

**Department of Legislative Services**

Maryland General Assembly

2004 Session

**FISCAL AND POLICY NOTE**

**Revised**

House Bill 92

(Chairman, Environmental Matters Committee)

(By Request – Departmental – Transportation)

Environmental Matters

Judicial Proceedings

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**Vehicle Laws - Clarification of Rights for Wheelchair Use**

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This departmental bill clarifies the rights of wheelchair users by stating that they have the same rights that are applicable to pedestrians and are subject to the same restrictions. A person using a wheelchair is subject to all traffic control signals. The bill also defines a wheelchair as a mobility aid belonging to any class of three- or four-wheeled devices that is: (1) usable indoors; (2) does not exceed 30 inches in width and 48 inches in length; (3) measures 2 inches above the ground; and (4) is designed for and used by a mobility impaired individual, whether operated manually or powered.

The bill further removes a restriction for individuals with disabilities operating a special vehicle on a sidewalk or sidewalk area during non-daytime hours and states that they may use a special vehicle (other than a wheelchair) unless prohibited by local ordinance. An individual may use a wheelchair on sidewalks or sidewalk areas in accordance with State law.

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**Fiscal Summary**

**State Effect:** None. The bill is administrative in nature and will not affect State finances.

**Local Effect:** The bill reduces local governments' statutory authority to regulate sidewalk use; however, it reflects current practice because no local governments currently impose such restrictions.

**Small Business Effect:** The Maryland Department of Transportation (MDOT) has determined that this bill has minimal or no impact on small business (attached).

Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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## **Analysis**

**Current Law:** State law defines a pedestrian as a “person afoot” and does not include wheelchair users. No definition of a wheelchair currently exists. Pedestrians are required to obey pedestrian signals (*e.g.*, “walk,” “don’t walk”), as well as traffic control signals. Drivers must yield right-of-way to pedestrians who are within an adjacent crosswalk under specified circumstances.

A person with a disability may only operate a special vehicle on sidewalks or sidewalk areas one-half hour after sunrise to one-half hour before sunset if permitted by local ordinance. Local approval is also required for a person to ride a bicycle, play vehicle, or unicycle on a sidewalk or sidewalk area. A person may not drive any vehicle on a sidewalk or sidewalk area unless it is a driveway. A vehicle does not include an electric personal assistive device, which has two nontandem wheels, is designed to carry one person, and has a maximum speed of 15 miles per hour.

**Background:** MDOT advises that the provisions of the bill are consistent with federal guidelines for accessibility for the disabled, and that time restrictions for sidewalk use are inconsistent with the federal Americans with Disabilities Act (ADA). While ADA does not specifically address sidewalk use or pedestrian rights for wheelchair users, any local or state law or regulation that discriminates against people with disabilities would violate the law. Title II of ADA states that “no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.” According to MDOT, no local ordinance restricts sidewalk accessibility for individuals with disabilities.

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of Transportation, U.S. Department of Justice, Department of Legislative Services

**Fiscal Note History:** First Reader - January 20, 2004  
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