

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1422 (Delegate Barve)  
Environment and Transportation

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Motor Vehicles - Highway Worker Safety

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This bill defines a “highway worker” and prohibits specified actions by the operator of a motor vehicle within a highway work zone or on a bridge or highway under construction or maintenance while at least one highway worker is present. A violation of the bill’s prohibitions is a misdemeanor subject to specified tiered penalties.

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Fiscal Summary

**State Effect:** Minimal increase in general fund revenues due to the bill’s monetary penalty provisions. Potential minimal increase in Transportation Trust Fund revenues due to license reinstatement fees. Expenditures may increase minimally due to the bill’s incarceration penalty. Otherwise, enforcement can be handled with existing resources.

**Local Effect:** Potential minimal increase in revenues due to the bill’s monetary penalty provisions. Expenditures may increase minimally due to the bill’s incarceration penalty. Otherwise, enforcement can be handled with existing resources.

**Small Business Effect:** None.

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Analysis

**Bill Summary:**

*Definition: Highway Worker*

“Highway worker,” as it applies to the bill’s provisions, means (1) a person who performs maintenance, repairs, or construction on a bridge or highway or in a highway work zone;

(2) a person who operates a truck, loader, or other construction or maintenance equipment on a bridge or highway or in a highway work zone; (3) a State or local public safety officer who enforces highway work zone-related transportation management and traffic control; (4) a law enforcement officer who conducts traffic control or enforcement operations on a bridge or highway or in a highway work zone; and (5) a law enforcement officer, a firefighter, an emergency medical services provider, or any other authorized person who removes hazards from or responds to accidents and other incidents on a bridge or highway or in a highway work zone.

### *Prohibited Acts*

The bill prohibits a person from doing any of the following while operating a motor vehicle in a highway work zone or on a bridge or highway that is under construction or maintenance while at least one highway worker is present:

- exceeding the posted speed limit;
- failing to obey traffic control devices erected to control the flow of motor vehicles through a highway work zone for any reason other than an emergency, the avoidance of an obstacle, or the protection of the health and safety of another person;
- driving through or around a highway work zone in a lane not clearly designated for use by motor vehicles; or
- physically assaulting or attempting to assault a highway worker, including assault with a motor vehicle or another object.

### *Penalties*

A person who violates this provision is subject to a fine of at least \$500 and up to \$1,000, and the Motor Vehicle Administration (MVA) must assess one point against the violator's license. For a violation that results in the physical injury of a highway worker, if the violation is the sole proximate cause of the injury, a violator is subject to a fine of at least \$1,000 and up to \$2,000, and MVA must assess three points against the violator's license. For a violation that results in the serious physical injury, as defined under specified criminal law provisions, of a highway worker, if the violation is the sole proximate cause of the injury, a violator is subject to a fine of at least \$2,000 and up to \$5,000 and imprisonment for up to 60 days. For a violation that results in the serious physical injury of a highway worker, as specified, MVA must assess 12 points against the violator's license, which subjects the violator to license revocation.

A person may not be convicted of a violation of this provision if the violation was due in part to (1) a mechanical failure of the motor vehicle the person was operating or (2) the negligence of a highway worker or another person.

## **Current Law:**

### *Points System*

After conviction for an offense under the Maryland Vehicle Law, State or local traffic regulations, or specified vehicular manslaughter or homicide offenses, State law has established a system of points to be assessed against the driver's license. For points accumulated within a two-year period, MVA must impose specified sanctions. The specific offenses and the points to be assessed are set forth in statute.

Except as otherwise specified, MVA must assess one point against a driver's license for a moving violation under the Maryland Vehicle Law that does not contribute to an accident and three points against a driver's license for a moving violation that contributes to an accident. Drivers who accumulate three points within a two-year period receive a warning letter from MVA. For exceeding a posted speed limit by 10 miles per hour (mph) or more, MVA must assess two points against a driver's license, and for exceeding a posted speed limit by 30 mph or more, MVA must assess five points against a driver's license. Drivers who accumulate five points within a two-year period must attend a driver improvement program. For vehicular homicide, vehicular assault, a violation of specified criminal provisions pertaining to negligent operation of a motor vehicle while under the influence of alcohol, or any felony involving the use of a vehicle, MVA must assess 12 points against a driver's license. Drivers who accumulate 12 points within a two-year period are subject to license revocation.

For a conviction on multiple charges based on offenses alleged to have been committed at the same time or arising out of the same set of circumstances, MVA must assess points only for the charge that carries the highest point assessment.

### *Highway Work Zones*

"Highway work zone," as it applies to provisions of the Maryland Vehicle Law pertaining to speed restrictions, means a construction or maintenance area on or alongside a highway that is marked by appropriate warning signs or traffic control devices designating that work is in progress. The State Highway Administration may reduce established speed limits in a highway work zone upon determination that the change is necessary to ensure the public safety. A county or municipal corporation may designate an area on a county or municipal highway or on a highway on which the county or municipality is authorized to do work pursuant to a maintenance agreement as a highway work zone. Established speed limits may be reduced in such a highway work zone upon determination that the change is necessary for public safety. Speed limits established under these circumstances become effective when posted.

A person who is convicted of exceeding the speed limit within a highway work zone is guilty of a misdemeanor and subject to a maximum fine of \$1,000. **Exhibit 1** shows the tiered prepayment penalties established by the District Court for exceeding a posted speed limit in a highway work zone and applicable point assessments.

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**Exhibit 1**  
**Penalties for Exceeding Highway Work Zone Speed Limits**

<b>Exceeding Posted Speed Limit by:</b>	<b>No Accident</b>		<b>If Contributes to an Accident</b>	
	<b>Prepayment Penalty</b>	<b>Points</b>	<b>Prepayment Penalty</b>	<b>Points</b>
1 to 9 mph	\$290	1	\$330	3
10 to 19 mph	300	2	340	3
20 to 29 mph	370	2	410	3
30 to 39 mph	500	5	540	5
40 mph and over	740	5	780	5

Source: District Court of Maryland

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*Serious Physical Injury*

“Serious physical injury,” under the Criminal Law Article, means physical injury that (1) creates a substantial risk of death or (2) causes permanent or protracted serious disfigurement, loss of the function of any bodily member or organ, or impairment of the function of any bodily member or organ.

*Assault*

A person may not commit an assault. However, the consequences of an assault vary depending on the circumstances involved.

*First-degree Assault:* A person commits a first-degree assault if the person either (1) intentionally causes or attempts to cause serious physical injury to another person or (2) commits an assault with a firearm, including a handgun, assault pistol, machine gun, or other specified firearms. A person who commits a first-degree assault is guilty of a felony and subject to imprisonment for up to 25 years.

*Felony Second-degree Assault:* A person commits a felony second-degree assault if the person intentionally causes “physical injury” to another when the person knows or has

reason to know that the other person is a (1) law enforcement officer or parole or probation agent engaged in the performance of the officer's or agent's official duties or (2) a firefighter, an emergency medical technician, a rescue squad member, or any other first responder engaged in providing emergency medical care or rescue services. "Physical injury" means any impairment of physical condition, excluding minor injuries. Violators are subject to imprisonment for up to 10 years and/or a maximum fine of \$5,000.

*Misdemeanor Second-degree Assault:* The misdemeanor second-degree assault statute applies to assaults that are not considered to be felony assaults in the first or second degrees. Under the misdemeanor second-degree assault statute, a person is prohibited from committing an assault. A violator is subject to imprisonment for up to 10 years and/or a maximum fine of \$2,500. Assault means the crimes of assault, battery, and assault and battery, which are defined through case law.

The District Court has concurrent jurisdiction with the circuit courts over felony second-degree assaults.

**Background:** The District Court reports that, in 2018, there were a total of 501 citations issued for unlawfully exceeding a posted speed limit in a highway work zone. Of the 501 citations issued, 145 were prepaid, 243 went to trial, and 113 remained open.

#### *Work Zone Fatalities*

Data from the National Highway Traffic Safety Administration shows that there were 799 fatalities in highway work zones nationwide in 2017, including 14 in Maryland. The number of work zone fatalities in Maryland in 2017 was the highest number of fatalities since 2005. (Nationally, the number of work zone fatalities was the highest number since 2007). Nevertheless, on average, the number of work zone fatalities has declined significantly since Chapter 500 of 2009 authorized the use of work zone speed control systems in the State. Between 2010 and 2017, work zone fatalities averaged 7.5 per year in Maryland, a reduction of about 39% from the eight-year average of 12.4 fatalities per year from 2002 through 2009.

Nationally, there was also a similar, but less significant, drop in work zone fatalities, with an approximately 30% reduction in the eight-year average between 2010 and 2017, as compared with the period from 2002 through 2009. Federal data also shows that work zone fatalities, *as a percentage of total traffic fatalities*, have dropped in Maryland, comparing averages from 2002 through 2009 to those from 2010 through 2017. Again, the reduction in Maryland is greater than the similar, but less significant, reduction nationally in terms of the percentage of traffic fatalities occurring in work zones.

**State Revenues:** General fund revenues increase minimally as a result of the bill's monetary penalties from cases heard in the District Court.

**State Expenditures:** General fund expenditures may increase minimally as a result of the bill's incarceration penalty due to more people being committed to State correctional facilities for convictions in Baltimore City. The number of people that may be incarcerated due to this proposed crime is expected to be negligible.

Generally, persons serving a sentence of one-year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Local revenues may increase minimally due to the monetary penalties in the bill from cases heard in the circuit courts.

**Local Expenditures:** Expenditures may increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$40 to \$170 per inmate in recent years.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore, Charles, Frederick, and Montgomery counties; Department of State Police; Judiciary (Administrative Office of the Courts); Maryland Department of Transportation; National Highway Traffic Safety Administration; Department of Legislative Services

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