Department of Legislative Services

Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 799 (Senator Forehand)
Judicial Proceedings

REAL ID Act of 2005 - Implementation by Regulation or Policy - Prohibition

This bill prohibits the Maryland Department of Transportation (MDOT) and the Motor Vehicle Administration (MVA) from adopting any regulation or instituting any policy to implement the federal REAL-ID Act of 2005, unless specifically authorized by the General Assembly.

Fiscal Summary

State Effect: Significant Transportation Trust Fund (TTF) expenditures would not be incurred if Maryland does not implement the Act. Corresponding fee increases to raise sufficient revenues would not be implemented. However, significant amounts of federal funding could be jeopardized.

Local Effect: Federal grants could be jeopardized.

Small Business Effect: None.

Analysis

Current Law/Background: On May 11, 2005, President Bush signed into law the REAL-ID Act creating national standards for the issuance of state driver's licenses and identification (ID) cards. The Act establishes certain standards, procedures, and requirements that must be met by May 11, 2008, if state-issued driver's licenses and ID cards are to be accepted as valid identification by the federal government. The Act requires the U.S. Department of Homeland Security (DHS) to adopt regulations to implement the Act. On March 1, 2007, DHS issued proposed regulations for public comment, before the regulations are finalized. The proposed regulations would allow for an extension of the implementation of REAL-ID if filed by October 1, 2007. DHS stated in its proposed regulations that it would not allow an extension past December 31, 2009.

Under the Act, a driver's license or ID card would need to meet these standards in order to be used to enter a federal building or board a commercial aircraft. The Act requires uniformity amongst all states in the design and information contained on a personal ID card and driver's license, including address and signature, a digital photo, machine-readable technology, and anti-counterfeiting measures. The MVA will also be required to verify all documents submitted for a personal ID or driver's license with the issuing agency, including proof of birth, proof of a Social Security number, and documentation of the individual's principal residence. This is likely to create longer wait times and could eliminate same-day service. In addition, the MVA will be required to verify that an individual is legally present in the country. The MVA will also need to obtain security clearances for workers issuing driver's licenses and ID cards.

The National Conference of State Legislatures has conducted a survey to determine the cost of implementing the Act. The cost is estimated at $11 billion over the first five years for all states. Maine has passed a resolution refusing to implement the Act.

By statute, the MVA must recover the cost of 95% to 100% of its operating and capital expenditures through its miscellaneous fees. Thus, additional capital investment or increased operating expenditures resulting from the Act's implementation will result in fee increases or reductions in other areas.

In a briefing before the House Judiciary Committee on January 30 about the Act, the Motor Vehicle Administrator stated that the Act would cost at most $150 million to implement in the State; however, this was considered a "worst case scenario." The administrator estimated that costs would likely be lower but could not reliably estimate how much lower. The administrator did state that, for every $1.0 million that the Act costs to implement, the MVA would need to raise driver's license fees by one dollar.

State Fiscal Effect: Significant TTF expenditures would not be incurred if Maryland did not implement the Act; however, the exact magnitude of those expenditures cannot be reliably estimated at this time.

The MVA has retained a contractor to assist it in developing cost estimates to implement the Act, but no formal estimates have been prepared. The MVA is still evaluating what type of system it would adopt such as renewing driver's licenses on an eight-year cycle as opposed to a five-year cycle or requiring all driver's licenses and identification cards to be processed and mailed out to customers at a central location, rather than having them produced at each branch. The type of system the MVA would otherwise adopt would determine the magnitude of the costs to implement the Act.

Under the Act, the MVA would have been required to issue new driver's licenses and identification cards to all current holders that met the requirements of the Act. Given the number of individuals involved, the MVA would most likely have issued the new cards over a period of several years, as allowed under the proposed DHS regulations. The MVA would thus have incurred significant expenditures to implement the Act over several fiscal years, not just one. Accordingly, not implementing the Act has a multiyear fiscal effect.

Under the MVA's cost-recovery provisions, the MVA would have needed to recoup the costs of implementing the Act through its miscellaneous fees. Assuming that the MVA would have otherwise raised its fees to recover its costs and would no longer do so, TTF revenues would not have to increase.

Not implementing the Act could result in MDOT losing millions of dollars in U.S. Department of Homeland Security grants in future years. For example, MDOT advises that it has received nearly $40 million since September 11, 2001; MDOT received $3.7 million in grants for mass transit alone in federal fiscal 2006. In addition, the *Maryland Governor's Grants Office Annual Report: Federal Funds to State Agencies, FY 05 – FY 07* (annual report) states that MDOT is slated to receive an estimated $23.0 million in fiscal 2007 for enhancing security at critical infrastructure and other emergency preparedness activities. MDOT could also lose grants from another program – the State Homeland Security Grants Program. The annual report indicates that Maryland is scheduled to receive $21.7 million from this program in fiscal 2007, of which up to 20% could be retained at the State level. The balance would be distributed to local governments. It is not yet clear whether federal highway aid would be at risk as well. MDOT is scheduled to receive an estimated $1.2 billion in federal highway aid in fiscal 2007.

Additional Comments: If Maryland does not implement the Act, all Maryland citizens who wished to board a commercial domestic flight or enter a federal building would be required to obtain a passport in order to provide valid proof of identity acceptable to the federal government.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): National Conference of State Legislatures, U.S. Department of Homeland Security, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - March 16, 2007
mll/ljm

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