

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 189

(Senator Simonaire, *et al.*)

Judicial Proceedings

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 license of a driver convicted of a moving violation that contributed to a traffic fatality. Also established is the right of the victim's representative to be notified of a license suspension hearing held as a result of the moving violation, and the right to give an oral or written statement for consideration 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. Minimal increase in general fund revenues for the Office of Administrative Hearings (OAH). Potential minimal increase in TTF expenditures for additional hearings. OAH can likely handle the additional workload with existing resources.

Local Effect: The bill does not materially affect local finances.

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 victim's representation notification form to receive notice of a hearing under the bill.

If a victim's representative files a victim's representation notification form within 20 days following the driver's conviction of the charged moving violation, then at least 21 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 must 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 10 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: According to the Fatality Analysis Reporting System maintained by the U.S. Department of Transportation, 591 persons were killed in 538 fatal traffic accidents in Maryland during 2008.

Generally, states allow some type of victim impact statement in the judicial forum – usually 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. However, states traditionally have not extended participation by victims or victims’ representatives to administrative hearings.

State Fiscal Effect: TTF revenues increase minimally beginning in fiscal 2011 due to the additional drivers that may be suspended under the bill’s provisions. MVA advises that, in fiscal 2009, 84 drivers were convicted of a moving violation that contributed to a traffic fatality. 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 84 drivers receive license suspensions under this bill, TTF revenues increase by \$1,680 annually. However, the number of additional drivers that may have their licenses suspended after conviction of a moving violation resulting in a traffic fatality cannot be reliably predicted at this time. General fund revenues also increase minimally under the bill as additional license suspension hearing filing fees of \$125 are collected by OAH. MVA budgets \$150 for each hearing conducted by OAH.

Otherwise, expenditures are assumed to be unaffected as the Administrative Adjudication Division at MVA can handle the mailing and communication costs, as well as the processing and other administrative activities of perhaps several hundred additional transactions. OAH can also likely absorb the additional workload resulting from the bill. Although the bill may result in as many as several hundred additional hearings, in fiscal 2008, OAH disposed of 28,635 MVA administrative hearings.

Additional Information

Prior Introductions: A similar bill, HB 1441 of 2009, was heard by the House Judiciary Committee, but no further action was taken. Another 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: Although not designated as a cross file, HB 1156 (Delegate Dwyer, *et al.* - Judiciary) is identical.

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

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