

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 1303
Economic Matters

(Delegate Hucker)

**Occupational Safety - Manholes and Confined Spaces - Training in First Aid and
Cardiopulmonary Resuscitation**

This bill specifies that, whenever an employer has an employee working in a “confined space,” the employer must have another employee available in the immediate vicinity to offer emergency help if necessary. Further, an employer may not allow or cause an employee to work in a manhole or confined space unless each employee working in the immediate vicinity of the manhole or confined space is trained to administer basic first aid and cardiopulmonary resuscitation (CPR).

Fiscal Summary

State Effect: The bill does not affect State operations or expenditures because, according to the Department of Labor, Licensing, and Regulation (DLLR), State practices are already as stringent as the bill’s requirements. Potential minimal increase in general fund revenues and expenditures due to the expanded application of existing penalty provisions.

Local Effect: Many local governments and local government agencies already comply with the bill’s provisions regarding in-person training in first aid and CPR. However, local governments that do not comply must ensure that all employees who work in confined spaces or manholes receive such training every three years. The extent to which local government expenditures increase to train additional employees cannot be reliably estimated, but any increase is not expected to be significant. Potential minimal increase in local government revenues and expenditures due to the expanded applicability of existing penalty provisions. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential meaningful for small businesses with employees who work in confined spaces or manholes. Such employers must ensure that *all* employees – not just one member of a crew – working in or around these spaces have first aid and CPR training. Thus, expenses for such businesses may increase due to additional costs for training employees in first aid and CPR.

Analysis

Bill Summary: Every three years, employers must provide in-person training in basic first aid and CPR to any employee who works in or in the immediate vicinity of a manhole or confined space.

A confined space means a space that, by design, has limited openings for entry and exit, and is subject to the accumulation of combustible or toxic agents, or a deficiency of oxygen. Confined spaces include:

- basins;
- bins;
- degreasers;
- ducts;
- pipelines;
- pits;
- sewers;
- silos;
- tanks;
- tubs;
- tunnels;
- vats; and
- process or reaction vessels.

Current Law/Background: Many workplaces contain spaces that are considered to be confined because their configurations hinder the activities of employees who must enter into, work in, or exit from them. In many instances, employees who work in confined spaces also face increased risk of exposure to serious physical injury from hazards such as entrapment, engulfment, and hazardous atmospheric conditions. Confinement, limited access, and restricted airflow can result in hazardous conditions that would not normally arise in an open workplace.

The Division of Labor and Industry within DLLR administers the Maryland Occupational Safety and Health (MOSH) program. The requirements of the MOSH program are codified by the MOSH Act. In general, these requirements parallel the safety standards established by the federal Occupational Safety and Health Administration (OSHA).

OSHA regulations establish standards for practices and procedures to protect employees from the hazards of entry into “permit-required confined spaces.” The term “permit-required confined space” refers to spaces that meet OSHA’s definition of a confined space and contain health or safety hazards. For this reason, OSHA requires workers to have a permit to enter these spaces.

OSHA requires employers to take specified steps to control hazards in permit-required confined spaces and to adequately train workers who must enter these spaces. In particular, OSHA requires employers to (1) have at least one attendant outside the confined space while other employees are inside the space; and (2) ensure that at least one member of a team assigned to work in a permit-required confined space holds a current certification in first aid and CPR. The American Red Cross of Central Maryland advises that first aid and CPR certifications are typically valid for two years.

State law specifies that certain employers, in particular units of government or persons who employ individuals to work on behalf of a unit of government, are restricted from allowing certain part-time or temporary workers from performing maintenance work in confined spaces.

State law also specifies that, if an employer has an employee working in a manhole, the employer must have another employee available in the immediate vicinity of the manhole to offer emergency help if needed. However, for a brief period, a qualified employee who is working alone may enter a manhole where cables or equipment are in service to (1) perform an inspection; (2) perform housekeeping; (3) take readings; or (4) do other work if it can be performed safely.

The Commissioner of Labor and Industry may inspect a place of employment where work is performed for violations of the MOSH Act. If the commissioner witnesses a violation, the commissioner must issue a citation to document violations. First time violations that are not considered serious typically do not carry civil penalties.

A civil penalty must be assessed against an employer when the commissioner determines that the employer has committed a serious violation. Under most circumstances, a violation is considered a serious violation when there is a substantial probability that death or serious physical harm could result from a condition that exists at a site. In general, civil penalties may not exceed \$7,000 per violation. A civil penalty of up to \$70,000 may be assessed for willful or repeated violations.

If an employer willfully violates the MOSH Act and the violation results in the death of an employee, the employer is subject to a fine of up to \$10,000 and/or imprisonment for up to six months for a first offense, and a fine of up to \$20,000 and/or imprisonment for up to one year for subsequent offenses.

Local Fiscal Effect: Local governments in the State already comply with the bill's provision requiring employers to have an employee in the immediate vicinity whenever an employee is working in a confined space as this is a requirement under OSHA. Many local governments and local government agencies, such as the Washington Suburban Sanitary Commission, also comply with the bill's provisions related to training in first aid and CPR. However, local governments that do not currently require first aid and CPR training for all employees who work in such spaces must ensure that all employees receive this training every three years. For instance, Charles County advises that the county may have to train 70 employees in first aid and CPR every three years due to the bill. According to the American Red Cross of Central Maryland, training in first aid and CPR costs about \$70 per person. Thus, expenditures in Charles County may increase by about \$5,000 every three years. Other counties that do not currently provide in-person CPR training may experience similar cost increases.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): The American Red Cross of Central Maryland; Washington Suburban Sanitary Commission; Baltimore, Charles, Frederick, and Montgomery counties; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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