

Department of Legislative Services  
Maryland General Assembly  
2004 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 990

(Delegate Kelley, *et al.*)

Judiciary

Judicial Proceedings

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**Drunk and Drugged Driving - Administrative Per Se Offenses - Hearings**

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This bill provides that a person who requests a hearing on a suspension for a refusal to take an alcohol or drug test or for test results that indicate an alcohol concentration of .08 or more, may elect in writing that any other hearing on another proposed suspension or revocation of a license arising out of the same circumstances be consolidated with the requested administrative per se hearing. The Motor Vehicle Administration (MVA) is required to consolidate the hearings pursuant to this written election if the person waives any notice that applies to the other hearings. The original hearing may not be postponed due to consolidation of the requested hearings.

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**Fiscal Summary**

**State Effect:** Potential minimal decrease in Transportation Trust Fund expenditures to the extent that hearings are consolidated, fewer hearings are referred to the Office of Administrative Hearings (OAH), and fewer notices are issued due to waivers of notice. The bill's requirements could be met with existing resources of OAH and the MVA.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** A person who drives or attempts to drive a motor vehicle is deemed to have consented to take an alcohol or drug test. This applies to a person who is detained by a police officer on suspicion of committing an alcohol- or drug-related driving

offense. However, a person may not be compelled to submit to a test or analysis to determine the alcohol or drug concentration of a person's blood or breath unless there is a motor vehicle accident that results in death or a life-threatening injury to another person.

If a person refuses to take a test or takes a test which results in an alcohol concentration of .08 or more at the time of testing, the police officer must:

- confiscate the person's driver's license;
- acting on behalf of the MVA, personally serve an order of suspension;
- issue a temporary license to drive;
- inform the person that the temporary license allows the person to continue driving for 45 days;
- inform the person of the right to request a hearing, within specified time limits, to show cause why the driver's license should not be suspended;
- advise the person of the administrative sanctions that must be imposed in the event of the failure to request a hearing, failure to attend a requested hearing, or upon an adverse finding by the hearing officer; and
- within 72 hours of the issuance of the order of suspension, send any confiscated driver's license, copy of the suspension order, and a sworn statement to the MVA, as specified in statute.

At the time of suspension, or within 30 days from the date of the issuance of an order for suspension, a person may submit a written request for a hearing before the MVA if the person is arrested for specified alcohol- or drug-related driving offenses, there was an alcohol concentration of .08 or more at the time of testing, or the person refused to take a test.

**State Expenditures:** The MVA advises that \$409,600 would be needed for additional personnel, computer programming changes, and 50 workstations to meet the bill's requirements. The Department of Legislative Services (DLS) disagrees with this assessment. It is likely that relatively few people would be able to make a valid consolidation request under the provisions of the bill due to waiver requirements, the prohibition against postponements, and the requirement for any consolidation to arise out of the same set of circumstances. In any event, for a hearing officer to issue a ruling on the original alcohol or drug test hearing, the officer would have to be familiar with the facts from the entire set of circumstances. Accordingly, DLS advises that the bill's requirements could be met within the existing resources of the MVA.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of Administrative Hearings, Maryland Department of Transportation, Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 2004  
mam/jr Revised - House Third Reader - March 30, 2004

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