDL application, but does charge \$20 to issue a CDL. DLS notes that the MVA has the authority to increase fees for the CDL or to add a fee for the endorsement.

Department of Public Safety and Correctional Services

For a national criminal history records check, the CJIS Central Repository collects an \$18 fee for State background checks, a \$24 FBI fee, and \$10 for two sets of fingerprint cards. State fee revenue is used to provide the service. If only a State check is required, the applicant must only pay an \$18 background check fee and \$5 for one set of fingerprints.

DPSCS indicates that the equipment to process and store fingerprints can now absorb 12,000 additional fingerprint checks in any given year and, therefore, this bill will not exceed its capacity. However, if other legislation is enacted that requires fingerprinting, the department will need to purchase new equipment (matcher stations) estimated to cost \$735,000 and hire additional permanent staff.

Small Business Effect: It is unclear how many commercially licensed drivers with hazardous material endorsements in Maryland qualify as small businesses. However, the Maryland Trucking Association advises that 81% of national commercial trucking companies operate 20 or fewer trucks and 73% operate six or fewer trucks. Those that qualify as a small business may be affected to the extent they must pay an additional fee or experience a delay in receiving the endorsement.

Additional Comments: The requirements of this bill will be superceded by federal law upon final issuance of regulations requiring a federal background check of all commercially licensed drivers.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Transportation (Motor Vehicle Administration), Department of Public Safety and Correctional Services, U.S. Department of Transportation, Maryland Trucking Association, Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2002
ncs/jr

Analysis by: Ann Marie Maloney

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510