

HOUSE BILL 1133

R1, M3

7lr1351

By: ~~Delegates Wivell and McKay~~, **McKay, Beidle, Cassilly, Folden, Jacobs, and Otto**

Introduced and read first time: February 9, 2017

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2017

CHAPTER _____

1 AN ACT concerning

2 **Washington County – State Highway Rights-of-Way – Tree Planting and Signs**

3 FOR the purpose of prohibiting in Washington County tree planting in a certain State
4 highway right-of-way to implement a State Watershed Implementation Plan if the
5 right-of-way fronts property that is zoned in a certain manner; prohibiting the State
6 Highway Administration from planting any tree in certain areas of a certain State
7 highway right-of-way in Washington County as part of implementing a State
8 Watershed Implementation Plan under certain circumstances; requiring the
9 Administration to negotiate in good faith with certain commercial property owners
10 in Washington County with respect to the placement and installation of directional
11 or promotional signs in State highway rights-of-way; requiring a commercial
12 business that installs a sign under this Act to pay certain costs related to the sign;
13 establishing that the Administration may not authorize the installation of a sign
14 under this Act under certain circumstances and may order the removal of a sign
15 under certain circumstances; authorizing the Administration to charge an annual
16 fee for a sign installed under this Act; requiring the Administration to coordinate
17 with certain individuals and entities to minimize the fiscal impact on the
18 Transportation Trust Fund; authorizing the Administration to adopt certain
19 regulations; defining certain terms; providing for the application of this Act; and
20 generally relating to tree planting and signs in certain State highway rights-of-way
21 in Washington County.

22 BY adding to

23 Article – Environment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 4–801 to be under the new subtitle “Subtitle 8. Washington
 2 County – Chesapeake Bay Total Maximum Daily Load”
 3 Annotated Code of Maryland
 4 (2013 Replacement Volume and 2016 Supplement)

5 BY repealing and reenacting, with amendments,
 6 Article – Transportation
 7 Section 8–605
 8 Annotated Code of Maryland
 9 (2015 Replacement Volume and 2016 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 11 That the Laws of Maryland read as follows:

12 **Article – Environment**

13 **SUBTITLE 8. WASHINGTON COUNTY – CHESAPEAKE BAY TOTAL MAXIMUM DAILY**
 14 **LOAD.**

15 **4–801.**

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 17 INDICATED.

18 (2) (I) “BAY TMDL” MEANS THE TOTAL MAXIMUM DAILY LOAD
 19 (TMDL) FOR THE CHESAPEAKE BAY ESTABLISHED UNDER THE FEDERAL CLEAN
 20 WATER ACT BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY ON DECEMBER
 21 29, 2010.

22 (II) “BAY TMDL” INCLUDES ANY MODIFICATIONS TO THE BAY
 23 TMDL MADE BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY.

24 (3) “HIGHWAY” HAS THE MEANING STATED IN § 8–101 OF THE
 25 TRANSPORTATION ARTICLE.

26 (4) (I) “WIP” MEANS A STATE WATERSHED IMPLEMENTATION
 27 PLAN (WIP) APPROVED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY TO
 28 IMPLEMENT THE BAY TMDL WITHIN THE STATE.

29 (II) “WIP” INCLUDES ANY MODIFICATIONS MADE BY THE STATE
 30 TO A WIP.

31 (B) THIS SECTION APPLIES ONLY ~~IN~~ TO THE PORTION OF THE FOLLOWING
 32 HIGHWAYS IN WASHINGTON COUNTY:

- 1 **(1) STATE ROUTE 64;**
2 **(2) STATE ROUTE 67;**
3 **(3) STATE ROUTE 418; AND**
4 **(4) U.S. ROUTE 40 ALTERNATE.**

5 **(C) TREE PLANTING IN A STATE HIGHWAY RIGHT-OF-WAY MAY NOT BE**
6 **USED TO IMPLEMENT A WIP IF THE RIGHT-OF-WAY FRONTS PROPERTY THAT IS**
7 **ZONED AS FOLLOWS:**

- 8 **(1) RURAL BUSINESS (RB);**
9 **(2) BUSINESS TRANSITIONAL (BT);**
10 **(3) BUSINESS LOCAL (BL);**
11 **(4) BUSINESS GENERAL (BG);**
12 **(5) PLANNED BUSINESS (PB); OR**
13 **(6) AGRICULTURAL (A(R)) OR (A).**

14 **(D) THE STATE HIGHWAY ADMINISTRATION MAY NOT, WITHOUT THE**
15 **WRITTEN PERMISSION OF THE ~~OWNER~~ UTILITY, PLANT ANY TREE IN A STATE**
16 **HIGHWAY RIGHT-OF-WAY AS PART OF IMPLEMENTING A WIP:**

17 **(I) WITHIN 30 FEET OF AN OVERHEAD ELECTRIC**
18 **DISTRIBUTION OR SUBTRANSMISSION LINE IF THE TREE WILL REACH A MATURE**
19 **HEIGHT EXCEEDING 15 FEET; OR**

20 **(II) THAT COULD POSE A HAZARD TO AN OVERHEAD ELECTRIC**
21 **TRANSMISSION LINE WITHIN OR NEAR THE RIGHT-OF-WAY FOR THE TRANSMISSION**
22 **LINE.**

23 **Article – Transportation**

24 8-605.

25 (a) Along any State highway, the Administration may place signs, signals, or
26 markers to inform the traveling public of directions, distances, danger, or other
27 information.

1 (b) (1) Except as provided in paragraph (2) of this subsection, the
 2 Administration shall assume the full cost of installing and maintaining traffic signals
 3 required at the intersection of a State highway with any municipal street or highway or at
 4 any other place along a State highway that is within the limits of any municipal
 5 corporation.

6 (2) This subsection does not apply where the traffic signal primarily will
 7 serve traffic generated by a private development, such as an apartment complex, shopping
 8 center, industrial plant, or drive-in theater.

9 (c) Signs, signals, and markers placed along any interstate highway shall
 10 conform to all applicable federal standards.

11 (d) (1) For the purpose of providing information to the driving public on the
 12 availability of gas, food, lodging, camping, or attractions, the Administration may place
 13 along State controlled access highways specific service signs, subject to the applicable
 14 federal standards.

15 (2) (i) The Administration shall adopt regulations governing specific
 16 service signs.

17 (ii) The regulations shall conform to all applicable federal standards,
 18 and shall govern the type, lighting, size, number, and location of specific service signs.

19 (iii) The Administration shall consult with:

20 1. The Maryland Travel Council prior to drafting
 21 regulations; and

22 2. The Department of Commerce and the appropriate local
 23 government officials concerning the placement of specific service signs under this
 24 subsection.

25 (3) The business or attraction identified in a specific service sign shall pay
 26 for the full administrative and operational cost of procurement, installation, and
 27 maintenance of the sign.

28 **(D-1) (1) THIS SUBSECTION APPLIES ONLY ~~IN~~:**

29 **(1) IN STATE HIGHWAY RIGHTS-OF-WAY LOCATED IN THE**
 30 **FOLLOWING ZONING CLASSIFICATIONS IN WASHINGTON COUNTY:**

31 **~~(1)~~ 1. RURAL BUSINESS (RB);**

32 **~~(2)~~ 2. BUSINESS TRANSITIONAL (BT);**

1 ~~(III)~~ 3. **BUSINESS LOCAL (BL);**

2 ~~(IV)~~ 4. **BUSINESS GENERAL (BG);**

3 ~~(V)~~ 5. **PLANNED BUSINESS (PB); OR**

4 ~~(VI)~~ 6. **AGRICULTURAL (A(R)) OR (A); AND**

5 **(II) TO THE PORTION OF THE FOLLOWING HIGHWAYS IN**
6 **WASHINGTON COUNTY:**

7 **1. STATE ROUTE 64;**

8 **2. STATE ROUTE 67;**

9 **3. STATE ROUTE 418; AND**

10 **4. U.S. ROUTE 40 ALTERNATE.**

11 **(2) (I) THE STATE HIGHWAY ADMINISTRATION SHALL NEGOTIATE**
12 **IN GOOD FAITH WITH COMMERCIAL PROPERTY OWNERS WITH RESPECT TO THE**
13 **PLACEMENT, AND INSTALLATION BY A COMMERCIAL BUSINESS, OF DIRECTIONAL OR**
14 **PROMOTIONAL SIGNS IN STATE HIGHWAY RIGHTS-OF-WAY.**

15 **(II) A COMMERCIAL BUSINESS THAT INSTALLS A DIRECTIONAL**
16 **OR PROMOTIONAL SIGN SHALL PAY THE FULL ADMINISTRATIVE AND OPERATIONAL**
17 **COSTS OF PROCURING, INSTALLING, MAINTAINING, AND REMOVING THE SIGN.**

18 **(III) NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION,**
19 **THE STATE HIGHWAY ADMINISTRATION:**

20 **1. MAY NOT AUTHORIZE THE INSTALLATION OF A**
21 **DIRECTIONAL OR PROMOTIONAL SIGN UNDER THIS SUBSECTION IF IT DETERMINES**
22 **THAT INSTALLATION OF THE SIGN WOULD CAUSE A SAFETY ISSUE; OR**

23 **2. MAY ORDER THE REMOVAL OF A DIRECTIONAL OR**
24 **PROMOTIONAL SIGN IF IT DETERMINES THAT THE SIGN IS CAUSING A SAFETY ISSUE.**

25 **(IV) THE STATE HIGHWAY ADMINISTRATION MAY CHARGE AN**
26 **ANNUAL FEE FOR A DIRECTIONAL OR PROMOTIONAL SIGN INSTALLED UNDER THIS**
27 **SUBSECTION.**

1 **(V) IN ORDER TO MINIMIZE THE FINANCIAL IMPACT ON THE**
 2 **TRANSPORTATION TRUST FUND, THE STATE HIGHWAY ADMINISTRATION SHALL**
 3 **COORDINATE WITH THE FOLLOWING:**

4 **1. THE MARYLAND DEPARTMENT OF THE**
 5 **ENVIRONMENT;**

6 **2. THE APPROPRIATE SOIL CONSERVATION DISTRICT;**

7 **3. THE APPROPRIATE COUNTY GOVERNMENT; AND**

8 **4. THE APPROPRIATE PRIVATE LANDOWNER.**

9 **(VI) THE STATE HIGHWAY ADMINISTRATION MAY ADOPT**
 10 **REGULATIONS TO IMPLEMENT THIS SUBSECTION.**

11 (e) Any person who removes, damages, or defaces any sign, signal, or marker
 12 placed under this section is guilty of a misdemeanor and on conviction is subject to a fine
 13 not exceeding \$100.

14 (f) (1) Except for a sign placed or maintained by the Administration or with
 15 the authorization of the Administration, a person may not place or maintain a sign or direct,
 16 consent to, or approve the placement or maintenance of a sign, within a State highway
 17 right-of-way.

18 (2) (i) Without resort to legal proceedings, a sign placed or maintained
 19 in violation of this subsection may be removed and destroyed by the Administration, a law
 20 enforcement officer, or the government of the county or municipal corporation in which the
 21 sign was located.

22 (ii) The Administration or the government of the county or
 23 municipal corporation that removed or destroyed the sign may, if the sign is a commercial
 24 sign:

25 1. Collect the civil penalty provided for under paragraph (3)
 26 of this subsection from the person that placed or maintained the commercial sign; and

27 2. Seek an injunction against further violations of this
 28 subsection in a civil action in the District Court.

29 (3) (i) A person that places or maintains a commercial sign within the
 30 right-of-way of a State highway in violation of this subsection is subject to a civil penalty
 31 not exceeding \$25 per commercial sign, which, if not paid after being cited and assessed by
 32 the Administration, county, or municipal corporation, may be recovered in a civil action in
 33 the District Court by the Administration or by the county or municipal corporation in which
 34 the commercial sign was located.

1 (ii) As to a county or a municipal corporation in which the
2 commercial sign was located, the civil action in the District Court may be brought by the
3 county attorney or, if the commercial sign was located in a municipal corporation, the
4 municipal corporation attorney.

5 (iii) The Administration, a county, or a municipal corporation:

6 1. May enforce this subsection only by the issuance of a
7 warning for the first 3 months after initiating a sign removal program; and

8 2. Shall enforce this subsection on a viewpoint and content
9 neutral basis.

10 (4) For the purposes of enforcing this subsection, the presence of a sign
11 within a State highway right-of-way shall be evidence that the sign was placed or
12 maintained at the direction of, or with the consent and approval of, the person or the
13 person's agent or representative in the State whose name, business, location, or product
14 representation is displayed on the sign.

15 (5) The Administration, a county, or a municipal corporation shall retain
16 any civil penalties that it collects under this subsection.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.