

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 1048 (Senator Pipkin)
Judicial Proceedings

Work Zone Speed Control Systems - Refund of Civil Penalties

This bill requires a refund, by October 31, 2013, of all civil penalties paid for alleged violations recorded by work zone speed control systems under the Maryland SafeZones Program between June 22, 2010, and March 31, 2012.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by at least \$29.9 million and general fund expenditures increase by at least \$17,100 in FY 2014 for the State Highway Administration (SHA) and the District Court to provide refunds under the bill. This does not account for any increase in administrative expenditures to process the refunds, which may be significant. Revenues are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law/Background:

Work Zone Speed Control Systems

Chapter 15 of 2006 (HB 443 of 2005) authorized the first use of speed monitoring systems in the State, but it only applied to highways in school zones and residential

districts in Montgomery County. Chapter 500 of 2009 (SB 277) expanded statewide the authorization for the use of speed monitoring systems in school zones. Chapter 474 of 2010 (HB 1477) authorized the use of speed monitoring systems in Prince George's County on a highway located within the grounds of an institution of higher education or on nearby highways under certain circumstances.

Chapter 500 of 2009 also authorized State and local law enforcement agencies or their contractors to issue citations or warnings for speeding at least 12 miles per hour above the posted speed limit in highway work zones that are set up on expressways or controlled access highways where the speed limit is 45 miles per hour or greater.

A "work zone" is a segment of a highway identified as a temporary traffic control zone by a traffic control device in conformance with State specifications and where highway construction, repair, maintenance, utility work, or related activities are being performed, regardless of whether workers are present. A work zone speed control system may only be used while being operated by a work zone speed control system operator. The maximum fine for a ticket issued by a work zone speed control system operator is \$40. A conspicuous road sign warning of the use of speed monitoring systems must be placed at a reasonable distance from the work zone.

The Maryland Department of Transportation advises that work zones are inherently dangerous due to obstacles such as concrete barriers, narrowed lanes, and cones, all of which increase the risk of traffic accidents from speeding motorists. In these work zone accidents, about 85% of injuries are to the motorists, and about 15% of those injured are transportation workers according to the Federal Highway Administration. According to the National Work Zone Safety Information Clearinghouse, there were 576 fatalities in highway work zones nationwide in 2010, including 6 in Maryland.

Through fiscal 2012, slightly more than 1 million citations had been generated by work zone speed control systems, according to data from SHA. In fiscal 2012, the State's Automated Speed Enforcement Program generated just under \$15 million in revenues, down from about \$18.4 million in fiscal 2011.

Legislative Audit of SHA and the Maryland SafeZones Program

In November 2012 the Office of Legislative Audits (OLA) released findings and recommendations following an audit of SHA, including the operation of work zone speed control systems as part of the Maryland SafeZones Program. OLA found several issues with the request for proposal (RFP) and contract with an SHA vendor. For example, during the initial pilot period between October 2009 and June 2010, OLA found that SHA had not established performance benchmarks and, as a result, fewer citations were issued and less revenue was generated than estimated by the contractor; only 44% of

violations photographed resulted in a citation issued, which resulted in \$850,000 less in citation revenues than estimated. OLA also found several issues with the subsequent RFP for full implementation of the Maryland SafeZones Program, which may have resulted in a lack of bids by contractors to operate the program.

Finally, OLA found that, during the implementation of the SafeZones Program after the pilot program ended, the work zone speed control systems did not undergo a calibration check by an independent laboratory for nine months. SHA executed the contract with the vendor on June 22, 2010, for operation of work zone speed control systems beginning in July 2010, but the first annual calibration by an independent laboratory was not conducted until March 31, 2011. While OLA found that this was not necessarily in violation of State law, the delayed calibration may not have conformed to the intent of the law since calibrations must be admitted as evidence in court for a contested citation. OLA noted that during the nine-month period prior to the annual calibration check, the work zone speed control systems were subjected to calibration checks by the contractor, but not by an independent laboratory.

State Expenditures: According to SHA data, about \$29.9 million was collected from the payment of work zone speed control system citations from July 2010 through March 2012. Thus, TTF expenditures increase by \$29.9 million in fiscal 2014 for SHA to refund paid citations before October 1, 2013. This estimate does not account for any additional cost to identify the recipient of each refund, to process and mail each refund check, and to ensure that each refund is accounted for. SHA advises that a reliable estimate of these administrative costs cannot be made, but that such costs may be significant. The Department of Legislative Services advises that several additional contractual positions are likely to be needed in fiscal 2014 only – to issue the refunds – and that the cost of postage alone is likely to exceed \$100,000.

The District Court advises that \$17,063.50 in fines were collected between July 1, 2010, and March 31, 2012, from contested work zone speed control system citation cases. Thus, general fund expenditures increase by this amount to provide refunds under the bill. This estimate also does not account for the administrative costs to provide such refunds. The District Court advises that a reliable estimate of the costs to manually review docket summaries or coordinate with SHA to identify individuals who paid citations and to process and mail refund checks cannot be made at this time. However, the District Court advises that any such cost is likely to be significant.

Additional Comments: If refunds are issued only for the nine-month period from July 2010 through March 2011 during which the OLA audit found that SHA work zone speed control systems had not been calibrated by an independent laboratory, then TTF expenditures increase by about \$14.4 million in fiscal 2014 from the issuance of refunds; general fund expenditures also increase by a lesser extent, likely by roughly \$10,000.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Federal Highway Administration, National Work Zone Safety Information Clearinghouse, Department of Legislative Services

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