

Chapter 103

(Senate Bill 285)

AN ACT concerning

**State Highway Administration – Highway Work Permits – Pedestrian Access
(Pedestrian Access Act of 2020)**

FOR the purpose of requiring a person that obtains a highway work permit from the State Highway Administration ~~to maintain pedestrian access at certain work sites for work to be performed in certain areas to maintain a safe alternative pedestrian path at the work site~~; requiring the Administration to adopt certain regulations, subject to certain standards and requirements, governing pedestrian access in areas subject to a highway work permit; requiring the Administration to compile, publish, and make available an inventory of certain best practices for the maintenance of pedestrian access in areas where construction or maintenance work is performed in State highway rights-of-way; defining certain terms; and generally relating to pedestrian access in areas subject to a highway work permit.

BY repealing and reenacting, with amendments,
 Article – Transportation
 Section 8–646
 Annotated Code of Maryland
 (2015 Replacement Volume and 2019 Supplement)

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

Article – Transportation

8–646.

(a) Except as permitted by this section or in accordance with a permit obtained from the Administration, a person may not:

- (1) Make an opening in any State highway;
- (2) Place any structure on any State highway;
- (3) Change or renew any structure placed on any State highway;
- (4) Dig up any State highway for any purpose, including the placement of pipes, sewers, poles, wires, or rails;
- (5) Plant or remove any tree on any State highway; or

(6) Place any obstruction or improvement on any State highway.

(b) (1) The Administration may issue a permit for work otherwise prohibited by subsection (a) of this section.

(2) Work done under the permit shall be performed to the satisfaction of the Administration and under its supervision.

(3) **IF THE WORK DONE UNDER THE PERMIT WILL BE PERFORMED WITHIN ~~2 MILES~~ 1 MILE OF WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY RAIL ~~SERVICES OR~~ OR BUS RAPID TRANSIT STATIONS OR MARYLAND TRANSIT ADMINISTRATION RAIL OR BUS RAPID TRANSIT STATIONS, INCLUDING MARYLAND AREA REGIONAL COMMUTER (MARC) STATIONS, THE PERSON TO WHOM THE PERMIT IS ISSUED OR BY WHOM THE WORK IS DONE SHALL MAINTAIN ~~PEDESTRIAN ACCESS~~ A SAFE ALTERNATIVE PEDESTRIAN PATH AT THE WORK SITE IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS SECTION.**

(4) The person to whom the permit is issued or by whom the work is done shall pay the cost of replacing the highway in as good a condition as before the work was done.

[(4)] (5) (i) The Administration shall require a nongovernment applicant for a permit issued under this subsection who is a developer to submit a performance bond, letter of credit, or other surety acceptable to the Administration.

(ii) The Administration shall require a nongovernment applicant for a permit issued under this subsection to submit a payment bond, letter of credit, or other surety acceptable to the Administration if:

1. The amount of the improvement is estimated to exceed \$100,000;
2. The project is financed, in whole or in part, by private funds; and
3. The entire improvement is located outside the applicant's property.

(c) The Administration may apply to the circuit court in the subdivision in which the violation occurred or is threatened for appropriate injunctive relief.

(D) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) “BIKE LANE” HAS THE MEANING STATED IN § 21-101 OF THIS ARTICLE.

(III) “SIDEWALK SHED” MEANS A TEMPORARY STRUCTURE ERECTED OVER A SIDEWALK OR PEDESTRIAN WALKWAY TO:

1. PROTECT PEDESTRIANS FROM DEBRIS THAT MAY FALL FROM CONSTRUCTION WORK ABOVE THE SIDEWALK OR PEDESTRIAN WALKWAY; AND

2. MAINTAIN PEDESTRIAN ACCESS TO THE SIDEWALK OR PEDESTRIAN WALKWAY WHEN CONSTRUCTION OR MAINTENANCE OCCURS NEAR THE SIDEWALK OR PEDESTRIAN WALKWAY.

(2) THE ADMINISTRATION SHALL ADOPT REGULATIONS GOVERNING THE MAINTENANCE OF PEDESTRIAN ACCESS TO THE MAXIMUM EXTENT PRACTICABLE IN AREAS WHERE CONSTRUCTION OR MAINTENANCE WORK IS PERFORMED IN ACCORDANCE WITH A PERMIT ISSUED UNDER THIS SECTION.

(3) THE REGULATIONS ADOPTED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL:

(I) PROHIBIT THE ERECTION OF A SIDEWALK SHED UNLESS:

1. THE ADMINISTRATION HAS APPROVED THE ERECTION OF THE SIDEWALK SHED UNDER A PERMIT ISSUED UNDER THIS SECTION; OR

2. THE PERSON THAT WILL APPLY FOR THE PERMIT OR DO THE WORK DETERMINES THAT IMMEDIATE ERECTION OF A SIDEWALK SHED IS NECESSARY FOR PUBLIC SAFETY;

(II) REQUIRE THE PERSON SPECIFIED UNDER ITEM (I)2 OF THIS PARAGRAPH TO APPLY FOR A PERMIT WITHIN 24 HOURS AFTER ERECTING THE SIDEWALK SHED;

(III) SPECIFY STANDARDS AND REQUIREMENTS FOR SIDEWALK SHEDS AND OTHER STRUCTURES THAT MAINTAIN PEDESTRIAN ACCESS, INCLUDING REQUIREMENTS REGARDING:

1. LENGTH, WIDTH, AND HEIGHT OF THE STRUCTURES;

2. LIGHTING IN AND AROUND THE STRUCTURES;

3. COMPLIANCE WITH THE FEDERAL AMERICANS WITH DISABILITIES ACT;

4. THE STORAGE OF SUPPLIES AND OTHER MATERIALS ON THE ROOF OF A SIDEWALK SHED;

5. TEMPORARY OFFICE FACILITIES;

6. CIRCUMSTANCES UNDER WHICH A STRUCTURE MAY BLOCK OTHER HIGHWAY FEATURES, INCLUDING EXITS, ENTRANCES, LOADING AREAS, AND STREET SIGNS; AND

~~6.~~ 7. MAINTAINING ACCESS TO BIKE LANES, IN THE FOLLOWING DESCENDING ORDER OF PRIORITY:

A. PROVIDING A BIKE LANE ON THE SAME HIGHWAY THAT THE BLOCKED BIKE LANE IS ON BY SHIFTING AND NARROWING ADJACENT LANES OF TRAFFIC;

B. PROVIDING A BIKE LANE IN AN EXISTING LANE OF TRAFFIC;

C. MERGING BICYCLISTS AND ADJACENT TRAFFIC INTO A SHARED LANE OF TRAFFIC; AND

D. PROVIDING A BIKE LANE DETOUR ROUTE; AND

(IV) ADDRESS ANY OTHER ISSUE THE ADMINISTRATION DETERMINES IS NECESSARY FOR THE MAINTENANCE OF PEDESTRIAN ACCESS TO THE MAXIMUM EXTENT PRACTICABLE IN AREAS WHERE CONSTRUCTION OR MAINTENANCE WORK IS PERFORMED IN ACCORDANCE WITH A PERMIT ISSUED UNDER THIS SECTION.

(4) THE ADMINISTRATION SHALL:

(i) COMPILE AN INVENTORY OF BEST PRACTICES USED IN JURISDICTIONS THROUGHOUT THE STATE AND OUTSIDE THE STATE FOR THE MAINTENANCE OF PEDESTRIAN ACCESS IN AREAS WHERE CONSTRUCTION OR MAINTENANCE WORK IS PERFORMED IN STATE HIGHWAY RIGHTS-OF-WAY; AND

(ii) PUBLISH AND MAKE AVAILABLE THE INVENTORY OF BEST PRACTICES TO ANY INTERESTED PARTY.

(5) IN ADOPTING THE REGULATIONS REQUIRED UNDER THIS SUBSECTION, THE ADMINISTRATION SHALL CONSIDER:

(I) SAFETY FACTORS FOR PEDESTRIANS, BICYCLISTS, AND CONSTRUCTION AND MAINTENANCE WORKERS;

(II) THE COST OF MAINTAINING PEDESTRIAN ACCESS UNDER THIS SECTION;

(III) BEST PRACTICES COMPILED UNDER PARAGRAPH (4) OF THIS SUBSECTION;

(IV) THE NEED FOR STORAGE AND ACCESS TO CONSTRUCTION MATERIALS AND EQUIPMENT; AND

(V) THE NEED TO SEPARATE DIFFERENT MODES OF TRAVEL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.