

Department of Legislative Services

Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Revised

Senate Bill 699

(Senator Stone)

Judicial Proceedings

Environmental Matters

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

This bill requires the State Highway Administration (SHA) to develop procedures to enhance the safety of construction, maintenance, utility, and other highway workers working on an expressway or controlled access highway with a speed limit of 45 miles per hour or more. SHA, the Maryland Transportation Authority (MdTA), or the appropriate local jurisdiction must incorporate such procedures into the project planning and construction phase of a proposed expressway or controlled access highway project.

Fiscal Summary

State Effect: General fund revenues could increase due to additional fine revenue for violations of the Maryland Vehicle Law. Transportation Trust Fund (TTF) expenditures could increase to place additional law enforcement officers at controlled access highway or expressway work zones with a speed limit of 45 miles per hour or more; however, the exact magnitude of the increase cannot be reliably quantified.

Local Effect: Local expenditures could increase to place a law enforcement officer in a marked police vehicle at controlled access highway or expressway work zones with a speed limit of 45 miles per hour or more lasting over two weeks; however, the exact magnitude of the increase cannot be reliably quantified. **This bill imposes a mandate on local governments.**

Small Business Effect: None.

Analysis

Bill Summary: Priority must be given to performing work while the expressway or controlled access highway is temporarily or fully closed if work is performed in a roadway and is expected to last at least two weeks.

SHA, MdTA, or the appropriate local authority must consider protecting highway workers on controlled access highways and expressways by using temporary traffic barriers, movable concrete barriers, movable link-system barriers, or other available barrier systems, including the feasibility of temporarily widening the road to include such barriers if:

- work is performed in a roadway and is expected to last at least two weeks and closing the roadway is not feasible; or
- work is performed on the shoulder and expected to last at least two weeks.

Alternatively, SHA, MdTA, or the appropriate local authority may provide a law enforcement officer instead of using barriers or lane closures at or near a worksite on a controlled access highway or an expressway when workers are present if work is performed on the shoulder or in the roadway, is expected to last at least two weeks, and neither barriers nor highway closure is feasible.

The law enforcement officer may be in uniform, in a marked vehicle, display lights and signal devices, and be located in a manner designed to enhance worker safety and facilitate the enforcement of traffic laws.

Current Law: A “highway” is defined as integral parts of a street, road, or highway, including, but not limited to, rights-of-way, roadway surfaces, shoulders, median dividers, related stormwater management facilities and structures, guardrails, bridges, tunnels, overpasses, underpasses, interchanges, bicycle and walking paths, and any other property acquired for the construction, operation, or use of the highway.

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, counties, or municipal corporations that are conducting work on a highway may designate a highway work zone and reduce speed limits in the work zone.

An “expressway” is defined as a major highway of two or more traffic lanes in each direction that has a median divider, limited predetermined points of entry and exits, shoulders wide enough to permit vehicles to stop or park, vertical curves long enough to

provide long sight distances, and grade separation structures at intersections or roads (*i.e.*, overpasses or underpasses). A “controlled access highway” is a highway that has all the other characteristics of an expressway but does not necessarily have grade separation structures at each intersection.

Background: According to the Federal Highway Administration (FHWA), in 2004 there were 1,068 fatalities that resulted from motor vehicle crashes in work zones. Of these, 83% occurred where the speed limit was 45 miles per hour or greater.

SHA advises that it voluntarily places a police officer at certain highway work zones. Usually, these work zones are on high-speed highways and involve lane closures and diversions. Under those circumstances, it typically uses Department of State Police (DSP) personnel and reimburses DSP for the time. If DSP personnel are not available, SHA hires an officer from a local police department. SHA advises that over the past three years it has spent approximately \$1.8 million annually for this purpose.

SHA advises that as of December 31, 2005 there were 10,512 lane miles of State highways with a speed limit of 45 miles per hour or more. SHA was not able to estimate how many lane miles of local roads would be affected. FHWA has proposed new regulations to address the need to protect highway workers. Under these regulations, temporary barriers would be required to protect workers in stationary work zones lasting two weeks or more when the project design speed is 45 miles per hour or greater and the nature of the work requires workers to be less than a lane width from the edge of an open travel lane. If barriers are not feasible, intrusion countermeasures are to be used instead, including law enforcement.

As proposed, the regulations would take effect October 12, 2008; however, the regulations have not been adopted yet, and that compliance date could change.

State Revenues: General fund revenues could increase from additional fine revenue for violations of speed limits in work zones; however, the exact magnitude is difficult to determine. The amount of the increase would depend on the additional work zones where SHA placed officers, and how many individuals they caught speeding, which cannot be reliably estimated at this time.

State Expenditures: TTF expenditures would increase due to stationing law enforcement officers at work zones; however, the exact magnitude of this effect cannot be estimated at this time.

SHA advises that it does not anticipate any full or temporary lane closures under the bill. However, if there were, SHA estimates that any savings due to increased efficiency

would balance out the costs of closing the roadway. SHA also advises that it generally uses barriers on sites in operation for more than two weeks. However, SHA advises that it has approached highway work zones on a case-by-case basis. For some highway work zones that have lasted over two weeks, SHA has not placed law enforcement officers or barriers or has not always had an officer present when workers were there. SHA was not able to provide a reliable estimate of how many such work zones there were annually or what the fiscal impact would be to arrange for a law enforcement officer to be present whenever workers were present.

MdTA has its own police force; it is assumed that it would use existing personnel and resources to place any law enforcement officers necessary at highway work zones.

Local Expenditures: The bill provides that the appropriate local authority must consider the best way to protect highway safety workers through lane closures, barriers, or law enforcement officers and incorporate those guidelines into its plans. It is assumed that this mandates at least a law enforcement officer at such worksites, and that local jurisdictions would not find it feasible to close lanes or place movable barriers at their work zones for the specified highways due to the expense of the equipment. Accordingly, local jurisdictions would place a law enforcement officer at a work zone instead. However, the exact magnitude of the increase cannot be quantified at this time.

While SHA was not able to quantify how many lane miles of local road qualify as a controlled access highway or expressway with a speed limit of 45 miles or more, the number is assumed to be low. In addition, few such local highway projects are scheduled to last over two weeks.

Additional Comments: Legislative Services advises that if the FHWA regulations are adopted, SHA and MdTA will be required to abide by them on projects that are funded by federal highway aid. Federal highway aid accounts for approximately half of SHA's funding as detailed in the *FY 2007-FY 2012 Consolidated Transportation Program* (CTP). Except for the Intercounty Connector, none of MdTA's projects listed in the CTP are funded with federal funds.

Additional Information

Prior Introductions: Two identical bills as amended, SB 1035 and HB 1734, were introduced during the 2006 session. SB 1035 failed to pass second reading, while HB 1734 was referred to the Senate Finance Committee but no action was taken.

Cross File: None.

Information Source(s): Town of Bel Air, Town of Leonardtown, City of Salisbury, Cecil County, Harford County, Montgomery County, Prince George's County, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Federal Highway Administration, Department of Legislative Services

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Analysis by: Nora C. McArdle

Direct Inquiries to:
(410) 946-5510
(301) 970-5510