

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 964 (Senator Reilly)
Judicial Proceedings

Unauthorized Signs on Highway Rights-of-Way - Exceptions

This bill exempts signs placed at specified times by a home builder or real estate broker from a prohibition against placing or maintaining a sign on State highway rights-of-way. The bill applies to signs placed or maintained (1) between the hours of 8 a.m. on Friday to 9 a.m. the following Monday; or (2) from 9 a.m. on a county, State, or federal holiday to 9 a.m. the following day.

Fiscal Summary

State Effect: Potential minimal decrease in Transportation Trust Fund revenues to the extent the State Highway Administration (SHA) imposes fewer penalties for illegal commercial signs under the bill than otherwise would be imposed. Expenditures are not materially affected.

Local Effect: Potential minimal decrease in local government revenues to the extent fewer penalties for illegal commercial signs are imposed than otherwise would be imposed.

Small Business Effect: Potential meaningful.

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. Chapters 466 and 467 of 2011 prohibit the placement or maintenance of signs on State highway rights-of-way without SHA authorization and establish a civil penalty of \$25 per commercial sign for violations.

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 federal highway aid.

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

Chapter 318 of 2011 prohibits SHA from issuing outdoor sign permits for signs along or near a scenic byway located on a federal aid primary highway.

In accordance with federal regulations, a highway right-of-way must be devoted exclusively to public highway purposes and state highway departments must keep the right-of-way free of all public and private installations, facilities, or encroachments, except (1) if a state highway administrator finds it is in the public interest and will not impair the highway or interfere with the free and safe flow of traffic; (2) a state highway administrator approves it as constituting a part of a highway or as necessary for its operation, use, or maintenance; or (3) if it is an informational site established and maintained in accordance with specified federal regulations.

Background: SHA is responsible for more than 5,200 miles or approximately 16,800 lane miles of road, 2,500 bridges, 3,500 small stream crossing structures, and 80 miles of sound barriers. It also has responsibility for planning, designing, constructing, and maintaining these roads and bridges to safety and performance standards while considering sociological, ecological, and economic concerns.

Federal and State laws require SHA to regulate signs within State highway rights-of-way and outdoor advertising signs on private property adjacent to State roads. SHA is responsible for official traffic safety signs and informational signs that are either required by State law or authorized by SHA permit. SHA prohibits private signs along State highway medians and rights-of-way and reserves State property for official traffic control signs or devices.

Numerous federal and State requirements impact how and where outdoor advertising occurs along highways. In addition, many local zoning and sign ordinances dictate the size, illumination, and location of signs. Some local jurisdictions prohibit new off-premise outdoor advertising signs altogether. When SHA does issue permits, the requirements vary depending on whether the sign is for a business located on the property on which the sign will be placed (on-premise) or for businesses located elsewhere

(off-premise). SHA sign permit fees range from \$10 to \$35 per sign, and the permits must be renewed annually.

Small Business Effect: Small businesses that build homes or sell real estate benefit to the extent they are able to post signs in State highway rights-of-way that attract potential customers or otherwise improve their business.

Additional Comments: SHA advises that the U.S. Department of Transportation's Federal Highway Administration has expressed concern about the proliferation of advertising signs and that failing to control advertising could lead to the loss of 10% of most federal highway aid.

Additional Information

Prior Introductions: None.

Cross File: HB 1139 (Delegate Schuh, *et al.*) - Environmental Matters.

Information Source(s): Baltimore City, cities of Frederick and Havre de Grace, Howard and Prince George's counties, Maryland Department of Transportation, Department of Legislative Services

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