

HOUSE BILL 1096

R5

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By: **Delegates Malone and Glassman**

Introduced and read first time: February 14, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Highway Work Zones – Signs, Offenses, and Penalties**

3 FOR the purpose of establishing an additional sentence of imprisonment for a certain
4 number of years for a person who is convicted of manslaughter by vehicle in an
5 active highway work zone under certain circumstances; requiring a county,
6 municipal corporation, or the State Highway Administration to dedicate certain
7 moneys to the management and oversight of highway work zone safety;
8 authorizing certain funds for use in providing a law enforcement presence at or
9 near the site of certain construction or maintenance; requiring the Motor
10 Vehicle Administration to suspend for a certain number of days the driver's
11 license of a person who is convicted of exceeding a certain speed limit by a
12 certain amount in an active highway work zone or failure to drive at a safe
13 speed resulting in an accident in an active highway work zone; establishing that
14 a police report indicating a certain offense occurred in an active highway work
15 zone creates a presumption that the offense occurred in an active highway work
16 zone; prohibiting the Motor Vehicle Administration from modifying a certain
17 driver's license suspension or issuing a restrictive license under certain
18 circumstances; providing for a hearing on certain driver's license suspensions;
19 prohibiting a person from driving in a properly signed highway work zone
20 without lighting the vehicle's headlamps; providing that a certain violation is
21 not a moving violation for certain purposes; authorizing a police officer to
22 enforce this Act only as a secondary action when detaining a driver for another
23 suspected violation of law; requiring the State Highway Administration, a
24 county, or a municipal corporation that is responsible for construction or
25 maintenance in a highway work zone to post certain signs, remove or cover
26 certain signs under certain circumstances, and minimize the length of highway

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 work zones and lane restrictions; requiring the State Highway Administration,
2 for certain construction or maintenance projects on certain highways that are
3 expected to last a certain amount of time, to post at a certain place a certain
4 speed display trailer; establishing a certain fine for contractors or
5 subcontractors who fail to comply with certain specifications; providing that
6 certain fines may be doubled for certain violations committed in a properly
7 signed active highway work zone; establishing a certain fine for a certain
8 violation relating to the failure to light a motor vehicle's headlamps under
9 certain circumstances; requiring the State Highway Administration to adopt
10 certain regulations; requiring the State Highway Administration to prepare a
11 certain report relating to highway work zone safety and to report on or before a
12 certain date; defining certain terms; and generally relating to highway work
13 zones and active highway work zones.

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Law
16 Section 2–209
17 Annotated Code of Maryland
18 (2002 Volume and 2006 Supplement)

19 BY adding to
20 Article – Transportation
21 Section 8–408(e) and 8–614(c)
22 Annotated Code of Maryland
23 (2001 Replacement Volume and 2006 Supplement)

24 BY adding to
25 Article – Transportation
26 Section 16–214 and 21–905
27 Annotated Code of Maryland
28 (2006 Replacement Volume and 2006 Supplement)

29 BY repealing and reenacting, without amendments,
30 Article – Transportation
31 Section 21–802.1
32 Annotated Code of Maryland
33 (2006 Replacement Volume and 2006 Supplement)

34 BY repealing and reenacting, with amendments,
35 Article – Transportation
36 Section 27–101(m)
37 Annotated Code of Maryland
38 (2006 Replacement Volume and 2006 Supplement)

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

3 **Article – Criminal Law**

4 2–209.

5 (a) In this section, “vehicle” includes a motor vehicle, streetcar, locomotive,
6 engine, and train.

7 (b) A person may not cause the death of another as a result of the person’s
8 driving, operating, or controlling a vehicle or vessel in a grossly negligent manner.

9 (c) A violation of this section is manslaughter by vehicle or vessel.

10 (d) **(1) [A] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A**
11 **person who violates this section is guilty of a felony and on conviction is subject to**
12 **imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.**

13 **(2) (I) A PERSON WHO VIOLATES THIS SECTION IN AN ACTIVE**
14 **HIGHWAY WORK ZONE AS DEFINED IN § 21–905 OF THE TRANSPORTATION**
15 **ARTICLE, IN ADDITION TO ANY OTHER PENALTY IMPOSED FOR THE VIOLATION,**
16 **MAY BE SENTENCED TO IMPRISONMENT NOT EXCEEDING 5 YEARS.**

17 **(II) THE STATE’S ATTORNEY SHALL FILE WITH THE COURT**
18 **NOTICE OF INTENT TO PROCEED UNDER THIS PARAGRAPH.**

19 (e) (1) An indictment or other charging document for manslaughter by
20 vehicle or vessel is sufficient if it substantially states:

21 “(name of defendant) on (date) in (county) killed (name of victim) in a grossly
22 negligent manner against the peace, government, and dignity of the State.”

23 (2) An indictment or other charging document for manslaughter by
24 vehicle or vessel need not set forth the manner or means of death.

25 **Article – Transportation**

26 8–408.

1 **(E) (1) A COUNTY OR MUNICIPAL CORPORATION, AS APPLICABLE,**
2 **SHALL DEDICATE AT LEAST ONE-HALF OF ONE PERCENT OF THE TOTAL DOLLAR**
3 **AMOUNT OF A HIGHWAY CONSTRUCTION OR MAINTENANCE PROJECT FOR THE**
4 **MANAGEMENT AND OVERSIGHT OF HIGHWAY WORK ZONE SAFETY WITH**
5 **RESPECT TO THE PROJECT.**

6 **(2) FUNDS DEDICATED UNDER PARAGRAPH (1) OF THIS**
7 **SUBSECTION MAY BE USED TO PROVIDE A LAW ENFORCEMENT PRESENCE AT OR**
8 **NEAR THE SITE OF THE CONSTRUCTION OR MAINTENANCE.**

9 8-614.

10 **(C) (1) THE ADMINISTRATION SHALL DEDICATE AT LEAST ONE-HALF**
11 **OF ONE PERCENT OF THE TOTAL DOLLAR AMOUNT OF A HIGHWAY**
12 **CONSTRUCTION OR MAINTENANCE PROJECT FOR THE MANAGEMENT AND**
13 **OVERSIGHT OF HIGHWAY WORK ZONE SAFETY WITH RESPECT TO THE PROJECT.**

14 **(2) FUNDS DEDICATED UNDER PARAGRAPH (1) OF THIS**
15 **SUBSECTION MAY BE USED TO PROVIDE A LAW ENFORCEMENT PRESENCE AT OR**
16 **NEAR THE SITE OF THE CONSTRUCTION OR MAINTENANCE.**

17 16-214.

18 **(A) THE ADMINISTRATION SHALL SUSPEND FOR 15 DAYS THE LICENSE**
19 **OF A PERSON WHO IS CONVICTED OF THE FOLLOWING IN AN ACTIVE HIGHWAY**
20 **WORK ZONE AS DEFINED IN § 21-905 OF THIS ARTICLE:**

21 **(1) EXCEEDING THE POSTED SPEED LIMIT BY 11 MILES PER**
22 **HOUR OR MORE; OR**

23 **(2) FAILURE TO DRIVE AT A SAFE SPEED RESULTING IN AN**
24 **ACCIDENT.**

25 **(B) A POLICE REPORT RECEIVED BY THE ADMINISTRATION THAT**
26 **INDICATES AN OFFENSE UNDER SUBSECTION (A) OF THIS SECTION OCCURRED**
27 **IN AN ACTIVE HIGHWAY WORK ZONE CREATES A PRESUMPTION THAT THE**
28 **OFFENSE OCCURRED IN THE ACTIVE HIGHWAY WORK ZONE.**

1 **(C) IF THE ADMINISTRATION SUSPENDS A LICENSE UNDER SUBSECTION**
2 **(A) OF THIS SECTION, THE ADMINISTRATION MAY NOT MODIFY THE LICENSE**
3 **SUSPENSION OR ISSUE A RESTRICTIVE LICENSE.**

4 **(D) SUBJECT TO TITLE 12, SUBTITLE 2 OF THIS ARTICLE, A LICENSEE**
5 **MAY REQUEST A HEARING ON A SUSPENSION IMPOSED UNDER THIS SECTION.**

6 21-802.1.

7 (a) In this section, “highway work zone” means a construction or
8 maintenance area on or alongside a highway that is marked by appropriate warning
9 signs or other traffic control devices designating that work is in progress.

10 (b) (1) The State Highway Administration may reduce established speed
11 limits in a highway work zone upon a determination that the change is necessary to
12 ensure the public safety.

13 (2) A county may:

14 (i) Designate an area on a county highway or a highway on
15 which the county is authorized to do work pursuant to a maintenance agreement as a
16 highway work zone; and

17 (ii) Reduce established speed limits in the highway work zone
18 after a determination that the change is necessary to ensure the public safety.

19 (3) A municipal corporation may:

20 (i) Designate an area on a municipal highway or a highway on
21 which the municipal corporation is authorized to do work pursuant to a maintenance
22 agreement as a highway work zone; and

23 (ii) Reduce established speed limits in the highway work zone
24 after a determination that the change is necessary to ensure the public safety.

25 (c) A speed limit established under this section shall become effective when
26 posted.

27 **21-905.**

28 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
29 **MEANINGS INDICATED.**

1 (2) **“ACTIVE HIGHWAY WORK ZONE” MEANS A PORTION OF A**
2 **HIGHWAY WORK ZONE WHERE CONSTRUCTION, MAINTENANCE, OR UTILITY**
3 **WORKERS ARE PRESENT ON THE ROADWAY, BERM, OR SHOULDER.**

4 (3) **“HIGHWAY WORK ZONE” HAS THE MEANING STATED IN §**
5 **21-802.1 OF THIS TITLE.**

6 (B) (1) **A PERSON MAY NOT DRIVE A MOTOR VEHICLE IN A HIGHWAY**
7 **WORK ZONE THAT IS SIGNED IN ACCORDANCE WITH SUBSECTION (C) OF THIS**
8 **SECTION WITHOUT LIGHTING THE VEHICLE’S HEADLAMPS.**

9 (2) **A VIOLATION OF THIS SUBSECTION IS NOT A MOVING**
10 **VIOLATION FOR THE PURPOSES OF § 16-402 OF THIS ARTICLE.**

11 (3) **A POLICE OFFICER MAY ENFORCE THIS SUBSECTION ONLY AS**
12 **A SECONDARY ACTION WHEN THE POLICE OFFICER DETAINS A DRIVER FOR A**
13 **SUSPECTED VIOLATION OF ANOTHER PROVISION OF LAW.**

14 (C) **THE STATE HIGHWAY ADMINISTRATION, A COUNTY, OR A**
15 **MUNICIPAL CORPORATION THAT IS RESPONSIBLE FOR CONSTRUCTION OR**
16 **MAINTENANCE IN A HIGHWAY WORK ZONE SHALL ENSURE THAT:**

17 (1) **THE FOLLOWING SIGNS ARE POSTED AT LEAST 500 FEET**
18 **BEFORE THE ENTRANCE TO A HIGHWAY WORK ZONE:**

19 (I) **A SIGN WARNING DRIVERS TO LIGHT THE VEHICLES’**
20 **HEADLAMPS;**

21 (II) **A SIGN NOTIFYING DRIVERS OF INCREASED PENALTIES**
22 **FOR A VIOLATION IN AN ACTIVE HIGHWAY WORK ZONE; AND**

23 (III) **A SIGN INDICATING THE BEGINNING OF THE HIGHWAY**
24 **WORK ZONE THAT HAS A FLASHING LIGHT THAT, WHEN ACTIVATED, INDICATES**
25 **THE PRESENCE OF CONSTRUCTION OR MAINTENANCE WORKERS;**

26 (2) **A SIGN INDICATING THE END OF AN ACTIVE HIGHWAY WORK**
27 **ZONE IS POSTED AT THE END OF THE ACTIVE HIGHWAY WORK ZONE;**

1 **(3) A SIGN POSTED UNDER THIS SECTION IS REMOVED AS**
2 **QUICKLY AS POSSIBLE WHEN THE SIGN IS NO LONGER NEEDED;**

3 **(4) A SIGN POSTED UNDER THIS SECTION IS REMOVED OR**
4 **COVERED IF IT IS NOT NEEDED WHILE WORK IS SUSPENDED FOR A SHORT**
5 **PERIOD OF TIME;**

6 **(5) THE LENGTH OF A HIGHWAY WORK ZONE IS MINIMIZED; AND**

7 **(6) A LANE RESTRICTION FOR A HIGHWAY WORK ZONE IS**
8 **MINIMIZED.**

9 **(D) FOR A HIGHWAY CONSTRUCTION OR MAINTENANCE PROJECT ON AN**
10 **INTERSTATE HIGHWAY THAT IS EXPECTED TO LAST AT LEAST 100 HOURS, THE**
11 **STATE HIGHWAY ADMINISTRATION SHALL POST, AT LEAST 500 FEET BEFORE**
12 **THE ENTRANCE TO THE HIGHWAY WORK ZONE, A SPEED DISPLAY TRAILER THAT:**

13 **(1) INDICATES THE SPEED LIMIT IN THE HIGHWAY WORK ZONE;**
14 **AND**

15 **(2) CONTAINS A SPEED MONITORING DEVICE THAT DISPLAYS A**
16 **DRIVER'S SPEED ON APPROACH TO THE HIGHWAY WORK ZONE.**

17 **(E) IF A CONTRACTOR OR SUBCONTRACTOR FAILS TO COMPLY WITH**
18 **STATE HIGHWAY ADMINISTRATION SPECIFICATIONS RELATING TO THE**
19 **CONTROL OF TRAFFIC IN A HIGHWAY WORK ZONE, THE ADMINISTRATION MAY**
20 **ASSESS A FINE NOT EXCEEDING \$1,000 FOR EACH DAY A VIOLATION OCCURS.**

21 27-101.

22 (m) **(1) [Any] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ANY**
23 **person who is convicted of a violation of any of the provisions of § 21-802.1 of this**
24 **article (Exceeding speed limit within highway work zone) is subject to a fine of not**
25 **more than \$1,000.**

26 **(2) A PERSON CONVICTED OF A VIOLATION OF ANY OF THE**
27 **FOLLOWING SECTIONS OF THIS ARTICLE IN AN ACTIVE HIGHWAY WORK ZONE AS**
28 **DEFINED IN § 21-905 OF THIS ARTICLE, THAT IS SIGNED IN ACCORDANCE WITH**
29 **§ 21-905 OF THIS ARTICLE, IS SUBJECT TO A FINE THAT IS DOUBLE THE**
30 **AMOUNT THAT WOULD OTHERWISE APPLY:**

- 1 (I) § 21-103(A) (“OBEDIENCE TO POLICE OFFICERS”)
- 2 (II) § 21-201 (“OBEDIENCE TO AND REQUIRED TRAFFIC
3 CONTROL DEVICES”);
- 4 (III) § 21-202 (“TRAFFIC LIGHTS WITH STEADY
5 INDICATION”)
- 6 (IV) § 21-204 (“FLASHING SIGNALS”);
- 7 (V) § 21-302 (“PASSING VEHICLES GOING IN OPPOSITE
8 DIRECTIONS”);
- 9 (VI) § 21-303 (“GENERAL RULES GOVERNING OVERTAKING
10 AND PASSING VEHICLES”);
- 11 (VII) § 21-304 (“WHEN PASSING ON RIGHT IS PERMITTED”);
- 12 (VIII) § 21-305 (“LIMITATIONS ON OVERTAKING OR DRIVING
13 TO LEFT”);
- 14 (IX) § 21-307 (“NO-PASSING ZONES”);
- 15 (X) § 21-309 (“DRIVING ON LANED ROADWAYS”);
- 16 (XI) § 21-310 (“FOLLOWING TOO CLOSELY”);
- 17 (XII) § 21-403 (“VEHICLE ENTERING STOP OR YIELD
18 INTERSECTION OR THROUGH HIGHWAY”);
- 19 (XIII) § 21-901.1 (“RECKLESS AND NEGLIGENT DRIVING”);
- 20 (XIV) § 21-901.2 (“AGGRESSIVE DRIVING”);
- 21 (XV) § 21-902 (“DRIVING WHILE UNDER THE INFLUENCE OF
22 ALCOHOL, WHILE UNDER THE INFLUENCE OF ALCOHOL PER SE, WHILE
23 IMPAIRED BY ALCOHOL, OR WHILE IMPAIRED BY A DRUG, A COMBINATION OF

1 **DRUGS, A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, OR WHILE**
2 **IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE”);**

3 **(XVI) § 21-903 (“CONSUMPTION OF ALCOHOLIC BEVERAGES**
4 **WHILE DRIVING ON HIGHWAY”); OR**

5 **(XVII) § 21-1102 (“LIMITATIONS ON BACKING”).**

6 **(3) A PERSON WHO IS CONVICTED OF A VIOLATION OF §**
7 **21-905(B)(2) OF THIS ARTICLE (DRIVING IN A HIGHWAY WORK ZONE WITHOUT**
8 **LIGHTED HEADLAMPS) IS SUBJECT TO A FINE NOT EXCEEDING \$25, INCLUDING**
9 **COURT COSTS.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That, as soon as practicable,
11 the State Highway Administration shall adopt regulations to implement the provisions
12 of Section 1 of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That:

14 (a) The State Highway Administration, for the period from October 1, 2007,
15 through September 30, 2008, shall prepare a report that:

16 (1) details the amount and percentage of construction and
17 maintenance contract funds spent on safety in highway work zones;

18 (2) describes the specific uses of these funds; and

19 (3) analyzes the effectiveness of the signage requirements, enhanced
20 penalties, prohibited activities, and targeted funding enacted by this Act as a means of
21 promoting safety in highway work zones.

22 (b) The State Highway Administration shall submit the report to the
23 Governor and, in accordance with § 2-1246 of the State Government Article, the
24 House Environmental Matters Committee and the Senate Judicial Proceedings
25 Committee on or before December 31, 2008.

26 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2007.