Department of Legislative Services

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FISCAL AND POLICY NOTE
Revised

Senate Bill 715 (Senator Ramirez, *et al.*)
Judicial Proceedings Judiciary

Maryland Highway Safety Act of 2013

This bill expands the authority of the Motor Vehicle Administration (MVA) to issue or renew a driver's license, identification card, or moped operator's permit to an individual who does not have a Social Security number or lawful status by repealing a current limitation that the individual must have held one of those documents on April 18, 2009. However, individuals that are newly eligible to be issued one of these documents under the bill must provide documentary evidence of a filed Maryland income tax return, or that the individual was claimed as a dependent on a return, for each of the preceding two years. The bill also repeals the termination date of July 1, 2015, for the authority for MVA to issue or renew one of these documents to an applicant without lawful status or a Social Security number. Finally, these documents must contain a statement that the document may not be used to purchase a firearm.

The bill takes effect January 1, 2014.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) revenues increase significantly – potentially by about $3.9 million in FY 2014 under the information and assumptions discussed below – due to the payment of fees for additional driver's licenses and identification cards issued to individuals who are not currently eligible to obtain them. TTF expenditures increase significantly – potentially by about $2.4 million in FY 2014 – for additional personnel and other costs associated with implementing the bill. General fund revenues and expenditures increase from the anticipated increase in the number of criminal fraud cases involving the issuance of an MVA credential. General fund revenues may be minimally affected due to the filing of additional tax returns; any such impact cannot be reliably estimated.

Local Effect: Local revenues and expenditures increase from the anticipated increase in the number of criminal fraud cases involving the issuance of an MVA credential. Local income tax revenues may be minimally affected due to the filing of additional income tax returns; any such impact cannot be reliably estimated.

Small Business Effect: Minimal.

Analysis

Current Law/Background: Chapter 390 of 2009 (HB 387) defined "lawful status" as it applies to the issuance of identification cards, driver's licenses, and moped operator's permits. It also established a "two-tiered" approach to the issuance of these documents by MVA. The first tier documents are available only to individuals who have lawful status in the United States and have a Social Security number. The second tier documents are not valid for official purposes by federal agencies.

MVA issues the second tier documents under one of two circumstances. First, MVA may issue or renew one of these documents to an individual whose identity does not match records checked by MVA in its verification process but who resolves the "non-match" by meeting certain federal regulatory standards and is otherwise eligible. The second circumstance, and the one that is the subject of this bill, allows MVA to issue or renew one of these documents to an individual who held an identification card, driver's license, or moped operator's permit on April 18, 2009, but does not possess satisfactory evidence of lawful status or a valid Social Security number.

No MVA document issued to, or renewed by, an applicant who cannot provide satisfactory evidence of lawful status or a valid Social Security number is valid beyond July 1, 2015.

Chapter 390 was enacted in part to respond to new federal requirements under the REAL ID Act. On May 11, 2005, President Bush signed into law the REAL ID Act that requires federal agencies to accept only personal identification cards that meet certain standards. The U.S. Department of Homeland Security (DHS) issued final regulations in January 2008. Pursuant to these regulations, MVA must verify the identity and lawful status of each applicant for a driver's license or identification card. Following enactment of Chapter 390, Maryland has achieved material compliance with the REAL ID Act, 1 of only 13 states to do so. Due to the widespread noncompliance among the states, DHS provided a 20-month extension of the compliance deadline on March 4, 2011, to expire January 15, 2013. On December 20, 2012, DHS announced a six-month deferment of enforcement beginning on January 15, 2013.

Once the deferment of enforcement expires, unless subsequently extended, DHS will begin a phased-in enforcement of REAL ID. Once fully enforced, driver's licenses and identification cards issued by states that are not in compliance with REAL ID standards will not be recognized for federal purposes, including accessing a federal facility and boarding a federally regulated commercial aircraft.

State Revenues: A reliable estimate of the increase in TTF revenues resulting from the issuance of additional MVA documents cannot be made due to considerable uncertainty regarding the number of individuals in Maryland that cannot currently provide satisfactory proof of lawful status to obtain one of these documents but that may obtain one under the bill's requirements, including that a tax return has been filed for the preceding two years. Other individuals will be able to continue to renew their documents after July 1, 2015.

However, *for illustrative purposes only*, TTF revenues may increase by about $3.9 million in fiscal 2014, about $3.2 million in fiscal 2015, about $2.0 million in fiscal 2016, and roughly $1.1 million in fiscal 2017 and 2018 from the collection of fees for the issuance of additional MVA credentials. This estimate is based on the following information and assumptions:

- the Pew Research Center has estimated that 275,000 undocumented immigrants resided in Maryland;
- the same number of undocumented immigrants currently reside in Maryland;
- MVA estimates that 95,000 MVA credentials will have been issued to individuals who cannot provide proof of lawful status under current law before the effective date of the bill;
- 20% of these 95,000 credentials are renewed in fiscal 2014, 50% are renewed in fiscal 2015, and the remaining 30% are renewed between fiscal 2016 and 2018;
- of the remaining 180,000 undocumented immigrants currently residing in Maryland, 135,000 apply for a learner's permit/driver's license, 30,000 apply for an identification card, and 15,000 apply for no MVA credentials between fiscal 2014 and 2018;
- 40% of undocumented immigrants currently residing in Maryland apply for an MVA credential in fiscal 2014, 20% apply in fiscal 2015 and 2016, and the remainder apply in subsequent years;
- 85% of driver's license renewals are issued five-year licenses on payment of $30, and 15% are issued eight-year renewals on payment of $48;
- 90% of identification card renewals are issued eight-year cards on payment of $24, and 10% are issued five-year cards on payment of $15; and
- the cost to obtain a learner's permit, provisional driver's license, and full driver's license is $50.

This estimate does not account for the collection of moped operator's permits, which is anticipated to be minimal. The estimate also does not account for other vehicle-related fees and fines that may be collected as a result of the increase in licensed drivers in

Maryland and, therefore, may underestimate the actual increase in TTF and general fund revenues. However, any such increase in other fees and fines may be offset by a decrease in various penalties associated with driving illegally.

As one example, general fund revenues may decrease to the extent that the number of fines paid from violators convicted of driving without a license decreases. It is unclear whether and to what extent this may occur. For example, although the number of such violations began increasing during the fiscal year that the lawful presence requirement began, and has risen by about 26% since that year, the number of violations resulting in a trial (and a potential conviction) has actually decreased; there may also be other reasons that the number of violations has increased.

State Expenditures: TTF expenditures increase by about $2.4 million in fiscal 2014, which reflects the bill's January 1, 2014 effective date, about $3.5 million in fiscal 2015, about $2.1 million in fiscal 2016, and more than $484,000 annually (beginning in fiscal 2017) for MVA to handle the increase in transactions and otherwise implement the bill, *under the assumptions and illustrative example discussed above*. This estimate reflects the cost of hiring 10 permanent employees and 55 contractual employees, including fraud investigators, as well as costs for issuing additional MVA credentials, training MVA employees, making the public aware of the changes, procuring automobiles for the investigators, computer programming charges, and supplies and equipment. It also includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Permanent Positions	10
Contractual Positions	55
Salaries and Fringe Benefits	$1,649,209
Automobile Operations	106,950
Public Outreach	150,000
Other Operating Expenses	514,463
Total FY 2014 MVA Expenditures	**$2,420,622**

This estimate does not include additional costs related to redesigning driver's licenses, identification cards, and moped operator's permits to include the statement required by the bill that the document may not be used to purchase a firearm. MVA advises that this redesign can likely be handled with existing resources, but that TTF expenditures may increase by about $40,000 in fiscal 2014 only if external computer programming is needed.

The estimate also does not account for TTF and/or general fund expenditures necessary to ensure that applicants have filed tax returns, or have been claimed as a dependent on filed returns, for each of the two years preceding the application. MVA advises that it has not yet determined how this requirement is to be implemented, but that it may be handled with a combination of existing resources and the additional positions hired to implement the bill, as discussed above. The Comptroller's Office advises that, depending on how MVA decides to implement this requirement, at least one contractual programmer is needed for at least one year beginning in fiscal 2014 to alter the existing joint Comptroller and MVA tax clearance process. Thus, general fund expenditures increase, potentially by more than $50,000 in fiscal 2014, to ensure that the bill's tax return verification requirement is satisfied.

General fund expenditures also increase from the application of current misdemeanor penalties for fraud in obtaining an MVA credential to the extent more people are committed to State correctional facilities and from increased payments to counties for reimbursement of inmate costs. MVA advises that it expects the number of fraud investigations to increase significantly under the bill due to the observed decline in the number of fraud cases that occurred following the passage of Chapter 390 of 2009, which instituted the lawful presence requirement. Additionally, MVA advises that in 2009 it began implementing new a new fraud detection system that significantly increased the number of fraud cases initiated.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at $2,900 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including variable medical care and variable operating costs) is about $370 per month. Excluding all medical care, the average variable costs total $180 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A $45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional $45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a cross file, HB 789 (Delegate Ivey, *et al.* – Judiciary) is not identical.

Information Source(s): Maryland Department of Transportation, Pew Research Center, Department of Legislative Services

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