

## CHAPTER 571

(Senate Bill 699)

AN ACT concerning

### State Highway Administration – Protection of Highway Construction and Maintenance Workers

FOR the purpose of requiring the State Highway Administration to develop certain procedures to ~~ensure~~ enhance the safety of highway construction and maintenance workers during construction or maintenance work on certain expressways and controlled access highways; requiring ~~the Administration or the appropriate local authority~~ a county, municipal corporation, the Administration, or the Maryland Transportation Authority to incorporate the procedures into the project planning and construction phases of certain proposed highway projects; requiring procedures developed under this Act to include certain methods of protecting highway construction and maintenance workers, including closure of certain highways in a certain manner; ~~requiring a county, municipal corporation, the Administration, or the Maryland Transportation Authority to consider the use of certain barriers, or;~~ requiring a county, municipal corporation, the Administration, or the Maryland Transportation Authority to provide maintenance of a law enforcement presence at or near the site of certain highway construction or maintenance projects; ~~prohibiting the use of speed monitoring systems to enforce speed limits at the site of certain highway construction or maintenance projects under certain circumstances;~~ and generally relating to the protection of certain highway construction and maintenance workers.

BY repealing and reenacting, without amendments,  
 Article – Transportation  
 Section 8–610(a), (b), (g), (h), and (i)  
 Annotated Code of Maryland  
 (2001 Replacement Volume and 2006 Supplement)

BY adding to  
 Article – Transportation  
 Section 8–613.2  
 Annotated Code of Maryland  
 (2001 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,  
Article – Transportation  
Section 11–151 and 21–101(a) and (v)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2006 Supplement)

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

**Article – Transportation**

8–610.

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

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

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

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

(h) “Initial project planning phase” means that portion of the project planning phase which includes:

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

(2) Initial interagency review;

(3) Initial systems planning;

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

- (5) Estimates of right-of-way requirements, including available detail with respect to specific properties affected, and of cost;
  - (6) Public meetings for discussion of the foregoing; and
  - (7) Reports of consultants, if any have been retained for the analysis of preliminary alternatives.
- (i) "Final project planning phase" means that portion of the project planning phase which follows the initial project planning phase. The final project planning phase includes:
- (1) Detailed review of alternatives;
  - (2) Selection of final alignment and scope;
  - (3) Preparation of final environmental impact documents;
  - (4) Detailed design and engineering studies;
  - (5) Any formal federal approval of design and location;
  - (6) Full participation of the public; and
  - (7) Full participation of local, State, and federal agencies.

### **8-613.2.**

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

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

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

**(B) THE ADMINISTRATION SHALL DEVELOP PROCEDURES IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION TO ~~ENSURE~~ ENHANCE THE SAFETY OF HIGHWAY ~~CONSTRUCTION AND MAINTENANCE~~ CONSTRUCTION, MAINTENANCE, UTILITY, AND OTHER HIGHWAY WORKERS DURING CONSTRUCTION OR MAINTENANCE WORK ON AN EXPRESSWAY OR CONTROLLED**

ACCESS HIGHWAY WITH A POSTED SPEED LIMIT OF ~~50~~ 45 MILES PER HOUR OR MORE.

(C) ~~THE ADMINISTRATION OR THE APPROPRIATE LOCAL AUTHORITY A COUNTY, MUNICIPAL CORPORATION, THE ADMINISTRATION, OR THE MARYLAND TRANSPORTATION AUTHORITY, WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION,~~ SHALL INCORPORATE THE PROCEDURES DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION INTO THE PROJECT PLANNING PHASE AND CONSTRUCTION PHASE OF A PROPOSED HIGHWAY PROJECT FOR AN EXPRESSWAY OR CONTROLLED ACCESS HIGHWAY WITH A POSTED SPEED LIMIT OF ~~50~~ 45 MILES PER HOUR OR MORE.

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

1. PERFORMED IN A ROADWAY; AND
2. EXPECTED TO LAST AT LEAST ~~100 HOURS~~ TWO

WEEKS.

(II) THE PROCEDURES DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION SHALL ENSURE THAT FOR EACH HIGHWAY CONSTRUCTION OR MAINTENANCE PROJECT, PRIORITY IS GIVEN TO PERFORMING THE PROPOSED HIGHWAY CONSTRUCTION OR MAINTENANCE WORK IN THE ABSENCE OF ADJACENT TRAFFIC THROUGH FULL OR ~~PARTIAL~~ TEMPORARY CLOSURE OF THE HIGHWAY AT THE LOCATION OF THE CONSTRUCTION OR MAINTENANCE WORK, IF THE CLOSURE IS DETERMINED TO BE FEASIBLE AFTER CONSIDERATION OF THE FOLLOWING:

1. SAFETY OF THE TRAVELING PUBLIC;
2. AVAILABILITY AND FEASIBILITY OF DETOURS;
3. ACCESS TO ABUTTING BUSINESSES, RESIDENCES, AND OTHER FACILITIES; AND
4. DELAYS THAT MAY RESULT FROM FULL OR ~~PARTIAL~~ TEMPORARY CLOSURE OF THE HIGHWAY.

(2) (I) THIS PARAGRAPH APPLIES TO WORK THAT IS:

1. PERFORMED IN A ROADWAY, IF ~~THE ADMINISTRATION OR THE APPROPRIATE LOCAL AUTHORITY~~ A COUNTY, MUNICIPAL CORPORATION, THE ADMINISTRATION, OR THE MARYLAND TRANSPORTATION AUTHORITY, WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION, DETERMINES THAT FULL OR ~~PARTIAL~~ TEMPORARY HIGHWAY CLOSURE UNDER PARAGRAPH (1) OF THIS SUBSECTION IS NOT FEASIBLE; OR

2. PERFORMED ON THE SHOULDER AND EXPECTED TO LAST AT LEAST ~~100 HOURS~~ TWO WEEKS.

(II) ~~THE ADMINISTRATION OR THE APPROPRIATE LOCAL AUTHORITY~~ A COUNTY, MUNICIPAL CORPORATION, THE ADMINISTRATION, OR THE MARYLAND TRANSPORTATION AUTHORITY, WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION, SHALL CONSIDER PROTECTING HIGHWAY CONSTRUCTION AND MAINTENANCE WORKERS BY MEANS OF:

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

(III) CONSIDERATION OF THE USE OF BARRIERS UNDER THIS PARAGRAPH SHALL INCLUDE CONSIDERATION OF THE FEASIBILITY OF TEMPORARILY WIDENING A HIGHWAY TO ALLOW FOR THE INSTALLATION OF THE BARRIERS.

(IV) FOR A HIGHWAY CONSTRUCTION OR MAINTENANCE PROJECT THAT UTILIZES BARRIERS UNDER THIS PARAGRAPH, ~~THE ADMINISTRATION OR THE APPROPRIATE LOCAL AUTHORITY~~ A COUNTY, MUNICIPAL CORPORATION, THE ADMINISTRATION, OR THE MARYLAND TRANSPORTATION AUTHORITY, WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION, MAY PROVIDE FOR A LAW ENFORCEMENT PRESENCE AT OR NEAR THE SITE OF THE CONSTRUCTION OR MAINTENANCE WORK IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.

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

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

(II) ~~IF THE ADMINISTRATION OR THE APPROPRIATE LOCAL AUTHORITY~~ A COUNTY, MUNICIPAL CORPORATION, THE ADMINISTRATION, OR THE MARYLAND TRANSPORTATION AUTHORITY, WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION, DETERMINES THAT HIGHWAY CLOSURE UNDER PARAGRAPH (1) OF THIS SUBSECTION AND INSTALLATION OF BARRIERS UNDER PARAGRAPH (2) OF THIS SUBSECTION ARE NOT FEASIBLE, ~~THE ADMINISTRATION OR THE APPROPRIATE LOCAL AUTHORITY~~ A COUNTY, MUNICIPAL CORPORATION, THE ADMINISTRATION, OR THE MARYLAND TRANSPORTATION AUTHORITY, WITH RESPECT TO HIGHWAYS UNDER ITS JURISDICTION, MAY PROVIDE FOR AT LEAST ONE LAW ENFORCEMENT OFFICER TO BE PRESENT AT OR NEAR THE SITE OF THE CONSTRUCTION OR MAINTENANCE WORK WHEN WORKERS ARE PRESENT.

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

1. BE IN UNIFORM;
2. BE IN A MARKED LAW ENFORCEMENT VEHICLE;
3. DISPLAY THE VISUAL LIGHTS OR SIGNAL DEVICES INSTALLED ON THE LAW ENFORCEMENT VEHICLE; AND
4. BE LOCATED AT OR NEAR THE SITE OF THE HIGHWAY CONSTRUCTION OR MAINTENANCE PROJECT IN A MANNER TO:
  - A. ENHANCE WORKER SAFETY; AND

**B. FACILITATE THE ENFORCEMENT OF TRAFFIC LAWS.**

**(IV) A LAW ENFORCEMENT OFFICER PRESENT AT OR NEAR THE SITE OF A HIGHWAY CONSTRUCTION OR MAINTENANCE PROJECT UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH MAY TAKE ANY AUTHORIZED ACTION TO ENFORCE TRAFFIC LAWS AT OR NEAR THE PROJECT.**

~~**(V) EXCEPT AS AUTHORIZED UNDER § 21-809 OF THIS ARTICLE, A SPEED LIMIT ESTABLISHED UNDER THIS SECTION MAY NOT BE ENFORCED THROUGH THE USE OF SPEED MONITORING SYSTEMS.**~~

11-151.

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

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

21-101.

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

**Approved by the Governor, May 17, 2007.**