

Government of the District of Columbia
Office of the Chief Financial Officer



Jeff DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeff DeWitt
Chief Financial Officer

DATE: May 6, 2014

SUBJECT: Fiscal Impact Statement – “Traffic Adjudication Amendment Act of 2014”

REFERENCE: Amended Bill 20-324, as Shared with the Office of Revenue Analysis on May 5, 2014

A handwritten signature in black ink that reads "Jeffrey S. DeWitt". The signature is written in a cursive style and is positioned to the right of the printed name in the "FROM:" field.

This revised fiscal impact statement reflects the cost of amendments that will be proposed at the May 6, 2014 legislative meeting of the Council and other updates to include FY 2018 in the analysis. This replaces the statement issued on March 12, 2014.

Conclusion

Funds are not sufficient in the proposed FY 2014 supplemental budget and the proposed FY 2015 through FY 2018 budget and financial plan to implement the bill. Implementation of the bill will cost \$559,000 in FY 2015 and \$2.3 million over the four year financial plan period.

The implementation of the bill, inclusive of the proposed amendments, is subject to its inclusion in an approved budget and financial plan.

Background

In FY 2013, the Department of Motor Vehicles (DMV) processed over 2.5 million tickets issued by various agencies. Of those, nearly 10 percent were contested. An individual who receives an infraction has 30 days to respond for a parking violation and 60 days to respond for a photo or moving violation. In that response, they can either admit the violation and pay the fine, admit with an explanation and pay the fine, or deny and contest the infraction via the mail, online, or through a personal appearance. If an individual fails to respond within the required timeframe or fails to show up for a scheduled hearing, he or she is deemed liable and has 60 days to request the deemed

The Honorable Phil Mendelson

FIS: Amended Bill 20-324, "Traffic Adjudication Amendment Act of 2014," as shared with the Office of Revenue Analysis on May 5, 2014

liability be vacated.¹ If the appeal is denied or the charge is not vacated, then individual has 30 days to request an appeal of his or her case, without an opportunity to present new evidence, to the Traffic Adjudication Appeals Board (TAAB).²

The bill makes a number of changes to the adjudication processes at DMV. Some are new processes and some align current law with current practices at DMV.

The main change is to implement a more expansive reconsideration program.³ The proposed program would allow any individual found liable for a parking, moving, or photo enforcement violation, after the first appeal, to submit an application for reconsideration. The application must be submitted or postmarked within 30 days of the finding of liability and affords the individual an opportunity to resubmit his or her case to the hearing examiner on one of the following grounds:

- New evidence is available;
- The need to recover additional evidence;
- An error was committed by the original hearing examiner; or
- A need for further consideration.

The hearing examiner then has 180 calendar days to issue a decision on the reconsideration request. If a finding of liability is upheld, then an individual can appeal to the TAAB. Reconsideration must be requested before an appeal can be made at the TAAB, except in cases where an appeal is requested because a previous request to vacate a deemed admission of liability based on failure to respond in a timely manner or failure to appear at a scheduled hearing was denied. DMV will also be required to annually report reconsideration data.

A second significant change is to expand the time limit in which an individual can request that an deemed admission of liability be vacated. The bill expands the timeframe to one year to appeal a deemed admission for a parking violation if the defense is that the individual was not the owner or lessee of the vehicle at the time of the infraction or the plates had been stolen. Additionally, for moving violations, the timeframe is expanded to one year for violations of automated traffic enforcement, distracted driving, or operating a motor vehicle without insurance. The same year is given for the latter two moving violations in cases where the individual has been deemed liable for failing to appear at a hearing.⁴ In these cases, the individual does not need to explain why he or she did not respond or failed to appear, but just present the evidence to support vacating the violation.

Third, in all appeals cases, the bill requires DMV to enter into the official hearing record an explanation of why the person is still held liable for the infraction.

Fourth, the bill requires that DMV take judicial notice of facts that should be readily available to hearing examiners through DMV's current registration and licensing data.

¹ The individual must provide sufficient evidence to why the ticket should be vacated and a valid explanation as to why the person failed to respond.

² Cases can be further appealed to the Superior Court of the District of Columbia and the District of Columbia Court of Appeals.

³ Currently, reconsideration is only allowed in cases of the suspension or revocation of a license or driving privileges or at the discretion of DMV.

⁴ Scheduled hearings are not permitted for photo enforcement first level appeals.

The Honorable Phil Mendelson

FIS: Amended Bill 20-324, "Traffic Adjudication Amendment Act of 2014," as shared with the Office of Revenue Analysis on May 5, 2014

Fifth, the bill makes a number of minor changes ranging from codifying that appeals can be done online to eliminating the requirement of an enforcement officer to appear at a parking violation appeal hearing to a number of D.C. Official Code and District Municipal Regulations conforming and technical changes.

Two amendments to the original bill make additional changes at the DMV related to adjudication. The first creates an adjudication ombudsman, who will report to the DMV Director and will be responsible for the following activities:

1. Receive complaints and concerns related to the law, rules, policies or procedures for the adjudication of parking and moving infractions;
2. Respond to complaints and concerns;
3. Determine the validity of complaints and concerns in a timely manner;
4. Generate response options and recommend an option;
5. Refer infraction recipients to the appropriate DMV staff as necessary;
6. Identify systemic concerns;
7. Recommend policy changes; and
8. Offer technical and procedural advice on the adjudication process.

The ombudsman would not offer legal advice and, absent criminal activities, would not be held liable for the outcome of an adjudication effort.

The other amendment requires DMV to request the make and model of a vehicle registered in the District and other jurisdictions before it notifies an individual that the infraction is delinquent. DMV currently requests information from other jurisdictions in order to mail the delinquency notice, but make and model of the vehicle are not requested. DMV would be required to dismiss the infraction if the make and model information does not match what is recorded on the notice of infraction.

Financial Plan Impact

Funds are not sufficient in the FY 2014 through FY 2017 budget and financial plan to implement the bill. Implementation of the bill will cost \$559,000 in FY 2015 and \$2.3 million over the four year financial plan period.

The main fiscal considerations are related to the creation of a reconsideration process, but there are other risks which are noted below. Reconsideration itself will increase the workload on DMV because every case, which is upheld in the first level of appeal, will now have an opportunity to present new evidence in an effort to have the infraction vacated. In the District, that means that nearly 150,000 individuals will have an opportunity to go through the reconsideration process. In order for DMV to handle the increased workload, an additional five hearing examiners will be required at a cost of \$430,000 in FY 2015.

The two amendments will also impact costs of the overall bill. First, the hiring of an will cost \$143,000 in FY 2015. The need to incorporate additional information in the process of sending out delinquent notices will require a one-time system reprogramming cost of \$10,000 in FY 2015. Additional staff time will be required to review the vehicle make and model information in order to dismiss invalid infractions, but those costs will be absorbed by the agency.⁵

⁵ In FY 2013, the DMV ticket vendor issued over 740,000 delinquency notices for unpaid traffic infractions.

The Honorable Phil Mendelson

FIS: Amended Bill 20-324, "Traffic Adjudication Amendment Act of 2014," as shared with the Office of Revenue Analysis on May 5, 2014

Traffic Adjudication Amendment Act of 2014						
Cost of Bill 20-324						
FY 2014 – FY 2018						
	FY 2014^a	FY 2015	FY 2016	FY 2017	FY 2018	Total
Hearing Examiners	\$0	\$430,000	\$434,000	\$452,000	\$457,000	\$1,773,000
Ombudsman	\$0	\$119,000	\$120,000	\$124,000	\$126,000	\$580,000
Amendment^b	\$0	\$10,000	\$0	\$0	\$0	\$10,000
Total	\$0	\$559,000	\$554,000	\$576,000	\$583,000	\$2,272,000

Table Notes

^a Implementation of the bill is October 1, 2014.

^b This is the second amendment which now requires DMV to request the make and model information for a vehicle that has received an infraction prior to issuing a delinquency notice.

DMV can absorb any costs associated with updating the hearing record systems to accommodate notification of the reconsideration process for those who's first appeal is denied and the annual reporting requirements.

In addition to the costs associated with reconsideration, DMV may face costs as it implements the bill's other provisions, but those cannot be quantified with data currently available. First, reconsideration decisions need to be made within 180 calendar days. Because this timeframe is mandated, DMV may have to shift resources from other operations, such as first level appeals.⁶ Second, hearing examiners, who must now customize each hearing record by noting the reasons why evidence presented was not sufficient to dismiss a violation, might not be able to adjudicate as many cases as they do now.

Lastly, if enacted, the bill will allow a full year for appeals for individuals who failed to respond to an infraction or appear at a scheduled hearing. This change would create an opportunity for more individuals to go through the first appeals process than in the past, and delay collections. This could impact both the timing and the collection of traffic fines and fees.

⁶ In the past few fiscal years, this length of time has ranged from 131 days to 157 days.