

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1443

(Delegate McMillan, *et al.*)

Judiciary

Vehicle Laws - Drivers' Licensing of Illegal Aliens - Restrictions

This bill prohibits the Motor Vehicle Administration (MVA) from issuing a driver's license to an individual who cannot provide documentation certifying that the individual is lawfully present in the United States.

Fiscal Summary

State Effect: Potential increase in Transportation Trust Fund expenditures in FY 2007 only for computer reprogramming costs, estimated at \$450,000. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The MVA cannot issue a driver's license to an individual who cannot provide documentation proving legal status in the United States. However, the MVA may issue a new driver's license to an individual whose documentation indicating lawful presence has expired, if that individual can provide documentation of an application for reinstatement of lawful status for which a final determination has not been made.

The MVA may not issue an individual who is not a U.S. citizen but who is lawfully present in the United States a driver's license with an effective term that exceeds the amount of time the individual is authorized to remain in the United States. The MVA may renew a driver's license for one year for individuals who are not lawfully in the

United States if the individual can produce acceptable documentation of an application for reinstatement of lawful status for which a final determination has not been made.

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 United States 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 a proper license or authorization or a specific exemption is guilty of a misdemeanor and is subject to a maximum fine of \$500. If the fine is prepaid rather than the conviction contested, the District Court currently assesses a penalty of \$320 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 for up to one year.

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 or 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 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.

Background: Approximately 25 states require by statute driver's license applicants to prove "lawful presence" in the United States. In 2004, Tennessee became one of them; however, individuals not eligible for a license can obtain a "certificate for driving" available to individuals who have temporary legal documents issued by the federal government, such as a work visa, and who can also prove Tennessee residency and proof of identity. Another 15 states have lawful presence requirements through agency policy or the combination of documents required of driver's license applicants.

Maryland does not have a legislative "lawful presence in the United States" requirement. 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 United States 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 United States is not, in and of itself, a valid reason for denying a Maryland driver's license.

During the 2003 session, the General Assembly adopted legislation that established a Joint Task Force to Study Driver Licensing Documentation. That task force made its final report in December 2004. The report recommended that no revision of current law was needed, meaning an individual who is not lawfully present in the United States should still be able to receive a driver's license if the individual can provide verifiable documents.

However, on May 11, 2005, President Bush signed into law the REAL-ID Act, which, beginning on May 11, 2008, requires federal agencies to accept only personal identification cards, including driver's licenses, which meet certain standards. Under REAL-ID, the MVA will be required to confirm that an individual is legally permitted to reside in the country.

The MVA has eight sites to process out-of-country applications for driver's licenses and identification cards: Baltimore City, Bel Air, Beltsville, Frederick, Gaithersburg, Glen Burnie, Salisbury, and Waldorf. This was intended to improve the security of the application process and to allow the examination of foreign documents by specially trained examiners.

State Expenditures: The MVA advises that in order to meet the requirements of the bill it would have to reprogram and update several computer systems. The MVA advises that these changes would cost \$450,000. The Department of Legislative Services concurs but advises that, if other legislation requires computer reprogramming changes, economies of scale could be realized, lowering the costs associated with changes to the MVA system.

Additional Information

Prior Introductions: A similar bill, HB 1214, was introduced in the 2005 session and was heard by the House Judiciary Committee, but no further action was taken. A bill also denying driver's licenses to an individual not lawfully in the United States, HB 41, was introduced in 2004 but received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, National Conference of State Legislatures, Department of Legislative Services

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