

**Department of Legislative Services**  
 Maryland General Assembly  
 2007 Session

**FISCAL AND POLICY NOTE**

House Bill 1096 (Delegates Malone and Glassman)  
 Environmental Matters

**Vehicle Laws - Highway Work Zones - Signs, Offenses, and Penalties**

This bill defines an “active highway work zone” and requires that State and local governments allocate a minimum amount for the oversight and management of highway work zone safety and establishes signage requirements. The bill establishes an enhanced criminal penalty for manslaughter by vehicle within an active highway work zone. It also mandates the suspension of driver’s licenses for excessive speed or failure to drive safely in an active highway work zone and doubles the fines for specified moving violations within an active highway work zone.

**Fiscal Summary**

**State Effect:** General fund revenues increase minimally in FY 2008 due to traffic fines and administrative filing fees for administrative hearings. Transportation Trust Fund (TTF) revenues increase by \$133,598 in FY 2008 from license suspensions. TTF revenues increase minimally from fines on contractors and subcontractors. TTF expenditures increase by \$8.6 million in FY 2008 for additional personnel, signage and equipment. Potential minimal increase in general fund expenditures due to the bill’s penalty provision. Out-years include annualization and inflation.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	-	-	-	-	-
SF Revenue	133,600	178,100	178,100	178,100	178,100
GF Expenditure	-	-	-	-	-
SF Expenditure	8,643,800	11,558,800	11,679,600	11,801,800	11,925,700
Net Effect	(\$8,510,200)	(\$11,380,700)	(\$11,501,500)	(\$11,623,700)	(\$11,747,600)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Potential minimal increase in expenditures to the extent that construction and maintenance work zones are established by local governments and due to the bill's penalty provision.

**Small Business Effect:** Minimal.

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## Analysis

**Bill Summary:** This bill defines an “active highway work zone” as a portion of a highway work zone where construction, maintenance or utility workers are present on the roadway, berm, or shoulder. The bill enhances the criminal penalty for manslaughter by vehicle if that offense occurs in an active highway work zone by subjecting an offender to a maximum imprisonment term of five years, in addition to the maximum penalty of 10 years imprisonment and/or a fine of \$5,000 that may be imposed. The State's Attorney must provide notice to the defendant of intent to seek the enhanced penalty.

For the management and oversight of highway work zone safety, the bill requires the State Highway Administration (SHA), a county, or municipal corporation to dedicate at least one-half of 1% of the total dollar amount of a highway construction or maintenance project to that purpose. Dedicated funds may be used to provide a law enforcement presence at or near the site of construction or maintenance.

The Motor Vehicle Administration (MVA) is required to suspend the driver's license for 15 days if a person is convicted of exceeding the posted speed limit by 11 miles per hour or of failure to drive at a safe speed resulting in an accident in an active highway work zone. The MVA is prohibited from modifying a license suspension or issuing a restrictive license. A driver whose license is suspended under these provisions may request an administrative hearing to appeal the suspension.

A person is prohibited from driving a motor vehicle in a highway work zone without turning on the vehicle headlights. However, this violation is not a moving violation and may only be enforced as a secondary action when a police officer detains the driver for another suspected violation. An offender is subject to a maximum \$25 fine, including court costs.

SHA, a county, or municipal corporation that is responsible for construction or maintenance in a highway work zone must ensure adequate signage and complete other duties for these zones. Signs must be posted at least 500 feet before the entrance to a highway work zone that warns drivers to turn on headlights, notifies drivers of increased penalties for violations in an active highway work zone, and warns drivers of the

beginning of the highway work zone with a flashing light that indicates when construction or maintenance workers are present. A sign indicating the end of an active highway work zone must be posted at the end of the zone. In addition, posted signs must be removed as quickly as possible when no longer needed and must be removed or covered if work is suspended for a short time. The SHA, counties, and municipal corporations must ensure that the length of a highway work zone and lane restrictions are minimized. For a construction or maintenance project expected to last at least 100 hours, the SHA must post a speed display trailer at least 500 feet before the highway work zone entrance that indicates the speed limit and displays the driver's speed on approach to the highway work zone. SHA is authorized to fine a contractor or subcontractor a maximum fine of \$1,000 for each daily occurrence of failure to comply with SHA specifications relating to traffic control in a highway work zone.

A person is subject to double the fine that would otherwise apply if convicted of the following offenses in an active highway work zone:

- obedience to police officers;
- obedience to required traffic control devices;
- traffic lights with steady indication;
- flashing signals;
- passing vehicles going in the opposite direction;
- general rules relating to overtaking and passing of vehicles;
- when passing on the right permitted;
- limitations on overtaking or driving to the left;
- no passing zones;
- driving on laned highways;
- following too closely;
- vehicle entering stop or yield intersection or through highway;
- reckless and negligent driving;
- aggressive driving;
- driving or attempting to drive while under the influence, under the influence of alcohol per se, impaired by alcohol, impaired by drugs or drugs and alcohol, or impaired by a controlled dangerous substance;
- consumption of alcohol while driving on the highway; or
- limitations on backing.

SHA must adopt regulations to implement the bill as soon as practicable. By December 31, 2008, SHA must submit a report to the Governor and the House Environmental Matters and Senate Judicial Proceedings Committees that details the funding spent on highway work zone safety; the specific uses for those funds; and analyzes the effectiveness of signage, enhanced penalties, prohibited activities and targeted funding in promoting highway work zone safety.

**Current Law:** Under criminal law provisions, a “vehicle” includes a motor vehicle, streetcar, locomotive, engine and train. A person may not cause the death of another as a result of driving, operating or controlling a vehicle in a grossly negligent manner. A person convicted of this offense is guilty of a felony and subject to a maximum penalty of 10 years imprisonment and/or a \$5,000 fine.

A “highway work zone” is a construction or maintenance area on or alongside a highway that is marked by appropriate warning signs or other traffic control devices designating that work is in progress. SHA may reduce the established speed limit in a highway work zone after deciding that the change is necessary for public safety. A county or municipal corporation may designate an area on a county or municipal highway or on a highway where the county or municipality is authorized to work pursuant to a maintenance agreement as a highway work zone. Established speed limits may be reduced in such a highway work zone after deciding that the change is necessary for public safety. Speed limits established under these circumstances become effective when posted. Any person who is convicted of exceeding the speed limit within a highway work zone is subject to a maximum fine of \$1,000.

Unless otherwise indicated, a violation of the Maryland Vehicle Law is a misdemeanor and a conviction subjects the offender to a maximum fine of \$500. The maximum fine of \$500 applies to all of the offenses listed in the bill summary except for reckless driving, which has a maximum fine of \$1,000, and specified drunk and/or drugged driving offenses. The maximum fines for driving or attempting to drive while impaired by alcohol, drugs, or drugs and alcohol while transporting a minor range from \$1,000 to \$2,000. The maximum fines for driving or attempting to drive while under the influence or under the influence of alcohol per se, or impaired by a controlled dangerous substance range from \$1,000 to \$3,000. If these offenses are committed while transporting a minor, the maximum fines range from \$2,000 to \$4,000.

**Background:** According to the Federal Highway Administration (FHWA), fatalities in highway work zones increased nearly 50% between 1997 and 2004. Nationally, 1,068 fatalities in highway work zones occurred in calendar 2004 and over four of every five work zone fatalities were motorists. In calendar 2004, 115,000 work zone crashes occurred, injuring 49,620 people. According to SHA, in calendar 2006, 15 fatalities

occurred in Maryland and two of the fatalities were highway workers. In calendar 2005 (the latest year for which complete data are available) 16 fatalities, including four highway workers, occurred in highway work zones in Maryland. In that same period, 2,783 highway work zone accidents occurred and there were 1,474 injuries. Excepting fatalities, more accidents and injuries occurred in calendar 2004, when there were 3,142 highway work zone accidents and 1,742 injuries. Sixteen fatalities occurred due to highway work zone accidents in calendar 2004, including one highway worker.

To help increase highway work zone safety, FHWA is funding research for a Variable Speed Limits pilot project in Maryland. This technology is designed to determine the appropriate speeds for work zones and to change the speed limits as conditions change. The project will analyze variations in speed and accompanying driver behavior. FHWA is funding similar pilot projects in Michigan and Virginia.

According to the Governors Highway Safety Association, all 50 states have laws relating to highway work zone traffic enforcement. No data were available for the District of Columbia. In 34 states, including Maryland, fines may be enhanced or doubled or additional surcharges may be assessed for exceeding the posted speed limit in a highway work zone. In four states, (Georgia, Nevada, South Carolina, and West Virginia) incarceration may also be imposed in addition to enhanced fines for speeding in a highway work zone. Sixteen states enhance or double fines for multiple types or all types of moving violations that occur in a highway work zone. In New Mexico, incarceration may be imposed, in addition to an enhanced fine, for committing any type of moving violation in a highway work zone.

### **State Revenues:**

*District Court:* General fund revenues could increase minimally from the assessment of a \$25 fine for those drivers who are detained due to other offenses and are also cited for not turning on headlights in a highway work zone. Any such increase in revenues is expected to be minimal. Enforcement could be accomplished with existing resources.

*Office of Administrative Hearings (OAH):* General funds could increase minimally from the filing fees for additional administrative hearings that could occur under the bill. Each person who requests an administrative hearing on a motor vehicle case must pay the office \$125. The historical experience of the MVA indicates that about 46% of drivers whose licenses are suspended request an administrative hearing to contest the suspension. Because the required suspension period is only 15 days, the number of drivers who would be likely to contest a suspension could be reduced. However, there are no available data to reliably estimate the number of drivers who would request a hearing on a suspension issued under the provisions of this bill.

OAH advises that, while this bill would increase administrative hearings, it is expected that the increase could be absorbed within the existing resources of the office.

*Motor Vehicle Administration:* TTF revenues could increase by \$133,598 from revenues due to the issuance of new licenses after the mandatory license suspensions under the bill, accounting for the bill's October 1, 2007 effective date. Out-years include annualization, and assume a stable caseload and no changes in fees. Annualized revenue would be \$178,130.

In calendar 2003 (the latest data available) about 3,361 accidents occurred in highway work zones out of a total of 109,000 accidents statewide. Data from the District Court indicate that for every accident, about 3.3 speeding tickets are processed, leading to an estimate of 11,091 speeding tickets from highway work zone accidents. Historical data from the MVA indicate that about half of all speeding tickets are issued for exceeding the speed limit by less than 10 miles per hour. Therefore about half, or 5,545 of the tickets issued would be for exceeding the speed limit by 10 miles or more per hour. While this bill would not increase the overall number of speeding tickets that could be issued, it would increase the number of mandatory suspensions. Therefore, about 5,545 mandatory suspensions would have to be processed under this bill for speeding. Assuming each driver would want a new license after the suspension period, TTF revenues from speeding citations could increase by \$110,910 annually.

Since 3,361 accidents occurred in highway work zones statewide in calendar 2003, this fiscal estimate assumes that one citation for failure to drive safely would be issued for every accident, leading to an additional 3,361 mandatory suspensions that could occur under this bill. Assuming each driver would want a new license at a cost of \$20 after the suspension period, TTF revenues could increase by an additional \$67,220. Accordingly, TTF revenues from suspensions could increase by a total of \$178,130 annually.

*State Highway Administration:* TTF revenues could increase minimally from the fines that SHA could impose on contractors and subcontractors for failure to comply with SHA specifications relating to traffic control in a highway work zone. The maximum fine is \$1,000 for each day a violation occurs. There are no data available to reliably estimate the revenue that could be generated from this provision. However, any such revenue increase is expected to be minimal.

## **State Expenditures:**

*Transportation Trust Fund Total:* TTF expenditures could increase by \$8,643,835 in fiscal 2008, accounting for the bill's October 1, 2007 effective date. Out-year expenditures include annualization and inflation. This estimate accounts for additional personnel, equipment, new signage, and signage replacement as discussed below.

*Motor Vehicle Administration:* TTF expenditures increase by \$144,835 in fiscal 2008 for 2.5 customer service agents to process mandatory suspensions, accounting for the bill's October 1, 2007 effective date. This includes staff for sending notices, preparing hearing requests, additional administrative hearings, imposing and removing suspensions, and issuing new licenses. To process an additional estimated caseload of about 9,000 mandatory suspensions annually, about 2.5 customer service agents would be needed. This assumes that each customer service agent could process about 3,500 suspensions annually.

The Department of Legislative Services (DLS) advises that TTF expenditures could minimally increase from the fee of \$100 that the MVA must pay to OAH for each hearing on a suspension or other administrative sanction imposed by MVA. Because the mandatory suspension period in this bill is substantially shorter than a traditional driver's license suspension, there are no data available to reliably estimate the number of additional hearings that could result from the provisions of this bill. Any such increase in expenditures is assumed to be minimal.

The MVA advises that computer programming modifications could be required by the bill resulting in a one-time expenditure of \$146,250 in fiscal 2008 only. However, DLS advises that, if other legislation is passed requiring computer programming changes, economies of scale could be realized. This would reduce computer programming costs associated with this bill and other legislation affecting the MVA system. Further, DLS advises that, the increased computer expenditure is an estimate, and that the MVA may be able to handle the changes within existing resources. It is also assumed that mailing and printing costs for suspension notices would be absorbed within existing resources.

*State Highway Administration:* TTF expenditures could increase by \$8,499,000 in fiscal 2008 to comply with the signage requirements of the bill. Out-years include annualization, replacement costs, and inflation. Annualized expenditures would be \$11,332,000. The expenditure estimate is based on about 300 active highway work zones statewide annually and includes:

- signs with warning beacons at the entrances and exits of highway work zones to advise drivers that workers are present. Each beacon installation costs about

\$10,000. For 25% of the zones that can only be entered from one direction, beacons at the entrance and exit would be required at a cost of about \$20,000. For 75% of the zones that can be entered from two directions (for example, on a divided highway) beacon installations would be needed at the entrance and exit for each direction, for a cost of about \$40,000 per zone. Contractors would also need to pay workers to turn the beacons on and off, depending on the presence of workers, resulting in total annual costs of \$10,740,000;

- signs to advise motorists about the doubling of fines in all work zones, assuming that 100 of 300 active work zones would already be signed and could continue to be signed with existing resources, and that about 75% of the remaining 200 zones would need to be signed from two directions, resulting in annual costs of \$210,000;
- providing signs advising of headlight use which are estimated to be about one-quarter of the aforementioned costs for signing work zones, or about \$52,000 annually; and
- the installation of speed displays in active work zones along interstate highways for projects lasting at least 100 hours, estimated to cost \$330,000 annually, assuming 30 such work zones, with each display costing \$8,000 and that an additional \$3,000 per display for display protection.

SHA advises that the requirement to expend at least one-half of 1% of maintenance and construction project costs on traffic safety can be met with existing resources. Historically, traffic safety arrangements and arranging for police presence at highway work zones exceeds the one-half of 1% threshold that is required in the bill. SHA further advises that the requirement to remove signs after project completion, cover signs during work suspension, and minimize lane closures and work zone length could be absorbed with existing resources.

SHA advises that completion of the study as required by the bill could require TTF expenditures of \$45,450 in fiscal 2009. However, DLS advises that the required study could be accomplished with the existing resources of SHA.

DLS advises that the estimated costs for beacon installations as required by the bill assume that the contractors who bid on projects would supply the beacons and would be responsible for maintenance, upkeep, storage, transportation to work sites and replacement as needed. This assumption is consistent with SHA practice, where the contractor is responsible for equipment and logistics and builds this into the project costs. However, SHA may be able to reduce this cost by changing the way SHA traditionally



does business and purchasing enough beacons to populate 300 active work zone sites annually and supplying the beacons to the contractors. To purchase the beacons would require a sizeable initial capital investment. SHA would then become responsible for annual maintenance and replacement costs. SHA would need to expend funds to transport and remove beacons from each site. While data are not available at this time to quantify the costs for the purchase of beacons by SHA, DLS advises that it is possible that SHA could achieve economies of scale and significantly reduce the costs to implement this provision of the bill by exploring that option.

Estimated expenditures for SHA and MVA to meet the bill’s requirements are as follows:

MVA Salaries and Fringe Benefits	\$82,066
Processing Work Station	50,000
Highway Signage	8,499,000
Other Operating Expenses	<u>12,769</u>
<b>Total TTF Fiscal 2008 Expenditures</b>	<b>\$8,643,835</b>
Positions	2.5

Future year expenditures reflect: (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

*Department of Public Safety and Correctional Services:* General fund expenditures could increase minimally as a result of the bill’s incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted under the bill’s proposed enhanced penalty is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,300 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$465 per month. Excluding medical care, the average variable costs total \$134 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem

reimbursements for fiscal 2008 are estimated to range from \$21 to \$65 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

**Local Fiscal Effect:** Montgomery County advises that the fiscal impact from the bill should be negligible. The one-half of 1% funding requirement for traffic safety could be absorbed within individual construction or maintenance project costs. Generally, the costs of providing for traffic safety on a construction or maintenance site exceed the one-half of 1% threshold in the bill. Other provisions of the bill are not expected to cause an increase in operating expenditures. Somerset County advises that this bill is not expected to cause a significant fiscal impact. The City of Thurmont also advises that the bill would not cause a fiscal impact, as the city would opt not to designate an area as a highway work zone. On the other hand, the City of Annapolis advises that the bill would cause a negative fiscal impact. Annapolis expects debt service, salaries, and overtime expenditures to increase under this bill. Annapolis also expects an additional minimal expense to comply with signage requirements.

Expenditures could increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$42 to \$120 per inmate in fiscal 2008.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Town of Thurmont, City of Annapolis, Somerset County, Montgomery County, Judiciary (Administrative Office of the Courts), Office of Administrative Hearings, Department of State Police, Maryland Department of Transportation, Department of Public Safety and Correctional Services, U.S. Department of Transportation, Federal Highway Administration, Governors Highway Safety Association, Department of Legislative Services

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