

February 27, 2024

The Honorable William C. Smith, Jr.  
Chair, Senate Judicial Proceedings Committee  
2 East, Miller Senate Office Building  
Annapolis, MD 21401

**RE: Letter of Information – Senate Bill 817 – Public Safety – Missing Persons with Cognitive Impairment – Purple Alert Program**

Dear Chair Smith and Committee Members:

The Maryland Department of Transportation (MDOT) offers the following information on Senate Bill 817 for the Committee’s consideration.

Senate Bill 817 requires the Maryland State Police to establish a Purple Alert Program to disseminate information to help locate a missing person: 1) who suffers from a cognitive impairment, intellectual or developmental disability, or brain injury that is not Alzheimer’s disease, dementia, or a physical, mental, or emotional disability related to substance abuse; 2) whose disappearance poses a credible threat to the health and safety of the individual due to age, health, mental or physical disability, environment, or weather conditions, as determined by a law enforcement agency; and 3) who does not meet the criteria for activation of a Silver Alert under § 3-604 of the Public Safety Article. Senate Bill 817 also requires the State Police to consult with the State Highway Administration (SHA) to establish a plan for providing information relevant to a Purple Alert to the public through the dynamic message sign system located across the State.

The SHA supports alert programs which broadcast information about missing individuals through a variety of channels. By disseminating search information through social media; on state and federal websites; by email; on television and radio stations; and on smart phones, law enforcement can engage the public and help locate individuals. Time is often critical in these situations, and families expect authorities to use alert systems to help find loved ones quickly and, more importantly, unharmed. However, SHA would like to provide additional information on the proposed use of the dynamic message sign system to disseminate information relevant to a Purple Alert, as considered under Senate Bill 817.

The Federal Highway Administration (FHWA) administers the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), which Maryland has adopted. The MUTCD is a compilation of national standards for all traffic control devices, including road markings, highway signs, and traffic signals. Chapter 2L of the MUTCD contains the standards for Changeable Message Signs (CMS), the classification of traffic control device under which the State’s dynamic message sign system falls. Section 2L.02 provides for the allowable applications of CMS. Of note, 2L.02.01 and .02 state:

“01 CMS shall display only traffic operational, regulatory, warning, and guidance information except as otherwise provided in this Chapter. Advertising or other messages not related to traffic control shall not be displayed on a CMS or on its support or other equipment.

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02 CMS may display traffic safety campaign messages . . . , transportation-related messages, emergency homeland security messages, and America’s Missing: Broadcast Emergency Response (AMBER) alert messages, all as provided for in this Chapter.”

While other limited uses of CMS unrelated to traffic are allowed under certain conditions, the integrity of CMS as an official traffic control device, “[R]ests significantly on their judicious use and proper messaging format and content, regardless of the message type being displayed.” *See* 2L.02.09. However, the following new standard for the 11<sup>th</sup> Edition will impact the posting of Purple Alerts as proposed under this bill and *may* impact other types of alerts Maryland has posted under the requirements of existing law: “Types of “alert” messages other than AMBER alerts that are unrelated to traffic or travel conditions shall not be displayed on CMS.” 2L.02.14.

The SHA consulted FHWA to evaluate options for messages that may deviate from the MUTCD. FHWA informed SHA that, in accordance with 23 CFR 655.603(b)(1), exceptions to the MUTCD may only be granted if a specific State law was in effect prior to January 16, 2007. We are not aware of any existing State law that predates 2007 that would allow this exception for Purple Alerts. Compliance with the MUTCD is necessary to avoid potential impacts to federal funding. While FHWA tries to avoid formally imposing sanctions for non-compliance with the MUTCD, such actions are not unprecedented. Because FHWA has not provided exceptions outside of AMBER Alerts, MDOT could consult with the Department of State Police but could not provide a plan for using CMS to disseminate Purple Alerts. The SHA could inquire about a special exception from FHWA, although current federal regulations and MUTCD standards suggest that such an exception is unlikely.

The Maryland Department of Transportation respectfully requests the Committee consider this information when deliberating Senate Bill 817.

Sincerely,

Matthew Mickler  
Deputy Director (Acting)  
Office of Policy and Research  
Maryland State Highway Administration  
410-545-5629

Pilar Helm  
Director  
Office of Government Affairs  
Maryland Department of Transportation  
410-865-1090