



State of Maryland
Department of State Police
Government Affairs Section
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POSITION ON PROPOSED LEGISLATION

DATE: February 9, 2021

BILL NUMBER: House Bill 197 **POSITION:** Letter of Concern

BILL TITLE: Criminal Procedure – Police Officers – Stop Procedures (Know Your Rights Act)

This legislation seeks to require police officers to, at the commencement of a traffic stop, display proper identification, provide the individual stopped with the officer's name, badge number name of the agency and reason for the stop. It also requires the police officer to inform the individual their right to refuse to speak to the officer, the justification for the stop and the right to terminate the interaction. This legislation also requires the police officer to inform the other occupants of the vehicle of their right to refuse to provide identification to the officer, prohibits the officer from seizing a personal item without a warrant or use coercive tactics or misrepresent facts to obtain information.

Under current law, a person stopped by a police officer during a traffic stop is detained by the police officer for the ordinary business of the traffic stop. The person is not free to leave the stop until told to do so by the officer. A police officer cannot advise a detained person they have the right to terminate the interaction when no such right exists. Additionally, the plain view doctrine allows for the seizure of contraband in plain view.

If an officer observes, in plain view, contraband that is illegal and the person says it is their personal property, the officer would not be allowed to seize the contraband until a warrant is secured. Also, if the person has a loaded weapon on the seat next to them, the officer could not seize the weapon. In both cases it is both dangerous and impractical to wait for a warrant to be obtained. In neither case does this legislation allow for the item to be secured by the police officer until the warrant is obtained. In the case of contraband, it could be destroyed. In the case of a weapon it could be used on the officer or inflict harm to the person stopped.

House Bill 197 requires the officer to display proper identification, but does not detail what that is. Could a uniform on the officer suffice, or a badge prominently displayed, or does the officer need to provide their photo ID and training commission credentials? The legislation also requires the officer to advise the person stopped that they do not need to speak to the officer. The law does require a driver to identify themselves, but directions required under HB 197 conflicts with the other laws.

House Bill 197 will prolong traffic stops and stops of other persons by requiring officers to try to identify persons without their cooperation. The only way to do so is by arrest and fingerprinting them, especially if the officer tells the person they do not have to say a word. HB 197 prohibits the safe removal of dangerous items if the person were to claim they are their personal property, so the officer will need to detain the person until a warrant can be secured.