

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 304 (Delegate Afzali, *et al.*)
Environmental Matters

**Transportation - Advertising Signs on State Highways for Agricultural Businesses
Authorized**

This bill exempts agricultural product advertising signs placed or maintained by an individual with a specified permit from a prohibition on signs along State highway rights-of-way. A person may place or maintain a temporary advertising sign on a State highway if (1) the sign does not exceed three square feet in area; (2) the sign is placed in the State highway right-of-way to advertise or provide directions to agricultural products offered for sale to the public that are grown or produced by a person engaged in agriculture in the county in which the sign is placed; (3) the sign is placed in a manner that does not constitute a hazard to traffic; and (4) a sign permit is obtained from the State Highway Administration (SHA) or from a local office designated by SHA to issue such permits.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures and permit fee revenues increase in FY 2014 and future years due to issuing agricultural product advertising sign permits. The number of permit requests received by SHA and the number of permits ultimately issued under the bill cannot be reliably estimated at this time. Potential offsetting decrease in TTF revenues to the extent SHA does not impose penalties it otherwise would impose under current law.

Local Effect: Potential increase in expenditures for local governments that issue agricultural product advertising sign permits. Potential decrease in local government revenues to the extent penalties are not imposed for signs along State highway rights-of-way that otherwise would be imposed.

Small Business Effect: 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 (SB 410/HB 289) 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 (HB 109) 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 advertising face, and the permits must be renewed annually.

State Revenues: TTF permit fee revenues increase in fiscal 2014 and future years to the extent agricultural product advertising sign permits are issued. The magnitude of the impact cannot be quantified at this time, but it is potentially significant. However, under current law there is a civil penalty of \$25 per commercial sign for violations which may accrue to SHA. Thus, to the extent the bill results in fewer violations, TTF penalty revenues may decrease. The overall impact on TTF revenues is unknown.

State Expenditures: While the number of agricultural product advertising sign permit applications SHA will receive cannot be reliably estimated, it could be significant. Thus, TTF expenditures increase potentially significantly in fiscal 2014 and future years to process and issue the permits.

Small Business Effect: Small agricultural product businesses benefit to the extent they request and receive SHA permits for advertising signs that they would not receive otherwise. Although the number of small agricultural product businesses that could benefit from the bill is unknown, it is potentially significant. According to the 2007 Census of Agriculture, there were over 12,800 farms in Maryland covering over 2.0 million acres of land in the State.

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: SB 326 (Senator Glassman) - Judicial Proceedings.

Information Source(s): Maryland Department of Transportation, U.S. Department of Agriculture, Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2013
ncs/lgc

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