

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 885

(Delegate Impallaria, *et al.*)

Judiciary

Motor Vehicles - Prohibition Against Allowing a Person Not Lawfully Present in the United States to Drive

This bill prohibits a person from knowingly permitting the person's motor vehicle to be driven on a highway by an individual that the person knows is not lawfully admitted into or otherwise lawfully present in the United States. A person who commits this offense is subject to a maximum fine of \$500, and upon conviction, the court must order the motor vehicle used in the violation be forfeited to the State. In addition, the Motor Vehicle Administration (MVA) must suspend the license of anyone who has been convicted of this crime for one year.

Fiscal Summary

State Effect: Minimal increase in reimbursable revenues for the Office of Administrative Hearings and Transportation Trust Fund (TTF) expenditures for MVA hearings under the bill. Minimal increase in general fund revenues and special fund revenues in the Criminal Injuries Compensation Fund due to the bill's penalty provisions. Potential additional increase in TTF expenditures in FY 2007 only for computer reprogramming costs.

Local Effect: None. The bill's requirements could be enforced with existing resources.

Small Business Effect: None.

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 vehicle 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.

Any person who intentionally permits another to commit a violation of the Maryland Vehicle Law is guilty of the violation. A person who commits this offense is guilty of a misdemeanor, subject to a maximum fine of \$500. A person who owns a vehicle may not require or knowingly permit the operation of the vehicle on a highway in any manner contrary to law. A violation is a misdemeanor, 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 \$130 for this offense.

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 Revenues: General fund revenues could increase minimally under the bill's monetary penalty provision for those cases heard in the District Court. Reimbursable funds would rise minimally due to the MVA's payments to the Office of Administrative Hearings to hold hearings involving violations where an individual allowed someone not lawfully present in the United States to drive. Special fund revenues in the Criminal Injuries Compensation Fund would increase minimally due to revenues from the seizure and sale of motor vehicles for this offense.

State Expenditures: TTF expenditures would rise due to the \$92 per hearing that the MVA would pay to the Office of Administrative Hearings to hold hearings for violations where an individual allowed someone not lawfully present in the United States to drive.

The District Court advises that general fund expenditures would rise for computer reprogramming costs. In addition, the Office of the Attorney General advises that it would need an additional part-time attorney (grade 22) to handle possible prosecutions and hearings for this offense. However, since the number of people convicted of this proposed crime is expected to be minimal, the Department of Legislative Service (DLS) believes any such costs could be handled within existing resources.

The MVA estimates that computer reprogramming associated with this bill would cost \$27,000. DLS advises that, if other legislation is passed requiring computer reprogramming changes, economies of scale could be realized. This would reduce the costs associated with this bill and other legislation affecting the MVA system.

Additional Information

Prior Introductions: Identical bills, HB 40 and HB 1172, were introduced in the 2004 and 2005 sessions, respectively. Each received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): National Conference of State Legislatures, Tennessee Department of Motor Vehicles, Office of the Attorney General, Judiciary (Administrative Office of the Courts), Board of Public Works, Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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