

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 40
Judiciary

(Delegates Impallaria and McDonough)

Motor Vehicles - Prohibition against Permitting Person Not Lawfully Present in
United States to Drive

This bill prohibits a person from knowingly permitting the person's motor vehicle to be driven on a highway by an individual that the person knows is not lawfully admitted into or otherwise lawfully present in the U.S. A person who commits this offense is subject to a maximum fine of \$500 and upon conviction, the court must order the motor vehicle used in the violation be forfeited to the State. In addition, the Motor Vehicle Administration (MVA) must suspend the license of anyone who has been convicted of this crime for one year.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill's penalty provision. No effect on expenditures.

Local Effect: None. The bill's requirements could be enforced with existing resources.

Small Business Effect: None.

Analysis

Current Law: An individual may not drive or attempt to drive a motor vehicle on any highway in this State unless the individual holds a driver's license, the individual is expressly exempt from licensing requirements, or the individual is otherwise specifically authorized to drive the class of vehicles that the individual is driving or attempting to drive. Among those specifically exempt from the licensing requirement is a nonresident

of the U.S. if the individual has a valid license issued by the country of residence, the individual's license authorizes the operation of the class of vehicles being driven, the individual meets the minimum age requirements for driving the class of vehicle and, except as specified, the vehicle is not a commercial vehicle.

A person who drives a motor vehicle in the State without proper license or authorization or a specific exemption is guilty of a misdemeanor and is subject to a maximum fine of \$500. The District Court currently assesses a fine of \$315 for this offense. The MVA is required to assess five points against the offender's license. A second or subsequent violation subjects the offender to a maximum fine of \$500 and/or imprisonment not exceeding one year.

Any person who intentionally permits another to commit a violation of the Maryland Vehicle Law is guilty of the violation. A person who commits this offense is guilty of a misdemeanor subject to a maximum fine of \$500. A person who owns a vehicle may not require or knowingly permit the operation of the vehicle on a highway in any manner contrary to law. A violation is a misdemeanor, subject to a maximum fine of \$500. The District Court currently assesses a penalty of \$275 for this offense.

Background: Since the 2001 terrorist attacks, the driver's license has become inextricably linked to national security concerns. At one time, a number of states were considering expanding driver's license access to undocumented immigrants to increase highway safety. Now, most states have considered legislative proposals to further restrict driver's license access to undocumented immigrants. In Maryland, the General Assembly enacted legislation that established a Joint Task Force to Study Driver Licensing Documentation. That task force is scheduled to report findings and recommendations to the General Assembly in December 2004.

Louisiana is one of 26 states that have a "lawful presence" requirement established through legislation. However, in 2003 Louisiana enacted legislation to expand license access on a limited basis, by allowing immigrants in the agricultural industry to obtain temporary driver's licenses, regardless of immigration status. In 2003, Virginia was the only state to enact legislation that specifically established a "lawful presence" requirement for applicants of driver's licenses.

Maryland does not have a legislative lawful presence requirement, but is one of 14 states that arguably have a de facto lawful presence requirement through the types of documents considered acceptable for identification purposes. In September 2003, the Office of the Attorney General issued an opinion on whether the MVA may require individuals with foreign identification to produce proof of legal presence in the U.S. as a condition of getting a driver's license. The Attorney General concluded that the MVA

may require a person without a domestic birth certificate to provide alternate forms of identification, which may include immigration-related documents. However, the inability to verify legal presence in the U.S. is not, in and of itself, a valid reason for denying a Maryland driver's license. The MVA is now in the process of modifying its regulations to conform with the Attorney General's opinion.

State Revenues: General fund revenues could increase minimally under the bill's monetary penalty provision for those cases heard in the District Court.

State Expenditures: The number of people convicted of this proposed crime is expected to be minimal. Accordingly, the bill's requirements could be handled within existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation, Department of Public Safety and Correctional Services, National Immigration Law Center, National Conference of State Legislatures, Department of Legislative Services

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