

**Department of Legislative Services**  
2010 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 216

(Delegate Pena-Melnyk, *et al.*)

Environmental Matters

Judicial Proceedings

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**State Highway Administration - Unauthorized Signs on Highway Rights-of-Way**

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This bill prohibits the placement or maintenance of signs on State highway rights-of-way without authorization from the State Highway Administration (SHA) and establishes a civil penalty of \$25 per sign for violations. SHA and local jurisdictions retain civil penalty payments they collect. SHA, a law enforcement officer, or a local government may remove and destroy any unauthorized signs without a court order. SHA or a local government may seek an injunction against further violations. The bill specifies that the District Court has exclusive original jurisdiction for any civil cases arising from violations.

For enforcement purposes, the presence of any sign in a State highway right-of-way is evidence that it was placed or maintained at the direction of, or with the consent and approval of, the party whose name, business, location, or product representation is advertised on it. During the first three months after initiating a sign removal program, SHA or a local jurisdiction may issue only warnings. Enforcement must be on a viewpoint and content neutral basis.

The bill takes effect January 1, 2011.

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**Fiscal Summary**

**State Effect:** Potential significant increase in Transportation Trust Fund (TTF) revenues to the extent SHA elects to impose a civil penalty for illegal signs. Potential minimal general fund expenditure increase for the District Court to the extent the bill results in additional clerical and court time for illegal sign court cases.

**Local Effect:** Potential increase in revenues for local governments that elect to impose a civil penalty for illegal signs within their jurisdiction. Potential increase in expenditures for local governments that choose to use the bill's enforcement authority.

**Small Business Effect:** None.

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### Analysis

**Current Law:** Subject to specified exceptions, a person may not erect or maintain any outdoor sign outside the limits of any municipal corporation and within 500 feet of a State highway unless the person has a permit issued by SHA for that sign. Any person who removes, damages, or defaces any SHA sign, signal, or marker is guilty of a misdemeanor and subject to a fine of up to \$100.

A person may not erect or maintain any outdoor sign along or near any federal aid primary highway, unless the person has been issued a permit. Federal law and regulations require states to control advertising on the sides of federally funded highways. Failure to control the outdoor advertising could result in the loss of 10% of all federal highway aid.

A State highway's right-of-way is at least 40 feet wide.

**Background:** Illegal signs along State highways have become a serious fiscal and safety concern. SHA advises that sign removal is claiming a growing portion of limited highway maintenance resources. In fiscal 2009, SHA spent approximately \$600,000 on the removal of an estimated 69,600 illegal signs. Furthermore, illegal signs along State highways distract motorists and create traffic hazards. A 2006 Virginia Tech report found that, when a driver glances away from the forward roadway for more than two seconds, the driver's risk of a crash or near crash event is doubled.

Since October 2007, SHA has granted Anne Arundel County the authority to remove nuisance signs from along various State highways. SHA advises that, while this agreement has been effective in its limited use, it does not address the deterrence of illegal sign placement nor does it have cost-recovery provisions.

**State Fiscal Effect:** TTF revenues increase due to the bill's civil penalty provision. The bill sets a civil penalty of \$25 per sign for violations, which may accrue to SHA. Assuming approximately 69,600 illegal signs are removed annually, SHA may seek up to \$1.7 million annually in penalty revenue.

General fund expenditures for the District Court may increase for additional clerical and court time associated with civil cases arising from violations. The magnitude of the impact cannot be quantified at this time.

## **Additional Information**

**Prior Introductions:** HB 130 of 2009, a similar bill, passed the House with amendments and then received a favorable with amendments report from the Senate Judicial Proceedings Committee, but no further action was taken. HB 921 of 2008, a similar bill, received a hearing in the House Environmental Matters Committee, but no further action was taken. SB 155 of 2005, a similar bill, received an unfavorable report from the Senate Judicial Proceedings Committee.

**Cross File:** SB 779 (Senator Raskin) – Judicial Proceedings.

**Information Source(s):** Anne Arundel, Kent, and Montgomery counties; City of Laurel; Department of Natural Resources; Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; Virginia Polytechnic Institute and State University; Department of Legislative Services

**Fiscal Note History:** First Reader - February 3, 2010  
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