

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 724

(Senator Ruben)

Judicial Proceedings

Environmental Matters

Motor Vehicle Law - Railroad Grade Crossing Violations and Penalties

This bill establishes requirements for commercial motor vehicle operators and their employers related to railroad grade crossings. The bill requires the Motor Vehicle Administration (MVA) to disqualify a commercial driver from driving for a specified period of time if the driver is convicted of violating federal, state, or local laws or regulations pertaining to railroad crossings. The bill establishes penalties for employers who knowingly require or otherwise permit a commercial driver to violate provisions relating to railroad crossings.

The bill is effective July 1, 2003.

Fiscal Summary

State Effect: Enactment of this bill could prevent a loss of about \$15.4 million in apportioned federal aid highway funds that would otherwise come to Maryland in FY 2004. The provisions of this bill could be handled with existing resources.

Local Effect: To the extent that federal aid funds are withheld from the State, highway funding could also be withheld from local jurisdictions.

Small Business Effect: None.

Analysis

Bill Summary: This bill requires every commercial motor vehicle operator to take the following actions upon approaching a railroad grade crossing:

- slow down and check that the tracks are clear of an approaching train;
- stop before reaching the crossing, if the tracks are not clear;
- attempt to negotiate the crossing only if the crossing and the roadway beyond are sufficiently clear of other traffic so that the driver can drive through the crossing without stopping;
- obey any traffic control device or the directions of a police officer at the crossing; and
- attempt to negotiate the crossing only if the vehicle has sufficient undercarriage clearance.

An employer may not knowingly allow, require, permit, or authorize a driver to drive a commercial motor vehicle in the U.S. during any period in which the driver has lost the privilege to operate a commercial motor vehicle in a state or in violation of any federal, state, or local laws or regulations pertaining to railroad crossings. An employer who is convicted of this offense is subject to a maximum civil fine of \$10,000, as specified in federal regulation by the U.S. Secretary of Transportation.

A driver who is convicted of a violation of any federal, state, or local law or regulation pertaining to railroad crossings while operating a commercial vehicle is disqualified from driving for the time specified in federal regulation by the U.S. Secretary of Transportation. Currently, for a first violation, a commercial driver must be disqualified for not less than 60 days. For a second violation within three years of the first violation, a commercial driver must be disqualified for not less than 120 days. For a third or subsequent violation within three years, a commercial driver must be disqualified for not less than one year.

Current Law: If a driver approaches a railroad crossing and:

- a clearly visible electric or mechanical signal device warns of the immediate approach or passage of a train;
- a crossing gate is lowered;
- a flagman signals the approach or passage of a train;
- a train approaching within 1,500 feet of a crossing gives an audible signal to traffic approaching the crossing and the train, due to its speed or nearness to the crossing, is an immediate danger; or
- a train is plainly visible and is in or approaching dangerously near to a crossing,

then, the driver must stop within 50 feet, but not less than 15 feet, from the nearest rail in the crossing and may not proceed until the driver can do so safely.

A person may not drive any vehicle through, around, or under any crossing gate or barrier at a railroad grade crossing while the gate or barrier is closed, or is being opened and closed.

The State Highway Administration (SHA) and any approved local authority may place a stop sign at any railroad grade crossing of a highway that SHA or the local authority designate as particularly dangerous. If a driver approaches the stop sign, the driver must stop within 50 feet, but not less than 15 feet, from the nearest rail in the crossing and may proceed only upon exercising due care.

Except as otherwise provided, if a motor vehicle carries a passenger for hire, is a school vehicle with any passenger, is a bus owned or operated by a church and carrying any passenger, is a vehicle carrying flammable liquid or an explosive, or is a vehicle carrying hazardous materials that require placarding under federal regulations, then the following provisions apply:

- the driver must stop within 50 feet, but not less than 15 feet, from the nearest rail in the crossing;
- upon approaching a railroad grade crossing, the driver, while stopped, must listen and look in both directions along the track for any approaching or passing train and for any signals indicating the approach or passage of a train;
- upon approaching a railroad crossing, the driver may not proceed until he or she may do so safely;
- the driver may proceed across a railroad crossing only in the gear that makes it unnecessary to shift while passing through the crossing; and
- the driver may not manually shift gears while passing over any track of a railroad.

A driver may not drive, or move on or across a railroad crossing any power shovel, derrick, roller, crawler-type tractor, or other equipment or structure with a normal operating speed of ten miles per hour or less, or a vertical body or load clearance of one-half inch for each foot of distance between any two adjacent axles, or clearance of nine inches, unless the driver has complied with the following provisions:

- the driver must notify an agent of the railroad in order to move or drive across the equipment;
- the driver must afford reasonable time to the railroad to provide proper protection to the crossing;

- upon approaching the crossing, the driver must stop within 50 feet, but no less than 15 feet, from the nearest rail;
- while stopped, the driver must listen and look in both directions for any approaching or passing train and for any signals indicating the approach or passage of a train; and
- the driver may not proceed over the crossing until he or she can do so safely. Also, the driver may not proceed if a warning is given by an automatic signal, a crossing gate, flagman, or other indicator of the immediate approach or passage of a train. If the railroad provides a flagman, the driver may proceed over the crossing only at the direction of the flagman.

Background: In 1999, the federal government adopted regulations that required new penalties on commercial drivers and their employers regarding violations of railroad grade crossings. States were required to comply with the new regulations by October 4, 2002 or risk having federal highway funding withheld. The Maryland Department of Transportation (MDOT) advises that actions were taken to comply with the federal regulations; however, the need for legislative changes was overlooked. This bill is intended to comply with the federal regulations promulgated in 1999, by requiring the MVA to disqualify a commercial driver who has been convicted of violating a federal, state, or local law or regulation pertaining to specified offenses at a railroad grade crossing. The bill also requires the assessment of a maximum civil fine of \$10,000 against employers who knowingly require, allow, permit, or authorize commercial driver employees to violate laws or regulations pertaining to railroad grade crossings.

MDOT advises that the Federal Motor Carrier Administration has indicated that federal sanctions would not be applied until October 2003. However, if legislation and regulations are not effective at that time, Maryland could lose about \$15.4 million in federal funding. If no conforming legislation is passed by October 2004, then the federal sanctions could increase to \$28.4 million for fiscal 2005 and each fiscal year thereafter. An effective date of July 1, 2003 allows MDOT time to complete promulgation of regulations before the October 1, 2003 sanction deadline.

State Fiscal Effect: MDOT advises that if the provisions of this bill relating to commercial drivers, their employers, and actions at railroad crossings are not enacted, the federal government could rescind about \$15.4 million of apportioned federal aid highway funds that would otherwise come to Maryland in fiscal 2004. As noted above, the federal regulations requiring conforming State legislation set a deadline of October 4, 2002. The Federal Motor Carrier Administration agreed to delay the imposition of sanctions until October 2003, if Maryland could enact conforming legislation by that time. If conforming legislation is not enacted by October 2004, the federal government could

begin withholding \$28.4 million of apportioned federal aid highway funds that would otherwise come to Maryland.

The bill's provisions could be implemented with existing resources. The MVA advises that in fiscal 2001, 43 violations of railroad crossing provisions were recorded.

Local Fiscal Effect: To the extent apportioned federal aid highway funds are withheld from Maryland, some funding could, as a result, also be withheld from local jurisdictions.

Additional Information

Prior Introductions: None.

Cross File: HB 1050 (Chairman, Environmental Matters Committee) – Environmental Matters.

Information Source(s): Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - March 17, 2003
kdm/jr

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