
January 27, 2021

The Honorable William C. Smith, Jr.
Chairman, Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis MD 21401

***Re: Letter of Opposition – Senate Bill 88 – State and Local Government – Participation in
Federal Immigration Enforcement***

Dear Chairman Smith and Committee Members:

The Maryland Department of Transportation (MDOT) respectfully opposes Senate Bill 88 and offers the following information for the Committee's consideration.

Senate Bill 88 sets out numerous provisions guiding and restricting the actions of state and local law enforcement; corrections agents; and units of state and local governments, or agents of governments relative to immigration and citizenship, and interaction with federal immigration authorities.

In particular, Senate Bill 88 would prohibit a unit of state government from providing information to federal immigration authorities in any matter related to civil immigration enforcement. Currently, law enforcement access to MDOT Motor Vehicle Administration (MDOT MVA) records occurs via the Department of Public Safety and Correctional Services (DPSCS), through either the Local Law Enforcement Dashboard (Dashboard) or the Maryland Electronic Telecommunications Enforcement Dashboard (METERS). Law enforcement access to these databases is certified by the Maryland State Police for state and local agencies, and by the Federal Bureau of Investigations for federal agencies. MDOT MVA does not control or monitor the access of approved end-users in the law enforcement systems.

Senate Bill 88 further specifies that a unit of state government may not "require an individual to prove the individual's citizenship or immigration status" (page 7, lines 9-10), but later (page 9, lines 9-11, 13) provides that a unit of state government is not precluded from complying with a requirement of state or federal law. The federal REAL ID Act requires that applicants for a federally compliant driver's license or identification card provide proof of lawful status. Under Maryland law, customers who do not qualify for a REAL ID are eligible for a driver's license or identification card marked "not for federal purposes." In 2019, Maryland was the first state to have its Real ID program re-certified by DHS. MDOT MVA's preeminent concern is ensuring the REAL ID status of over 3.3 million compliant Marylanders is not adversely impacted, and we would not want the potentially conflicting provisions in this bill to call into question the Maryland's compliance with Real ID.

Additionally, federal law requires all interstate commercial drivers to establish that applicants are either citizens or lawfully present in the United States before they are issued a Commercial Driver's License (CDL). Failure to verify lawful status for CDL drivers would put the Maryland CDL program out of compliance with federal law which could ultimately result in decertification of Maryland's CDL program.

At the Port of Baltimore, the MDOT Maryland Port Administration (MDOT MPA) works hard to accomplish its mission to increase waterborne commerce through the State of Maryland. For 12 consecutive years, the state-owned, public marine terminals at the Port of Baltimore have received a top rating on an annual security assessment from the U.S. Coast Guard, the latest coming in 2020. The Coast Guard conducts annual and thorough examinations of the Port's six public marine terminals: Dundalk, Seagirt, North Locust Point, South Locust Point (including the Maryland Cruise Passenger Terminal), Fairfield, and Masonville. For the MDOT MPA to continue its success as one of the most secure ports in the nation, the MDOT MPA needs to be able to communicate quickly and efficiently with its federal partners through information sharing.

Senate Bill 88 raises significant issues related to the MDOT MPA's ability to enforce and comply with federal security regulations on its terminals related to its interactions with U.S. Customs and Border Protection (CBP), the U.S. Transportation Security Administration (TSA), the U.S. Department of Homeland Security (DHS), and the U.S. Coast Guard. While the MDOT MPA does not inquire about immigration status, the MDOT MPA shares information with its federal partners for security purposes unrelated to immigration status. Most significantly, Senate Bill 88 would prohibit the MDOT MPA from providing U.S. Customs and Border Protection with space or access to the Maryland Cruise Terminal. This would directly and negatively impact the MDOT MPA's ability to carry out its security obligations related to Cruise and interfere with contractual agreements with the Customs and Border Protection for space at the Maryland Cruise Passenger Terminal.

Senate Bill 88 would also adversely impact security at the Baltimore/Washington International Thurgood Marshall (BWI Marshall) Airport. The MDOT Maryland Aviation Administration (MDOT MAA) partners with the TSA and CBP to ensure a secure environment at BWI Marshall. Senate Bill 88 explicitly prohibits coordination with federal authorities in any manner related to civil immigration enforcement. The MDOT MAA coordinates regularly with TSA and CBP to conduct security threat assessments and vet individuals at the airport which may require federal agencies to check databases for terrorism concerns, criminal history records, and immigration statuses to confirm lawful presence. The security of BWI Marshall is strengthened through coordination with our federal partners. Senate Bill 88 will hinder the MDOT MAA's ability to maximize security at BWI Marshall.

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Additionally, Senate Bill 88 prohibits the MDOT MAA from providing federal authorities with access to BWI Marshall facilities, equipment, and secure areas of the airport. The TSA and CPB cannot successfully fulfill their security obligations at BWI Marshall without appropriate access to terminal facilities and equipment. Prohibiting the space and equipment agreements between the MDOT MAA and our federal partners will impinge on the security of BWI Marshall and the national air transportation system.

The Maryland Department of Transportation respectfully requests the Committee grant Senate Bill 88 an unfavorable report.

Respectfully submitted,

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