

HOUSE BILL 1133

R1, M3

7lr1351

By: **Delegates Wivell and McKay**

Introduced and read first time: February 9, 2017

Assigned to: Environment and Transportation

A BILL ENTITLED

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 State highway
4 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 State highway
7 right-of-way in Washington County as part of implementing a State Watershed
8 Implementation Plan under certain circumstances; requiring the Administration to
9 negotiate in good faith with certain commercial property owners in Washington
10 County with respect to the placement and installation of directional or promotional
11 signs in State highway rights-of-way; requiring a commercial business that installs
12 a sign under this Act to pay certain costs related to the sign; establishing that the
13 Administration may not authorize the installation of a sign under this Act under
14 certain circumstances and may order the removal of a sign under certain
15 circumstances; authorizing the Administration to charge an annual fee for a sign
16 installed under this Act; authorizing the Administration to adopt certain regulations;
17 defining certain terms; and generally relating to tree planting and signs in State
18 highway rights-of-way in Washington County.

19 BY adding to

20 Article – Environment

21 Section 4–801 to be under the new subtitle “Subtitle 8. Washington
22 County – Chesapeake Bay Total Maximum Daily Load”

23 Annotated Code of Maryland

24 (2013 Replacement Volume and 2016 Supplement)

25 BY repealing and reenacting, with amendments,

26 Article – Transportation

27 Section 8–605

28 Annotated Code of Maryland

29 (2015 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

Article – Environment

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

4–801.

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

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

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

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

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

(B) THIS SECTION APPLIES ONLY IN WASHINGTON COUNTY.

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

(1) RURAL BUSINESS (RB);

(2) BUSINESS TRANSITIONAL (BT);

(3) BUSINESS LOCAL (BL);

(4) BUSINESS GENERAL (BG);

(5) PLANNED BUSINESS (PB); OR

1 **(6) AGRICULTURAL (A(R)) OR (A).**

2 **(D) THE STATE HIGHWAY ADMINISTRATION MAY NOT, WITHOUT THE**
3 **WRITTEN PERMISSION OF THE OWNER, PLANT ANY TREE IN A STATE HIGHWAY**
4 **RIGHT-OF-WAY AS PART OF IMPLEMENTING A WIP:**

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

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

11 **Article – Transportation**

12 8–605.

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

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

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

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

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

30 (2) (i) The Administration shall adopt regulations governing specific
31 service signs.

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

(iii) The Administration shall consult with:

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

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

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

(D-1) (1) THIS SUBSECTION APPLIES ONLY IN STATE HIGHWAY RIGHTS-OF-WAY LOCATED IN THE FOLLOWING ZONING CLASSIFICATIONS IN WASHINGTON COUNTY:

(I) RURAL BUSINESS (RB);

(II) BUSINESS TRANSITIONAL (BT);

(III) BUSINESS LOCAL (BL);

(IV) BUSINESS GENERAL (BG);

(V) PLANNED BUSINESS (PB); OR

(VI) AGRICULTURAL (A(R)) OR (A).

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

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

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

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

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

6 (IV) THE STATE HIGHWAY ADMINISTRATION MAY CHARGE AN
7 ANNUAL FEE FOR A DIRECTIONAL OR PROMOTIONAL SIGN INSTALLED UNDER THIS
8 SUBSECTION.

9 (V) 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.

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

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

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

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

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

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

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