

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 41  
Judiciary

(Delegate McMillan, *et al.*)

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**Vehicle Laws - Driver's Licensing of Illegal Aliens - Prohibition**

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This bill prohibits the Motor Vehicle Administration (MVA) from issuing a driver's license to an individual who is not lawfully present in the U.S. in accordance with federal law and regulations.

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**Fiscal Summary**

**State Effect:** If the bill's requirements apply to license renewals, Transportation Trust Fund (TTF) expenditures could increase by \$1.6 million to process identification checks in FY 2005, increasing to \$2.7 million by FY 2009. If the bill is deemed to apply only to applicants for new licenses, then the bill's requirements could be met with existing resources.

**Local Effect:** None.

**Small Business Effect:** None.

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**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, or imprisonment not exceeding one year, or both.

The MVA is prohibited from issuing a license to an individual:

- during any period of revocation suspension, refusal, or cancellation, except as specified;
- who is an habitual drunkard, habitual drug user, as specified;
- who previously has been adjudged to be suffering from a mental disability or disease and has not been adjudged competent;
- who is required under the Maryland Vehicle Law to take an examination, unless the individual has passed the examination;
- whose driving skills the MVA has good reason to believe would be hazardous to the public safety or welfare;
- who is unable to exercise reasonable control over a vehicle due to a disease or physical disability, except a restricted license may be issued under specified circumstances;
- who is unable to understand highway warning or direction signs written in the English language;
- who is unable to sign the individual's name for identification purposes;
- who is 70 years old or older and applying for a new license, unless the applicant presents proof of satisfactory operation of a motor vehicle or written certification from a physician, as specified; or
- who otherwise does not qualify for a license under this title.

**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. More recently, states have considered legislative proposals to further restrict driver's license access to undocumented immigrants. In Maryland, legislation was enacted in 2003 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, the state 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, the Office of 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 in the process of modifying its regulations to conform with the opinion from the Attorney General.

Due to the policies regarding valid identification documents that are currently acceptable to the MVA, there are classes of noncitizens who are legally present in the U.S., but are precluded from obtaining a driver’s license by the MVA. These noncitizen classes include refugees, asylees, temporary protective status grantees, Canadian citizens who are exempt from the requirement of carrying a passport, and individuals granted residence by an immigration judge.

**State Expenditures:** If the bill’s requirements apply to license renewals, TTF expenditures could increase by an estimated \$1,616,004 in fiscal 2005, which accounts for the bill’s October 1, 2004 effective date. This estimate reflects the cost of hiring 50.3 customer service agents to perform the identification document checks required by the bill. The estimate includes salaries and fringe benefits. The one-time equipment costs and ongoing operating expenses normally associated with new positions are not included with this estimate because the MVA already has these resources available due to the number of positions the agency has lost in the last two years. The information and assumptions used for this estimate are stated below:

- Under current MVA policies, agency personnel already check identification information for all new license applications and exclude those who are not

lawfully present or those who are lawfully present without acceptable identification documents, and those procedures would not be affected by this bill.

- This bill would require the MVA to check identification information on all license renewals, as well as new license applications. The MVA processes about 700,000 license renewals annually. Current law requires every person who wants to renew a driver's license to visit an MVA office in person; therefore, the amount of walk-in traffic would not change as a result of this bill.
- According to the MVA, analysis of its staffing requirements indicate that the transaction time for each license renewal would increase by 5.6 minutes (that is, the time it takes to process the transaction once an applicant is called by a service agent).
- An increase of 5.6 minutes for each of 700,000 license renewal transactions, accounting for the extended hours that the MVA is open, the leave rates of employees, and the uneven arrival rates of customers means that an additional 50.3 full-time employees would be needed to maintain current average wait times (before the customer is called by a service agent). The average wait time in fiscal 2003 was 46 minutes. Managing for Results goals indicate that the MVA should strive to reduce the average wait time to 35 minutes.

Future year expenditures reflect full salaries with 4.6% annual increases and 3% employee turnover.

Because this bill could require the MVA to check all renewals, as well as new licenses, there could be a staffing impact in branch offices that serve rural areas or areas with smaller populations, as well as the larger metropolitan area offices. The Department of Legislative Services advises that the MVA could reduce costs by using contractual employees to assist smaller offices during peak times. The amount of contractual labor that could be used is dependent on how the MVA allocates staffing resources to the 23 full-service, satellite, and express offices around the State and cannot be quantified at this time.

Another scenario to meet the requirements of this bill would be to let transaction times for each license renewal increase by the estimated 5.6 minutes. However, this approach would significantly increase wait times for all MVA walk-in transactions, including vehicle services transactions, as employee resources from the vehicle services areas would probably have to be used to address the backlog of customers for driver's license renewals. While the average wait time throughout the State was 46 minutes for fiscal 2003, the wait times varied greatly depending on the area of the State. High traffic

offices in Montgomery and Prince George's counties experienced significantly longer wait times, while field offices in western Maryland and the Eastern Shore had shorter wait times. The increase in average wait times over the last two fiscal years has increased from about 35 minutes to 46 minutes due to budget cuts and has caused much customer frustration.

If the bill's requirements are deemed to apply only to applicants for new licenses, then the bill's requirements could be met with existing resources. The MVA currently reviews identification documents for all new driver's license applicants. The documents required for identification by the MVA are generally the types of documents that only those legally present in the U.S. may obtain. Additional resources would not be required to continue checking the identification documents currently required by the MVA.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 16, 2004  
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