

Department of Legislative Services
 Maryland General Assembly
 2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 789 (Chairman, Environmental Matters Committee and
 Chairman, Judiciary Committee)
 (By Request – Departmental – Transportation)

Environmental Matters and Judiciary

Judicial Proceedings

Commercial Drivers' Licenses - Standards, Requirements, and Penalties

This departmental bill establishes new and stricter sanctions for those who operate commercial motor vehicles (CMVs) and the holders of commercial driver’s licenses (CDLs). The bill requires uniform reporting procedures. Provisions that require the Motor Vehicle Administration (MVA) to provide information to other states on criminal convictions within 30 days take effect September 30, 2005 and terminate at the end of September 29, 2008. As of the end of September 29, 2008, the MVA is required to provide that same information to other states within 10 days of the conviction.

The bill takes effect September 30, 2005.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) revenues increase by \$210,000 beginning in FY 2007 due to license re-issuances. Out-years include annualization and inflation. Potential significant increase in TTF expenditures for computer programming in FY 2006 only. TTF expenditures increase in FY 2006 and 2007 for additional positions and one-time equipment expenditures. Reimbursable fund expenditures could increase by an estimated \$66,300 in FY 2006 to support one additional position at the Office of Administrative Hearings.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
SF Revenue	\$0	\$210,000	\$210,000	\$210,000	\$210,000
SF Expenditure	116,100	385,500	382,300	406,500	432,700
ReimB. Exp.	66,300	83,500	88,100	93,000	98,200
Net Effect	(\$182,400)	(\$259,000)	(\$260,400)	(\$289,500)	(\$320,900)

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

Local Effect: Potential increase in expenditures for computer programming and to the extent that more commercial drivers working for local governments are disqualified as a result of this bill.

Small Business Effect: The Maryland Department of Transportation has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs that the overall impact would likely be minimal, but advises that small businesses could be affected to the extent that more commercial drivers are disqualified as a result of this bill. The attached assessment does not reflect amendments to the bill.

Analysis

Bill Summary: This bill requires the clerks of court and the Motor Vehicle Administrator to establish uniform reporting procedures for traffic cases and criminal cases involving a motor vehicle. The MVA records on a probation before judgment or a first offense of driving with an alcohol concentration of 0.08 or more must be made available to other driver licensing authorities, the U.S. Secretary of Transportation, and current and prospective employers of a driver required to hold a CDL.

The sanctions that require disqualification of anyone who operates a CMV for refusal to take a blood or breath test also apply to those who hold a CDL. The sanctions do not apply for offenses committed in a noncommercial motor vehicle that occurred before September 30, 2005, or prior to the issuance of a CDL by any state. New sanctions are imposed prohibiting a person from operating a CMV if the person is disqualified by the U.S. Department of Transportation or subject to an out-of-service order.

The bill alters definitions under the Maryland Commercial Driver's License Act. The definition of "conviction" is expanded to include a "probation before judgment" finding. The definition of "hazardous materials" is revised to be consistent with the federal Hazardous Materials Transportation Act. "Serious traffic violation" is expanded to include driving a CMV without: (1) obtaining a CDL; (2) having a CDL in the driver's possession; (3) the proper class of CDL; or (4) proper endorsements.

References to Class D licenses are deleted to reflect that Class D licenses are no longer issued. The terms "gross vehicle weight" and "gross combination weight" are changed to "gross vehicle weight rating" and "gross combination weight rating."

An individual is now permitted to drive a CMV if in possession of a CDL from a foreign jurisdiction approved of by the U.S. Department of Transportation. A National Guard military technician in possession of a National Guard operator's identification card who

is operating a military vehicle in the line of duty is exempted from State licensing requirements.

The MVA must disqualify an individual from driving a CMV for one year for driving a CMV while the driver's CDL is revoked, suspended, or cancelled, or the driver is otherwise disqualified from operating a commercial vehicle. A holder of a CDL must also be disqualified for one year for convictions of the following offenses while driving a noncommercial motor vehicle: (1) specified drunk- and drugged-driving offenses; (2) leaving the scene of an accident as provided by federal regulations; and (3) a crime that is punishable by death or imprisonment for more than one year. An individual must be disqualified from driving a CMV for life if convicted of using a motor vehicle in the commission of a felony involving specified controlled substance offenses.

The MVA must disqualify an individual from driving a CMV for 60 days if the individual has two serious traffic violations within three years or for 120 days if the individual has three serious traffic violations within three years. This disqualification applies if the violations were committed: (1) while operating a CMV; or (2) while operating a noncommercial motor vehicle, if the individual holds a CDL and the conviction would result in the suspension, revocation, or cancellation of the driver's license.

A new penalty is established for falsifying information on a CDL application.

Current Law: The clerks of court are charged with custodial and recordkeeping duties, as specified. The MVA is required to keep all records relating to driver licensing. A record of a probation before judgment or a first alcohol-related driving offense must be segregated by the MVA and available only to the MVA, the courts, criminal justice agencies, and the defendant or defendant's attorney.

“Conviction” means a final unvacated adjudication of guilt but does not include a probation before judgment. “Hazardous materials” has the meaning determined by the applicable federal regulations. “Serious traffic violation” means excessive speeding, as defined by federal regulation, reckless driving, and any violation of any state or local law (excluding parking violations) arising in connection with an accident or collision resulting in death to any individual, or any violation of state or local law determined by the U.S. Secretary of Transportation to be serious.

An individual may not drive a commercial vehicle unless the individual has been issued and is in immediate possession of a driver's license valid for the class of vehicle being driven. A commercial driver's license may be issued only to a qualified State resident who drives or will drive a commercial motor vehicle and qualified nonresidents.

If an individual is convicted of specified offenses while driving a CMV, the MVA is required to disqualify the individual from driving a CMV for periods ranging from 60 days to life. Within 10 days, the MVA must update its records to reflect sanctions imposed on CDLs, nonresident commercial driver's privileges, or nonresidents who do not hold any license within specified time frames.

Background: On July 31, 2002 and January 29, 2003, the Federal Motor Carrier Safety Administration published Final Rules to implement the Motor Carrier Safety Improvement Act of 1999. These Final Rules are intended to ensure uniformity among CDL systems in all states. States must implement these changes to commercial driver licensing and sanctioning procedures by September 30, 2005, or risk losing federal highway and Motor Carrier Safety Assistance Program (MCSAP) funding. According to the Maryland Department of Transportation, for the first year that Maryland is not in compliance with federal requirements, the State could lose 5% of federal highway funds. Based on fiscal 2004 data, the State could lose \$16.9 million in federal highway funds and \$2.4 million in MCSAP funds, for a total of \$19.3 million. In the second and subsequent years of noncompliance, the percentage of highway funds withheld could rise to 10%, or about \$33.8 million.

State Revenues: TTF revenues could increase by \$210,000 in fiscal 2007. All drivers who are disqualified must reapply to the MVA and pay for a new CDL. These drivers must also retake the skills and knowledge tests. Disqualifications of commercial drivers may vary from 60 days to a lifetime, with disqualifications for alcohol-related offenses in the range of one to three years. The MVA advises that, in practice, the maximum disqualification for most alcohol-related offenses is one year. The estimate assumes that the MVA would begin processing new licenses due to disqualifications beginning in fiscal 2007. The MVA estimates that based on the current cast load, about 2,000 commercial drivers would be subject to disqualification sanctions at any given time. The fee for issuance of a new commercial driver's license, including retesting, is \$105.

State Expenditures:

Motor Vehicle Administration: TTF expenditures could increase by \$116,105 beginning in fiscal 2006, accounting for the effective date. Three administrative specialists would be needed to process the estimated 2,000 commercial driver's license disqualifications that could result from this bill. These positions would be responsible for creation of notices, preparation of statements and hearing documents, investigative paperwork, and follow-up to remove expired disqualifications. The estimate assumes that each analyst could complete about 650 disqualification cases annually. Out-years include annualization and inflation.

Beginning in fiscal 2007, TTF expenditures could increase to \$385,464 due to the addition of five driver's license agent positions. The MVA expects to begin processing new licenses for the estimated 2,000 CDL holders who have completed disqualification periods in fiscal 2007. Because the possession of a commercial driver's license is usually necessary for employment, the estimate assumes that all drivers who are disqualified would retake the knowledge and skills tests and pay the required fees to regain a new CDL. The estimate assumes that each assistant would process 400 CDL tests on an annual basis. Out-years include annualization and inflation.

Federal provisions require a complete record check of every new, out-of-state, or renewal CDL holder for 10 years. Record verification would be required with national databases, including updating of the Commercial Driver License Information System within 96 hours and interaction with other state licensing authorities. The MVA advises that a one-time expenditure of \$172,500 in special funds in fiscal 2006 only would be needed for modifications to the MVA driver license system and other in-house programming changes.

However, Legislative Services advises that, if other legislation is passed requiring computer programming changes, economies of scale could be realized. This would reduce computer programming costs associated with this bill and other legislation affecting the MVA system. Further, Legislative Services advises that the increased computer expenditure is an estimate and that the MVA may be able to complete programming changes for less than is currently projected.

Legislative Services also advises that in addition to the eight positions requested by the MVA to implement the bill's requirements, the MVA also requested five additional customer service assistants beginning in fiscal 2006 at a total cost of \$167,269, including salaries, equipment, and supplies. These positions would complete record edits of all new, out-of-state, or renewal CDL applicants, including a record check of 10 years for each applicant.

Legislative Services advises, however, that because of the extensive computer programming necessary to implement this bill, it is likely that the record editing process could be almost completely automated. To meet the stricter federal deadlines regarding records modification and notification to federal and other state authorities, automation is crucial. If the record checking process can be automated, Legislative Services advises that this function could be accomplished with existing personnel. As the ability of the MVA to automate this function could also be dependent on its ability to interface with federal and other state systems, it is possible that the MVA may not be able to completely automate this process. In that case, up to five additional customer agents could be needed to complete the extensive records check process required by this bill.

Judiciary: The Judiciary is already in the process of creating of an electronic interface for the daily transmission of data from the courts to the MVA that would be needed. Therefore, no additional expenditures are expected.

Office of Administrative Hearings: The Office of Administrative Hearings estimates that the new hearings generated by the increased restrictions on CDL holders would generate approximately 2,000 additional cases per year. This would necessitate the hiring of one additional administrative law judge which would cost \$66,282 in fiscal 2006. Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Local Expenditures: Potential increase in expenditures to fund the costs of transferring information to the Administrative Office of the Courts. Local governments would also be affected to the extent that they employ commercial drivers for governmental functions if more commercial drivers are disqualified due to the bill's requirements.

Additional Information

Prior Introductions: Two similar bills, HB 163 and SB 396, were introduced in the 2004 session. HB 163 was heard by the House Environmental Matters Committee and the House Judiciary Committee, but no further action was taken. SB 396 passed the Senate and was heard by the House Environmental Matters Committee and the House Judiciary Committee, but no further action was taken.

Cross File: SB 640 (Senator Jimeno) – Judicial Proceedings.

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

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Analysis by: Nora C. McArdle

Direct Inquiries to:
(410) 946-5510
(301) 970-5510