

Department of Legislative Services
 Maryland General Assembly
 2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 896 (Delegate Conaway)
 Environment and Transportation

**Drivers' Licenses and Identification Cards - Notation of Consent to Experimental
 Emergency Medical Treatment**

This bill requires the Motor Vehicle Administration (MVA) to provide a method by which an individual may elect to have a notation included on the applicant’s driver’s license or identification card indicating that the individual consents to experimental lifesaving emergency medical treatment in the event the applicant is incapacitated and unable to consent to the treatment. In such situations, the bill also establishes that a consent to experimental emergency medical treatment notation on a driver’s license or identification card is sufficient legal authority for a medical professional to provide experimental lifesaving treatment. MVA is authorized to adopt regulations to implement the bill.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by \$228,600 in FY 2017 only for MVA to contract with an outside vendor for programming changes, modify and create forms, and hire an external subject matter expert to consult on issues related to implementing the bill. Revenues are not materially affected.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	228,600	0	0	0	0
Net Effect	(\$228,600)	\$0	\$0	\$0	\$0

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: MVA must notify an individual who elects to have a notation under the bill that the notation will remain effective until the individual requests that the notation be removed and that the notation may be removed by the individual by requesting a replacement driver's license or identification card (1) through MVA's website or (2) in person at any full-service MVA office.

Current Law: MVA must provide a method for a driver's license or identification card applicant to designate that he or she consents to the gift of all body organs or parts for the purposes of transplantation, therapy, or medical research and education. This donor designation is sufficient legal authority for the removal of a body organ or part on the death of the donor. If an applicant designates that he or she is a donor, MVA must make a notation on the card or license. There is no fee for adding or removing an organ donor designation.

MVA must also notify an applicant that the designation may be removed by the applicant either by requesting a replacement document online or in person, or through the State donor registry. Unless removed, MVA must note an applicant's designation as a donor on all subsequently issued driver's licenses or identification cards.

Federal regulations for the protection of human subjects in research require informed consent; however, U.S. Food and Drug Administration regulations (21 CFR 50.24) provide a narrow exception to this requirement for emergency research. The exception applies to a limited class of research activities involving human subjects who are in need of emergency medical intervention but cannot give informed consent because of their life-threatening condition and who do not have a legally authorized person to represent them. Clinical trials for emergency experimental medical treatment can be opened for patients if the institution's Internal Review Board approves and community input is obtained.

State Fiscal Effect: TTF expenditures increase by \$228,641 in fiscal 2017 for MVA to contract with an outside vendor for reprogramming changes and to modify and reprint existing forms as well as create an additional waiver form. MVA also advises it requires an outside consultant with subject area expertise, as MVA's attorneys have indicated they do not have the expertise to create the disclosure statement required under the bill. MVA expenditures under the bill are summarized below. MVA's estimated costs assume that approximately 1% of all driver's license and identification card holders (approximately 48,000 individuals) will obtain the notation established by the bill.

Outside vendor programming changes	\$114,200
Forms, supplies, and brochures	64,441
Consultant services	<u>50,000</u>
Total FY 2017 MVA Expenditures	\$228,641

Although the bill allows the notation to be removed, which could result in additional revenues if MVA were to charge a fee for such removals, MVA expects the impact on revenues to be minimal.

MVA advises that the disclosures and waivers required under the bill could add to overall wait times, as customers may have questions about what the consent entails. MVA further advises its counter agents do not have the expertise to answer such questions.

Additional Comments: The University of Maryland Medical System (UMMS) advises that the bill effectively creates an “opt-in” system for emergency experimental medical treatment when an individual is incapacitated or unable to consent to treatment under which a hospital or trauma center could only make such treatment available if a patient has consented in advance through designation on their driver’s license or identification card. UMMS further advises such a system could severely limit the number of people who will be eligible to receive emergency experimental medical treatment, even when such treatments may be the only options available to a patient.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): U.S. Food and Drug Administration, Maryland Institute for Emergency Medical Services Systems, University of Maryland Medical System, Department of Health and Mental Hygiene, Maryland Department of Transportation, Department of Legislative Services

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