

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 72

(Chair, Judicial Proceedings Committee)(By Request -
 Departmental - Transportation)

Judicial Proceedings

Environmental Matters

**Motor Vehicles - Damage to Highways from Overweight or Oversized Vehicles -
 Liability and Penalties**

This departmental bill subjects a person that drives a vehicle or moves an object in excess of height or width limits to liability for damage to a State, county, or municipal highway, unless the vehicle is operated in accordance with the terms and conditions of a permit for the excessive height or width. If the damage is assessed at more than \$25,000, the bill also makes the driver and owner jointly and severally liable for a civil penalty of up to \$10,000. Finally, the bill relieves a person from liability for damages caused by the driving of a vehicle or movement of an object if the driving or movement is done in accordance with the terms and conditions of an overweight vehicle permit.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) and nonbudgeted expenditures may decrease beginning in FY 2014 to the extent that the bill is successful at preventing damage to State highways and Maryland Transportation Authority facilities caused by vehicles or objects of excessive height or width. General fund revenues may increase due to the application of the bill's civil penalty for cases in the District Court.

Local Effect: Local government expenditures may decrease beginning in FY 2014 to the extent that the bill is successful at preventing damage to local roads caused by vehicles or objects of excessive height or width. Circuit court workloads may increase minimally. Local government revenues may increase beginning in FY 2014 due to the application of the bill's civil penalty.

Small Business Effect: The Maryland Department of Transportation (MDOT) has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services disagrees with this assessment as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: A person who drives a vehicle or moves an object on a State highway or county road is liable for any damage caused by illegal driving or movement or if the vehicle or object weighs more than the statutory weight limit, even if a permit authorizes the excess weight. If the driver is not the owner but has the permission of the owner, then the owner and driver are jointly and severally liable for the damage following a civil action that may be brought by the authority in control of the highway or road.

Background: According to the State Highway Administration (SHA), it has been experiencing an increase in the number of incidents in which bridges, overhead structures, and toll booths are being struck by vehicles that are excessively tall or wide. These vehicles either do not hold the necessary permit or are violating the terms of their permit. In addition to serious damage to roadways and structures, these incidents can cause significant delays for other drivers due to lane closures or other work zone barriers. Whereas in most years there have only been four or five such incidents, SHA advises that an uptick in incidents between 2008 and 2011 resulted in about 30 incidents over that period. SHA advises that an additional civil penalty is necessary to serve as a deterrent to drivers negligently or recklessly ignoring vehicle height or weight restrictions or permit requirements, particularly because damages imposed under current law are typically covered by general liability insurance policies.

State/Local Expenditures: A reliable estimate of the decrease in transportation maintenance expenditures cannot be made due to uncertainty regarding the frequency and severity of future incidents caused by oversized vehicles and due to uncertainty regarding the deterrent effect of the bill. However, SHA advises that, between 2008 and 2011, the 30 incidents caused by oversized vehicles had estimated response costs of about \$2 million (or about \$500,000 annually). Thus, *for illustrative purposes only*, if the bill is successful in reducing the response costs by 10%, then State and local expenditures may decrease by about \$50,000 annually.

State/Local Revenues: Similarly, a reliable estimate of the additional civil penalty revenue from the bill cannot be made due to the uncertainties noted above, as well as uncertainty regarding the number of civil actions that will be brought, the outcome of such actions, and the amount in penalties ultimately collected. However, local government revenues may increase to the extent that violations are successfully

prosecuted in circuit court and civil penalties collected, and general fund revenues may increase for penalties collected in District Court.

Small Business Effect: MDOT advises that the bill has a meaningful impact on small business truckers and transporter-owners. The Department of Legislative Services disagrees and notes that any impact incurred is only by small businesses not in compliance with current laws.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore, Carroll, Montgomery, and St. Mary's counties; Maryland Department of Transportation; Department of Legislative Services.

Fiscal Note History: First Reader - January 14, 2013
mm/ljm Revised - Senate Third Reader - February 8, 2013
Revised - Enrolled Bill - April 11, 2013

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Motor Vehicles – Damage to Highways from Oversized Vehicles – Liability and Penalties

BILL NUMBER: SB 72

PREPARED BY: Maryland Department of Transportation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The economic impact for negligent truckers and transporter-owners may be significant, presumably in the short term, until full compliance with the hauling requirements is met. By minimizing these incidents, the traveling public would see a reduction in the inconvenience caused by these incidents, and all the restrictions to lane availability during the accident clean up and the repair time period. The repair time period can be as long as multiple months since most repairs are made at night with restricted time periods, to minimize disruption to traffic.

The non-measurable effects are the time and energy spent on addressing these incidents that takes SHA employees (inspection, design, clean up, traffic control) from other assigned tasks being performed as usual.

From a fiscal and budgetary perspective, this proposal is intended to save money spent on unforeseen inspections and emergency repairs. SHA's Office of Structures preliminarily estimates that there have been approximately 30 collisions with bridges between 2008 and 2011, costing over \$2 million to address. There have been at least another five collisions in 2012, the financial impact of which has not yet been determined.