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By: **Delegate Malone**

Rules suspended

Introduced and read first time: March 16, 2006

Assigned to: Rules and Executive Nominations

Re-referred to: Environmental Matters, March 20, 2006

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 2, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Highway Administration - Protection of Highway Construction and**  
 3 **Maintenance Workers**

4 FOR the purpose of requiring the State Highway Administration to develop certain  
 5 procedures to ensure the safety of highway construction and maintenance  
 6 workers during construction or maintenance work on certain expressways and  
 7 controlled access highways; requiring the Administration or the appropriate  
 8 local authority to incorporate the procedures into the project planning and  
 9 construction phases of certain proposed highway projects; requiring procedures  
 10 developed under this Act to include certain methods of protecting highway  
 11 construction and maintenance workers, including closure of certain highways in  
 12 a certain manner, the use of certain barriers, or maintenance of a law  
 13 enforcement presence at or near the site of certain highway construction or  
 14 maintenance projects; prohibiting the use of speed monitoring systems to  
 15 enforce speed limits at the site of certain highway construction or maintenance  
 16 projects under certain circumstances; and generally relating to the protection of  
 17 certain highway construction and maintenance workers.

18 BY repealing and reenacting, without amendments,  
 19 Article - Transportation  
 20 Section 8-610(a), (b), (g), (h), and (i), 11-151, and 21-101(a) and (m)  
 21 Annotated Code of Maryland  
 22 (2001 Replacement Volume and 2005 Supplement)

23 BY adding to

1 Article - Transportation  
2 Section 8-613.2  
3 Annotated Code of Maryland  
4 (2001 Replacement Volume and 2005 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Transportation**

8 8-610.

9 (a) In this part the following words have the meanings indicated.

10 (b) (1) "Construction phase" means the phase in which a highway project is  
11 advanced through detailed engineering, property acquisition, and construction to  
12 completion.

13 (2) This definition does not preclude the Administration from acquiring  
14 property during the project planning phase, and the completion of property  
15 acquisition does not constitute a commitment to the project's alignment or  
16 construction.

17 (g) "Project planning phase" means the phase in which engineering and  
18 environmental studies and analyses are conducted with full participation of the  
19 public, in addition to local, State, and federal agencies, to determine the scope and  
20 location of a proposed highway project.

21 (h) "Initial project planning phase" means that portion of the project planning  
22 phase which includes:

23 (1) Notification of local, State, and federal officials;

24 (2) Initial interagency review;

25 (3) Initial systems planning;

26 (4) Identification of alternatives, as set forth in § 8-102 of this title, for  
27 the scope and the location of the project;

28 (5) Estimates of right-of-way requirements, including available detail  
29 with respect to specific properties affected, and of cost;

30 (6) Public meetings for discussion of the foregoing; and

31 (7) Reports of consultants, if any have been retained for the analysis of  
32 preliminary alternatives.

1 (i) "Final project planning phase" means that portion of the project planning  
 2 phase which follows the initial project planning phase. The final project planning  
 3 phase includes:

- 4 (1) Detailed review of alternatives;
- 5 (2) Selection of final alignment and scope;
- 6 (3) Preparation of final environmental impact documents;
- 7 (4) Detailed design and engineering studies;
- 8 (5) Any formal federal approval of design and location;
- 9 (6) Full participation of the public; and
- 10 (7) Full participation of local, State, and federal agencies.

11 8-613.2.

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
 13 INDICATED.

14 (2) "ROADWAY" HAS THE MEANING STATED IN § 11-151 OF THIS ARTICLE.

15 (3) "SHOULDER" HAS THE MEANING STATED IN § 21-101 OF THIS  
 16 ARTICLE.

17 ~~(A)~~ (B) THE ADMINISTRATION SHALL DEVELOP PROCEDURES IN  
 18 ACCORDANCE WITH SUBSECTION ~~(C)~~ (D) OF THIS SECTION TO ENSURE THE SAFETY  
 19 OF HIGHWAY CONSTRUCTION AND MAINTENANCE WORKERS DURING  
 20 CONSTRUCTION OR MAINTENANCE WORK ON ~~A~~ AN EXPRESSWAY OR CONTROLLED  
 21 ACCESS HIGHWAY WITH A POSTED SPEED LIMIT OF 50 MILES PER HOUR OR MORE.

22 ~~(B)~~ (C) THE ADMINISTRATION OR THE APPROPRIATE LOCAL AUTHORITY  
 23 SHALL INCORPORATE THE PROCEDURES DEVELOPED UNDER SUBSECTION ~~(A)~~ (B) OF  
 24 THIS SECTION INTO THE PROJECT PLANNING PHASE AND CONSTRUCTION PHASE OF  
 25 A PROPOSED HIGHWAY PROJECT FOR ~~A~~ AN EXPRESSWAY OR CONTROLLED ACCESS  
 26 HIGHWAY WITH A POSTED SPEED LIMIT OF 50 MILES PER HOUR OR MORE.

27 ~~(C)~~ (D) (1) (I) THIS PARAGRAPH APPLIES TO WORK THAT IS:

28 1. PERFORMED IN A ROADWAY; AND

29 2. EXPECTED TO LAST AT LEAST 100 HOURS.

30 (II) THE PROCEDURES DEVELOPED UNDER SUBSECTION ~~(A)~~ (B) OF  
 31 THIS SECTION SHALL ENSURE THAT FOR EACH HIGHWAY CONSTRUCTION OR  
 32 MAINTENANCE PROJECT, PRIORITY IS GIVEN TO PERFORMING THE PROPOSED  
 33 HIGHWAY CONSTRUCTION OR MAINTENANCE WORK IN THE ABSENCE OF ADJACENT  
 34 TRAFFIC THROUGH FULL OR PARTIAL CLOSURE OF THE HIGHWAY AT THE LOCATION

1 OF THE CONSTRUCTION OR MAINTENANCE WORK, IF THE CLOSURE IS DETERMINED  
2 TO BE FEASIBLE AFTER CONSIDERATION OF THE FOLLOWING:

- 3                    ~~(H)~~    1.       SAFETY OF THE TRAVELING PUBLIC;
- 4                    ~~(H)~~    2.       AVAILABILITY AND FEASIBILITY OF DETOURS;
- 5                    ~~(H)~~    3.       ACCESS TO ABUTTING BUSINESSES, RESIDENCES, AND  
6 OTHER FACILITIES; AND
- 7                    ~~(V)~~    4.       DELAYS THAT MAY RESULT FROM FULL OR PARTIAL  
8 CLOSURE OF THE HIGHWAY.

9                    (2)    (I)    ~~IF THE ADMINISTRATION OR THE APPROPRIATE LOCAL~~  
10 ~~AUTHORITY DETERMINES THAT FULL OR PARTIAL HIGHWAY CLOSURE UNDER~~  
11 ~~PARAGRAPH (1) OF THIS SUBSECTION IS NOT FEASIBLE, THIS PARAGRAPH APPLIES~~  
12 ~~TO WORK THAT IS:~~

13                            1.       PERFORMED IN A ROADWAY, IF THE ADMINISTRATION OR  
14 THE APPROPRIATE LOCAL AUTHORITY DETERMINES THAT FULL OR PARTIAL  
15 HIGHWAY CLOSURE UNDER PARAGRAPH (1) OF THIS SUBSECTION IS NOT FEASIBLE;  
16 OR

17                            2.       PERFORMED ON THE SHOULDER AND EXPECTED TO LAST  
18 AT LEAST 100 HOURS.

19                    (II)    THE ADMINISTRATION OR THE APPROPRIATE LOCAL  
20 AUTHORITY SHALL CONSIDER PROTECTING HIGHWAY CONSTRUCTION AND  
21 MAINTENANCE WORKERS BY MEANS OF:

- 22                            1.       TEMPORARY TRAFFIC BARRIERS;
- 23                            2.       MOVABLE CONCRETE BARRIERS;
- 24                            3.       MOVABLE LINK-SYSTEM BARRIERS; OR
- 25                            4.       OTHER AVAILABLE BARRIER SYSTEMS.

26                    ~~(H)~~    (III)    CONSIDERATION OF THE USE OF BARRIERS UNDER THIS  
27 PARAGRAPH SHALL INCLUDE CONSIDERATION OF THE FEASIBILITY OF  
28 TEMPORARILY WIDENING A HIGHWAY TO ALLOW FOR THE INSTALLATION OF THE  
29 BARRIERS.

30                    ~~(H)~~    (IV)    FOR A HIGHWAY CONSTRUCTION OR MAINTENANCE  
31 PROJECT THAT UTILIZES BARRIERS UNDER THIS PARAGRAPH, THE ADMINISTRATION  
32 OR THE APPROPRIATE LOCAL AUTHORITY MAY PROVIDE FOR A LAW ENFORCEMENT  
33 PRESENCE AT OR NEAR THE SITE OF THE CONSTRUCTION OR MAINTENANCE WORK  
34 IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.

35                    (3)    (I)    THIS PARAGRAPH APPLIES TO WORK THAT IS:

- 1                           1.     A.     PERFORMED IN A ROADWAY; OR
- 2                                     B.     PERFORMED ON THE SHOULDER; AND
- 3                           2.     EXPECTED TO LAST AT LEAST 3 HOURS.

4                           (II)    IF THE ADMINISTRATION OR THE APPROPRIATE LOCAL  
5 AUTHORITY DETERMINES THAT HIGHWAY CLOSURE UNDER PARAGRAPH (1) OF THIS  
6 SUBSECTION AND INSTALLATION OF BARRIERS UNDER PARAGRAPH (2) OF THIS  
7 SUBSECTION ARE NOT FEASIBLE, THE ADMINISTRATION OR THE APPROPRIATE  
8 LOCAL AUTHORITY SHALL PROVIDE FOR AT LEAST ONE LAW ENFORCEMENT  
9 OFFICER TO BE PRESENT AT OR NEAR THE SITE OF THE CONSTRUCTION OR  
10 MAINTENANCE WORK WHEN WORKERS ARE PRESENT.

11                          (III)   A LAW ENFORCEMENT OFFICER PRESENT AT OR NEAR  
12 THE SITE OF A HIGHWAY CONSTRUCTION OR MAINTENANCE PROJECT UNDER  
13 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

- 14                           1.     BE IN UNIFORM;
- 15                                     2.     BE IN A MARKED LAW ENFORCEMENT VEHICLE;
- 16                                     3.     DISPLAY THE VISUAL LIGHTS OR SIGNAL DEVICES  
17 INSTALLED ON THE LAW ENFORCEMENT VEHICLE; AND
- 18                                     4.     BE LOCATED AT OR NEAR THE SITE OF THE HIGHWAY  
19 CONSTRUCTION OR MAINTENANCE PROJECT IN A MANNER TO:
- 20                                     A.     ENHANCE WORKER SAFETY; AND
- 21                                     B.     FACILITATE THE ENFORCEMENT OF TRAFFIC LAWS.

22                          (IV)   A LAW ENFORCEMENT OFFICER PRESENT AT OR NEAR  
23 THE SITE OF A HIGHWAY CONSTRUCTION OR MAINTENANCE PROJECT UNDER  
24 SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY TAKE ANY ~~APPROPRIATE~~  
25 AUTHORIZED ACTION TO ENFORCE TRAFFIC LAWS AT OR NEAR THE PROJECT.

26                          (V)    EXCEPT AS AUTHORIZED UNDER § 21-809 OF THIS ARTICLE, A  
27 SPEED LIMIT WITHIN A WORK ZONE MAY NOT BE ENFORCED THROUGH THE USE OF  
28 A SPEED MONITORING SYSTEM.

29 11-151.

30     (a)   "Roadway" means that part of a highway that is improved, designed, or  
31 ordinarily used for vehicular travel, other than the shoulder.

32     (b)   If a highway includes two or more separate roadways, the term "roadway"  
33 as used in the Maryland Vehicle Law refers to any one roadway separately, and not to  
34 all of the roadways collectively.

1 21-101.

2 (a) In this title and Title 25 of this article the following words have the  
3 meanings indicated.

4 (m) "Shoulder" means that portion of a highway contiguous with the roadway  
5 for the accommodation of stopped vehicles, for emergency use, and for the lateral  
6 support of the base and surface courses of the roadway.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2006.