

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 992

(Senator Raskin, *et al.*)

Judicial Proceedings

Vehicle Laws - Motor Vehicle Safety Checkpoints - Prohibition on Targeting
Specific Types of Motor Vehicles

This bill prohibits a police officer at a safety checkpoint from targeting a specific type of motor vehicle and applies to those checkpoints that (1) target the general public; (2) are conducted on a random basis; and (3) are not conducted on suspicion of illegal activity. A “safety checkpoint” means a predetermined, fixed location at which a police officer stops motor vehicles to conduct safety inspections, check licenses and registrations, and evaluate drivers for impairment.

The bill does not apply to a safety checkpoint that targets common carriers, motor carriers, truck tractors, semitrailers, or trailers.

Fiscal Summary

State Effect: Enforcement can be handled with existing resources.

Local Effect: Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law/Background: No specific provision of the Maryland Vehicle Law addresses safety checkpoints that target the general public or the authority of police to detain drivers based on the models of their automobiles. State law does regulate the manner in which common carriers, semitrailers and trailers, and truck tractors may be stopped for safety inspections.

Nevertheless, it is a well-settled principle of constitutional law that police have the authority to set up roadblocks or checkpoints to enforce traffic laws and regulations, as long as the purpose of the checkpoints or roadblocks complies with the Fourth Amendment and Fourteenth Amendment guarantees against unreasonable search and seizure.

For example, in *Little v. State* 300 Md. 485 (1984), the Maryland Court of Appeals observed that a long-standing principle of common law recognizes that stopping an automobile and detaining its occupants is a “seizure” within the meaning of the Fourth and Fourteenth Amendments to the U.S. Constitution, although the purpose of the stop is limited and the detention is brief. (See *Delaware v. Prouse*, 440 U.S. 648 (1979)). However, these seizures do not, in and of themselves, violate the Fourth and Fourteenth Amendments just because they are not based on reasonable cause or suspicion that the motorist was violating criminal law. The Court of Appeals further observed that the purpose of the Fourth and Fourteenth Amendments is to protect against *unreasonable* search and seizure. Accordingly, it imposes a standard which requires a balancing of the interest of the State in using its police power to protect citizens from crime against the right of an individual to be able to conduct his or her business without fear of interference or being accosted by police. In the *Little* case, the Court of Appeals found that the State had a compelling interest in using sobriety checkpoints to detect and deter drunk driving. Given that compelling interest, the intrusion on individual liberties caused by checkpoints was considered minimal. The court ruled:

The brief detention of the motorist at the sobriety checkpoints here involved does not constitute an arrest under Maryland common law. Drivers are not stopped for the purpose of taking them into custody and prosecuting them. They are not under the control or subject to the will of the officer; they may leave the checkpoint without talking to the authorities or avoid the roadblock altogether by making a U-turn. The stops made at the checkpoints are investigatory in nature and limited in scope; they are comparable to the accosting of an individual in a public area and are not inconsistent with the restrictions on authority imposed by the common law of arrest.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a cross file, HB 1183 (Delegate Kramer, *et al.* - Environmental Matters) is not identical.

Information Source(s): Kent, Montgomery, Washington, and Worcester counties; Baltimore City; Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - March 19, 2012
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