

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1441

(Delegate Dwyer, *et al.*)

Judiciary

Victims' Rights - Fatal Vehicular Accident - Suspension of License

This bill establishes the authority of the Motor Vehicle Administration (MVA) to suspend, for a maximum of six months, the driver's license of a person convicted of a moving violation that contributed to an accident resulting in the death of another person. Also established is the right of the victim's representative to be notified of an administrative license suspension hearing held as a result of the moving violation and to make an oral statement or to submit a written statement for the consideration of MVA at the hearing.

Fiscal Summary

State Effect: Minimal increase in Transportation Trust Fund (TTF) revenues due to fees for corrected driver's licenses after suspension periods have expired. TTF expenditures increase by at least \$65,500 in FY 2010 for additional personnel to handle additional administrative cases and appeals that may be generated by the bill and additional computer programming modifications. Additional expenditures may be incurred for computer programming modifications in FY 2010 only. The Office of Administrative Hearings can handle the additional hearings generated by the bill with existing resources.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
SF Revenue	-	-	-	-	-
SF Expenditure	\$65,500	\$82,800	\$86,800	\$91,000	\$95,300
Net Effect	(\$65,500)	(\$82,800)	(\$86,800)	(\$91,000)	(\$95,300)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: A “victim” is a person who dies as a result of a moving violation committed by another person. A “victim’s representative” is a member of the family, a guardian, or personal representative of the person who has died. During the investigation of the moving violation, a law enforcement officer must inform the victim’s representative of the right to file a written request with MVA to be notified of a license suspension hearing related to the moving violation.

If a victim’s representative files a written request, then at least 10 days before the hearing, MVA must inform the victim’s representative of the right to be at the hearing, the time and place of the hearing, the right to submit an oral or written statement, and provide other specified information about the hearing. If the victim’s representative intends to make an oral statement or submit a written statement, MVA must be notified at least five days before the hearing. MVA must provide a copy of a written statement to the licensee before the hearing begins. At the license suspension hearing, MVA is required to consider an oral or a written statement made by the victim’s representative. As is required for other specified instances when MVA initiates an action to suspend a driver’s license, the licensee must receive adequate notice of the action, and may request a hearing as specified under the Maryland Vehicle Law.

Current Law: The Maryland Vehicle Law does not specifically address the authority of MVA to suspend the license of a driver who has committed a moving violation that contributes to an accident resulting in a fatality unless the moving violation, in and of itself, requires the assessment of eight or more points against the driver’s license or the violation causes the driver to accumulate eight or more points and MVA initiates an action to suspend the driver’s license. MVA is required to initiate an action to suspend the license of a driver who has accumulated eight or more points within a two-year period. MVA has broad authority to initiate a license suspension of a driver convicted of alcohol- and/or drug-related driving offenses or drivers who refuse to submit to a requested test of blood or breath. In a vehicular accident with a fatality, a driver may be charged with a moving violation that causes him or her to accumulate eight or more points and, as a result, may be subject to license suspension.

MVA also has authority to suspend, revoke, or refuse to issue or renew a person’s driver’s license if the driver’s record or other sufficient information shows that the driver has been convicted of moving violations so often as to demonstrate disregard for traffic laws and the safety of other persons on the highways or that the driver is unfit, unsafe, or habitually reckless or negligent. If the Maryland Vehicle Law or an MVA regulation specifies that a driver’s license or privilege may be suspended or revoked only after a hearing, MVA must give the licensee notice of any charge made and an opportunity to be

heard in person. After a hearing, MVA may refuse, suspend, or revoke the license or privilege of a licensee. MVA may also rescind, continue, or modify a previous action or take any other action permitted under the Maryland Vehicle Law.

Background: The Department of State Police advises that 615 people were killed in 558 fatal accidents in Maryland during 2007. Historical information from MVA indicates that any vehicular accident involving a fatality may result in zero to five actions where a victim's representative is eligible under the bill's provisions to be notified about the right to participate in a related administrative hearing. In fiscal 2008, the Office of Administrative Hearings conducted 28,635 administrative hearings on behalf of MVA.

Information from the National Conference of State Legislatures that was provided for similar legislation indicates that all 50 states allow some type of victim impact statement in the judicial forum – generally at the sentencing of an individual convicted of a crime. Most states also allow victim impact statements at parole hearings, and some even allow victim impact statements at bail hearings. Generally, states have not extended participation by victims or victims' representatives to administrative hearings.

State Revenues: Minimal increase in TTF revenues due to the additional drivers that may be suspended under the bill's provisions. MVA advises that the number of licensed persons convicted of a moving violation that contributed to an accident resulting in the death of another person was 103 in fiscal 2007 (the latest information available). A driver who is suspended must pay a \$20 fee to receive a corrected license after the suspension period has expired. *By way of illustration*, if 103 drivers receive license suspensions under this bill, TTF revenues increase by \$2,060 annually. The number of additional drivers that may have their licenses suspended, however, cannot be reliably predicted at this time.

State Expenditures: TTF expenditures increase by at least \$65,537 in fiscal 2010, accounting for the bill's October 1 effective date. MVA advises that the bill may generate an additional 95 appeals cases. MVA has a current caseload of 263 cases that are handled by four staff attorneys. Each attorney handles about 66 cases annually. The estimate reflects the cost of hiring one assistant Attorney General to manage the additional appeals cases. It includes a salary, fringe benefits, other one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$60,719
Other Operating Expenses	<u>4,818</u>
Total FY 2010 State Expenditures	\$65,537

Future year expenditures reflect a full salary with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

MVA advises that any increase in mailing costs can be absorbed with existing resources. It is estimated that three notices per case per year are generated under this bill. MVA intends to send all notifications by certified mail. Also, the Administrative Adjudication Unit may incur additional overtime to adequately address concerns of the victim representatives. The additional overtime can also be absorbed with existing resources.

The estimate does not reflect \$200,000 for additional computer programming expenditures that occur in fiscal 2010 only. MVA advises that these funds are needed to create or redesign computer programs to meet the requirements of this bill. MVA may be able to complete at least some of these modifications, however, with existing staff. Also, if other legislation is passed requiring computer reprogramming changes, economies of scale may be realized, thereby reducing the costs associated with this bill and other legislation affecting MVA.

Additional Information

Prior Introductions: A similar bill, HB 280 of 2007, received an unfavorable report from the House Judiciary Committee. Another similar bill, SB 213 of 2006, passed the Senate, as amended, and passed the House on second reading, but did not receive any further action. Likewise, SB 431 of 2005, another similar bill as amended by the Senate, was heard by the House Judiciary Committee, but no further action was taken.

Cross File: None.

Information Source(s): Charles, Frederick, Montgomery, and Somerset counties; Judiciary (Administrative Office of the Courts); Department of State Police; Department of Public Safety and Correctional Services; Maryland Department of Transportation; National Conference of State Legislatures; Department of Legislative Services

Fiscal Note History: First Reader - March 17, 2009
mcp/ljm

Analysis by: Karen D. Morgan

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