

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1455
Judiciary

(Delegate Vallario)

Judicial Proceedings

Drunk and Drugged Driving - Administrative Per Se Offenses - Hearings

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 on the record that any other hearing on another license suspension or revocation that arises out of the same circumstances, be consolidated with the requested administrative hearing. The cases eligible for consolidation are: (1) violation of a license restriction; (2) nonjuvenile alcohol- and/or drug-related driving offenses under Section 16-205 of the Transportation Article; or (3) accumulation of points.

The consolidation does not apply to other types of suspensions or revocations by the Motor Vehicle Administration (MVA), including unsafe or unfit driving, excessive moving violations, juvenile drunk or drugged driving, or alcoholic beverage violations by a person under the age of 21.

The MVA is required to consolidate the hearings pursuant to this election if the person waives any notice that applies to the other hearings. The original hearing may not be postponed at the request of the person, due to consolidation of the requested hearings.

Fiscal Summary

State Effect: Potential minimal decrease in Transportation Trust Fund (TTF) 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.

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- and/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- and/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 additional TTF expenditures of \$503,586 would be needed in fiscal 2006 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 the limitation on the types of cases eligible for consolidation, 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. Also, while the person requesting consolidation cannot also request a postponement of the hearings, there is no prohibition on MVA postponing a consolidated hearing if necessary to ensure that all documentation is made available to the hearing officer. Accordingly, DLS advises that the bill's requirements could be met within the existing resources of the MVA.

Additional Information

Prior Introductions: This bill is a reintroduction of HB 990 of 2004, as amended. HB 990, as amended, passed the House, was amended in the Judicial Proceedings Committee and favorably reported, debated on the floor of the Senate, and then special ordered.

Cross File: None.

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

Fiscal Note History: First Reader - March 15, 2005
n/jr

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