

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1010

(Prince George's County Delegation)

Environmental Matters

Judicial Proceedings

**Prince George's County - Roadside Solicitation of Money or Donations –
Prohibition
PG 409-08**

This bill prohibits, in Prince George's County, a person from standing in a highway to solicit money or donations of any kind from the occupant of a vehicle. A highway includes, but is not limited to, rights-of-ways; median dividers; structures forming an integral part of a street, road, or highway, including bicycle and walking paths; and any property acquired for the construction, operation, or use of the highway. Issuance of a warning is required for a first offense. Subsequent violations may be prosecuted as a misdemeanor under State motor vehicle laws.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues from fines received in District Court. The penalty established by the District Court for similar violations is \$60.

Local Effect: Prince George's County expenditures for enforcement, and any notification about the prohibition, could be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: Except for the occupant of a disabled vehicle who seeks the aid of another vehicle, a person may not stand in a roadway to solicit a ride, employment, or business from an occupant of any vehicle. Further, a person is prohibited from standing

on or near a highway to solicit any other person to guard any vehicle while it is parked or about to be parked on the highway.

In Anne Arundel County, a person is prohibited from standing in a highway to solicit money or donations of any kind from the occupant of a vehicle or advertise any message. In Carroll, Charles, Frederick, Harford, and Washington counties, a person may not stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle. This ban also applies to children under age 18 in Montgomery County.

An identical ban applies to a child younger than age 15 in Prince George's County, although the child may not be found guilty or adjudicated delinquent for violating this provision if encouraged or permitted by an adult. An adult in Prince George's County may not cause, encourage, permit, or petition a child younger than age 15 to engage in such activity.

Prince George's County Code prohibits any person, firm, or corporation from selling or attempting to sell goods to, soliciting or accept any donation from, or distributing printed materials to any occupant of a motor vehicle when said motor vehicle is in a roadway. As long as they are not being sold on a defined "Gateway Road," certain items are exempt from this prohibition. Maryland Routes 4, 5, 214, 210 and its service roadway, 202, 3/301, and a portion of Suitland Road are designated as Gateway Roads. Items that may be sold on a right-of-way include automotive equipment to the owner or occupant of a vehicle disabled in a roadside emergency, live or cut flowers, plants, artificial flowers, fruits, vegetables, or other agricultural products, baked goods, meat products cooked and offered for immediate consumption, gum or candy, individual cans, bottles or other single serving containers of soft drinks, juice, or other nonalcoholic beverages, ice cream products, or other frozen novelties.

The Cecil County Commissioners and municipal corporations in Cecil County are authorized to adopt a permit program for roadside solicitation. A person is prohibited in Cecil County from soliciting donations or causing donations to be solicited from motor vehicles on roadways, median dividers, or intersections without a permit issued by the county commissioners or by a municipal corporation in the county. An individual or a representative of a qualified organization may obtain a permit, upon submitting proof of a plan to solicit donations safely. A permit is issued for one calendar day, and only one permit per individual or organization can be issued in a calendar year. A permit may not be issued for children younger than age 18. Qualified organizations are defined as a fire company or legitimate religious, fraternal, civic, war veterans', or charitable organization.

Background: Chapter 537 of 2007 prohibited a person from standing in a highway to solicit money or donations from the occupant of a vehicle or advertise any message in Anne Arundel County. The Attorney General reviewed the act for constitutionality and found that a severable portion of the bill is unconstitutional and should not be enforced. The Attorney General found that the provision banning highway advertising is not narrowly tailored and is overbroad, thus it violates the First Amendment; however, the provision banning highway solicitations is constitutional.

State laws governing solicitation on highways vary. For example, Louisiana prohibits the “intentional act of soliciting, begging, panhandling, or otherwise requesting anything of value” on an interstate highway and imposes a fine of up to \$200, imprisonment for up to six months, or both for violations. Other states authorize roadway solicitation with the permission of the local jurisdiction or for certain nonprofit organizations that solicit funds for charitable causes.

Additional Comments: The Department of Legislative Services notes that the bill may affect some nonprofit organizations (*e.g.*, local fire departments, advocacy groups, charities) in Prince George’s County that conduct fundraising activities from median dividers.

Additional Information

Prior Introductions: None.

Cross File: SB 685 (Senators Rosapepe and Peters) – Judicial Proceedings.

Information Source(s): Prince George’s County, Department of Legislative Services

Fiscal Note History: First Reader - March 10, 2008
mll/hlb Revised - House Third Reader - March 24, 2008

Analysis by: Erik P. Timme

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