

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 226

(Senator Waldstreicher)

Finance

Environment and Transportation

Highways – Prohibition on Outdoor Signs Along Expressways – Modification

This bill authorizes a person that owns property to use the property or allow the property to be used to erect or maintain an outdoor sign along or near an expressway located in an urban area if (1) the sign is 660 feet or less from the nearest edge of the right-of-way of the expressway; (2) is located in a commercial or industrial zone that is within a locally designated geographic area of signage control that has been adopted as part of comprehensive rezoning regarding signage; and (3) the person has received a permit from the State Highway Administration (SHA). The bill also makes several conforming and stylistic changes.

Fiscal Summary

State Effect: The bill may have a significant impact on SHA’s federal fund revenues and Transportation Trust Fund (TTF) expenditures; specifically, the bill jeopardizes as much as \$66 million annually in federal highway funding and may require the State to repay \$2 million in federal highway funding already received.

Local Effect: The bill does not have a direct, material effect on local operations or finances.

Small Business Effect: Minimal direct effect overall, but potential meaningful for any small business that is able to advertise more effectively under the bill.

Analysis

Current Law/Background:

Signs along Expressways in the State

“Outdoor sign” means any outdoor sign, display, light, structure, figure, painting, drawing, message, plaque, placard, poster, billboard, device, or other thing that is designed, intended or used to advertise or inform the traveling public. “On premise outdoor sign” means an outdoor sign that advertises or informs the general public of specified information about the property on which the sign is located, such as products grown on the property or services performed on the property.

Generally, a person that owns property may not use the property or allow the property to be used by any other person to erect or maintain an outdoor sign along or near any expressway unless the sign is in an urban area and more than 660 feet from the nearest edge of the right-of-way of the expressway. A person may, however, erect or maintain a sign along an expressway if the person has a permit from SHA to do so and the sign is:

- used to identify a church or historical monument and follows applicable SHA rules and regulations;
- along a highway that is not an expressway, even if the highway runs parallel to the expressway, as long as the sign faces the highway; or
- an on premise outdoor sign that complies with any applicable local zoning laws or ordinances.

Federal Highway Funding at Risk

The Federal-Aid Highway Act of 1958 and the Highway Beautification Act (HBA) govern the installation and maintenance of signs near highways and expressways across the nation. While state laws ultimately govern such signs, pursuant to the acts, the federal government provides additional highway funding to states that adhere to the federal rules. The Federal Highway Administration (FHWA) recently made it clear to SHA that federal law prohibits allowing outdoor signs, displays, and devices within 660 feet of the edge of the right-of-way and visible from the main-traveled way of all portions of the Interstate System, except under limited specified circumstances. Accordingly, SHA and the Office of the Attorney General advise that the bill may jeopardize federal highway funding.

Specifically, federal law provides that states which voluntarily agreed to control outdoor advertising adjacent to Interstate highways in accordance with national standards would receive a bonus of one-half of 1% of the highway’s cost of construction. Moreover, federal

law authorizes the U.S. Secretary of Transportation, as a penalty, to impose a 10% reduction in federal-aid apportioned funds each year that a state fails to exercise effective control over outdoor advertising under HBA. Maryland is one of the states that voluntarily agreed to participate in the federal program.

State Fiscal Effect: Failing to exercise effective control over outdoor advertising in accordance with federal law could significantly affect SHA's finances in two ways. First, doing so jeopardizes 10% of the State's federal highway funding each year. SHA advises that the State's fiscal 2020 share of federal highway funding totaled \$662 million, meaning that \$66.2 million could be withheld annually as a result of the bill. Second, the State may also be required to repay the 0.5% bonus in federal highway funds it was previously awarded; SHA advises that this totals about \$2.0 million and would be repaid from TTF. The impact on SHA's finances ultimately depends on the types of signs authorized by local governments and SHA under the bill as well as any actions taken by FHWA in response, which cannot be reliably predicted.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of Transportation; Office of the Attorney General; Caroline, Montgomery, and Prince George's counties; City of Bowie; Federal Highway Administration; Department of Legislative Services

Fiscal Note History: First Reader - January 24, 2020
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