

## **Part G**

# **Transportation and Motor Vehicles**

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### **Transportation**

#### **Consolidated Transportation Bond Issuances**

The recent credit crisis and lack of liquidity in the capital market during the fall of 2008 created a sluggish competitive bond market. If MDOT had needed to issue bonds in the public competitive bond market last fall, it is possible that very few or possibly no bids would have been received.

*Senate Bill 1011/House Bill 1425 (both passed)* identify a public, competitive sale as the preferred method of issuance of consolidated transportation bonds and authorize MDOT to issue consolidated transportation bonds at a private, negotiated sale if the Secretary of MDOT determines that (1) extraordinary credit market conditions exist that warrant the use of this method rather than a public, competitive sale; and (2) the terms and conditions, including price, interest rates, and payment dates, that can be achieved by a private negotiated sale are more advantageous to the State. The bills require the resolution authorizing the issuance of consolidated transportation bonds to specify whether the bonds are to be sold at a public or private sale. Also, a requirement that bond issuances be advertised at least once in a newspaper of general circulation in Baltimore City is eliminated.

### **Mass Transit**

#### **Washington Metropolitan Area Transit Authority Compact**

WMATA was established to plan, finance, develop, and operate a balanced regional transportation system for the national capital area. It was created by interstate compact of the State of Maryland, the Commonwealth of Virginia, and the District of Columbia with the consent of the U.S. Congress. Maryland ratified the compact in 1965 (Chapter 869 of 1965).

In October 2008, the U.S. Congress passed Public Law 110-432 authorizing up to \$1.5 billion in federal funds for WMATA capital and preventive maintenance improvements over 10 years, beginning in fiscal 2009. However, this federal law was made contingent upon

the passage of specified amendments to the WMATA Compact by Maryland, Virginia, and the District of Columbia prior to distribution of federal funds. As required by federal law, *Senate Bill 915 (Ch. 111)/House Bill 572 (passed)* amend the WMATA Compact to add two federally appointed, voting board members; require an Office of the Inspector General at WMATA; and require Virginia, Maryland, and the District of Columbia to make payments from a dedicated funding source to match up to \$1.5 billion in federal funds for WMATA capital and preventive maintenance projects. The bills designate the Transportation Trust Fund as Maryland's dedicated funding source for matching specified federal funds. The bills take effect upon enactment of similar legislation by Virginia and the District of Columbia and approval by the U.S. Congress.

### **Public Hearings**

*Senate Bill 506/House Bill 199 (both passed)* require the Maryland Transit Administration (MTA) to hold public hearings prior to reducing the frequency, number of days, or days of service for a commuter bus or commuter rail route without substituting a comparable level of service, unless the reduction is temporary or the result of a specified circumstance. The bills define what constitutes inadequate notification of public hearings and broaden the notification provision to include defective notification. MTA must make a reasonable effort to correct public notices deemed inadequate or defective. If specified notification requirements are not met or the notice contains erroneous information, the notice is inadequate or defective. The bills require MTA to notify the governing body of each county or municipal corporation affected by a proposed service change at least 30 days prior to the public hearing on that proposal.

### **Red Line Area Transit Study**

The Red Line is a proposed 14-mile, east-west transit line that would run from Woodlawn through downtown Baltimore to the Johns Hopkins Bayview Medical Center Campus. It would link to the north-south light rail, metro, and Maryland Area Regional Commuter trains. The Red Line is estimated to cost \$1.6 billion, and construction is scheduled to begin in 2012. More than 42,000 people per day are expected to use this transit line, resulting in approximately 67,000 fewer daily automobile vehicle miles traveled.

*Senate Bill 614/House Bill 426 (both passed)* prohibit MTA from acquiring real property for construction of the Red Line transit project if the acquisition results in involuntary residential displacement. The bills establish the intent of the General Assembly that MTA develop and implement workforce development strategies that maximize the participation of Red Line area residents in jobs created by the Red Line. The bills also express the intent of the General Assembly that the Maryland Congressional Delegation seek to increase the level of federal funding for and formula participation in New Starts transit projects to a level consistent with other surface transportation investments and reduce bias in the federal New Starts funding formula against the northeastern and industrial regions of the United States.

### **Transit Service Alterations**

The Public Service Commission (PSC) and Office of the People’s Council (OPC) are required to submit reports that make recommendations on specified MTA proposals that may affect the operation of transit facilities as a coordinated regional transit system. The PSC is required to prioritize development of these reports above any other matters and submit the reports prior to a public hearing on any such proposal. Also, the OPC is required to attend and represent the public interest at MTA hearings. However, while the PSC has authority over common carriers’ rates, terms, and service, it does not have this type of authority regarding MTA services. Furthermore, the PSC does not have any particular expertise in matters relating to mass transit. In light of these facts, and since the MTA consults widely with various advisory groups on transit service proposals, *Senate Bill 60 (passed)* repeals these PSC and OPC reporting and hearing attendance requirements.

### **Maryland Port Administration**

#### **Access to Port-related Information**

After the events of September 11, 2001, concerns were raised over the security of U.S. ports and waterways. The Maryland Port Administration (MPA) is implementing a variety of efforts aimed at improving its physical and informational security systems. MPA initiated the federally mandated Transportation Worker Identification Credential in December 2008, and other ongoing efforts include installing or upgrading fencing, lighting, cyber lock controlled gates, intelligent closed-circuit television systems, access controlled systems, and communication systems. Consistent with these efforts, during the 2009 session, the General Assembly sought to address concerns regarding the potential availability under the Maryland Public Information Act of sensitive information relating to port security.

There are numerous restrictions on the disclosure of information under the Maryland Public Information Act, including disclosure of specified information about bridges, tunnels, airports, and mass transit facilities; however, information about the ports is not specifically restricted. *Senate Bill 75 (passed)* authorizes the State and local governments to keep specified records related to ports confidential. Records may be withheld only if public inspection would jeopardize the security of any building, structure, or facility; facilitate the planning of a terrorist attack; or endanger life or safety. The bill is not intended to limit inspection of MPA or Maryland Aviation Administration records by a specified exclusive representative, as authorized by specified memoranda of understanding and federal law; however, an exclusive representative must sign a nondisclosure agreement prior to inspecting such public records.

#### **Maryland Port Administration Jurisdiction**

Through its efforts to increase waterborne commerce, MPA promotes the economic well being of the State of Maryland and manages the State-owned facilities at the Helen Delich Bentley Port of Baltimore. The port is a vast industrial complex that encompasses 45 miles of shoreline and 3,403 waterfront acres. It includes 7 public terminals owned and operated by

MPA, as well as 23 private terminals. Unlike many State entities, the port operates in a highly competitive market, with direct competition not only from private industry but also from other ports up and down the east coast, as well as some Canadian ports. MPA's territorial jurisdiction with respect to powers and duties is restricted to sites located in or near any of the navigable waters of the State. *Senate Bill 61 (passed)* expands MPA's jurisdiction by authorizing it to operate at in-land properties or facilities that it acquires, leases, or operates for the transport or storage of cargo and equipment.

## **Other Transportation Issues**

### **State Highway Administration – Snow Removal**

*Senate Bill 209 (passed)* authorizes the State Highway Administration to hire an owner of a registered farm truck for snow removal services when a statewide or local emergency is declared. The farm trucks, and the owner and operator of the farm truck, must meet specified minimum requirements.

### **Bicycle and Pedestrian Advisory Committee**

The Governor appoints a Bicycle and Pedestrian Advisory Committee to provide guidance to State agencies concerning funding of bicycle and pedestrian related programs, public education and awareness of bicycle and pedestrian related activities and safety, and other issues. *House Bill 1144 (passed)* adds a representative of the Maryland-National Capital Park and Planning Commission to the Bicycle and Pedestrian Advisory Committee.

### **Criminal History Checks**

Under current MDOT policy, background investigations conducted on prospective employees check the candidate's date of birth, Social Security number, and criminal convictions. However, using the current process, MDOT is not able to obtain information on individuals who reside outside of the State of Maryland. In fiscal 2008, 3.7% of MDOT employees resided outside the State.

*House Bill 1521 (passed)* authorizes the Secretary of MDOT to request, for a specified prospective or current MDOT employee, a State and national criminal history record information (CHRI) check from the Criminal Justice Information System (CJIS) Central Repository of the Department of Public Safety and Correctional Services. When applying for a CHRI check, the Secretary of MDOT must submit specified fees and two complete sets of fingerprints taken on specified forms to the CJIS Central Repository. The CJIS Central Repository must forward the results of the check to MDOT and the prospective or current employee. CHRI checks are confidential, may not be disseminated, and may be used only for specified employment purposes.

## Motor Vehicles

### Licensing and Registration

#### Verification of Lawful Status

On May 11, 2005, former President George Bush signed into law the REAL ID Act that requires federal agencies to accept only personal identification cards that meet certain standards for official purposes. The U.S. Department of Homeland Security (DHS) issued final REAL ID regulations in January 2008. The O'Malley Administration has announced that Maryland will comply with the REAL ID Act and that the State has been granted a deadline extension until December 31, 2009, for submission of its REAL ID certification. The final regulations allow a state to request, by October 11, 2009, an additional extension to May 10, 2011. This additional extension may only be granted if a state certifies material compliance by January 1, 2010, with the 18 benchmarks contained in DHS's "Material Compliance Checklist" that was issued as an attachment to the final regulations. The summary of the final regulations states that "[t]he eighteen milestones are all mandatory requirements under the Act; one of the most important ones, however, is the state's ability to verify that the applicant is lawfully present in the United States." This mandate imposes a new requirement for applicants of driver's licenses in Maryland and requires a statutory change by the General Assembly. If a second extension is granted, a state must begin issuing REAL ID compliant ID cards on May 11, 2011. If an extension is not granted, then, beginning December 31, 2009, Maryland driver's licenses and identification cards will no longer be accepted by federal agencies for official purposes, such as boarding a federally regulated aircraft. The final regulations clarify that a state-submitted consolidated security plan must address the security of only those facilities that are critical to the issuance, manufacturing, and production of identification.

As of April 2009, Maryland was one of five states (along with Hawaii, New Mexico, Utah, and Washington) that extended the privilege to drive to individuals who do not have lawful status. However, *House Bill 387 (passed)* defines "lawful status" as it applies to the issuance of identification cards, driver's licenses, and moped operator permits, and establishes a two-tiered approach to the issuance of these documents by the Motor Vehicle Administration (MVA), with the documents issued under one of these tiers considered invalid for certain official federal purposes. MVA may issue these documents, including driver's licenses and the associated driving privilege, to an individual who held the document sought for renewal on April 18, 2009, regardless of lawful status or the absence of a valid Social Security number. However, MVA documents issued on or after July 1, 2010, must expire on July 1, 2015, and MVA may no longer undertake this two-tier issuance after July 1, 2015. In addition to providing one tier of MVA documents to individuals who cannot demonstrate lawful status or do not possess a valid Social Security number, the two-tier approach also enables MVA documents to be issued to individuals who encounter identity verification problems in the MVA verification process prescribed by federal regulations.

Individuals who verify citizenship or lawful status are eligible to receive one of the documents for a period of up to five years as determined by MVA, or for only as long as the

individual's lawful status remains valid. The bill also requires MVA to develop a plan to address physical security requirements for MVA locations and other information and privacy safeguards for MVA document issuance processes.

## **Speed Monitoring Systems – Statewide Implementation**

### **School Zone Speed Monitoring Systems**

*Senate Bill 277 (passed)* expands statewide the authorization for the use of speed monitoring systems in school zones. In school zones, local law enforcement agencies or their contractors may issue citations or warnings to vehicle owners for speeding at least 12 miles per hour above the posted speed limit. The maximum fine for a citation is \$40. The bill allows Montgomery County to retain its authority to use speed monitoring systems in specified residential areas, although the speed tolerance is raised from 10 to 12 miles per hour.

A speed monitoring system may be placed in a school zone for operation between 6:00 a.m. and 8:00 p.m. Monday through Friday. Before a speed monitoring system may be used in a local jurisdiction, its use must be authorized by the governing body by ordinance or resolution adopted after reasonable notice and a public hearing. The ordinance or resolution must require the issuance of warnings only during the first 30 days, at a minimum, after the first speed monitoring system is placed in a local jurisdiction. Before activating an unmanned stationary speed monitoring system, a local jurisdiction must publish notice of its location on the local jurisdiction's web site and in a general circulation newspaper in the jurisdiction. The local jurisdiction must also ensure that each school zone sign indicates that speed monitoring systems are used in school zones.

Any fines or penalties collected by the District Court from school zone speed monitoring systems are remitted to the Comptroller and distributed to various transportation-related funds. Fines or penalties that are collected from uncontested citations accrue to the local governments that have implemented the speed zone systems. The bill authorizes local jurisdictions to use any revenues generated from school zone automated speed enforcement in excess of the amount necessary to recover implementation costs solely for public safety purposes, including pedestrian safety programs. However, if after recovering implementation costs the balance of revenues generated exceeds 10% of the local jurisdiction's total revenues for the fiscal year, then any amount above 10% must be remitted to the Comptroller and deposited in the general fund of the State.

### **Highway Work Zone Speed Monitoring Systems**

*Senate Bill 277* also authorizes State and local law enforcement agencies or their contractors to issue citations or warnings for speeding at least 12 miles per hour above the posted speed limit in highway work zones that are set up on expressways or controlled access highways where the speed limit is 45 miles per hour or greater. A conspicuous road sign warning of the use of speed monitoring systems must be placed at a reasonable distance from the work zone. The maximum fine is \$40. A law enforcement agency or its contractor may only issue warnings during the 30 days after the first work zone system is in place. All fines collected for work zone

speed control violations, whether prepaid or imposed by the District Court in a contested case, must be deposited into a newly established special fund, then distributed to the State Highway Administration and the Department of State Police (DSP) to cover the implementation and administration costs of the speed control systems. Before October 1, 2012, any remaining balance after covering these costs must be paid to DSP to fund its roadside police enforcement activities. On or after October 1, 2012, any remaining balance is deposited into the Transportation Trust Fund.

### **Driving While Using Electronic Text Messaging Devices**

Experts estimate that the nearly 250 million wireless phone users in the United States sent about 158 billion text messages in 2006. It is unknown how many of these messages were sent while people were operating motor vehicles, but driving while texting appears to be a growing trend. A study by Nationwide Insurance estimated that 20% of all drivers send or receive text messages. A Zogby poll of drivers between the ages of 18 and 24 revealed that 66% admitted to texting while driving. While few studies have quantified the distraction caused by texting while driving, and no state has published data showing a link between texting and vehicle accidents, experts have estimated that driver inattention is a factor in 80% of motor vehicle crashes and 65% of near crashes. As a result, driver distraction appears to be a factor in about 4.9 million accidents, causing 34,000 fatalities and 2.1 million injuries.

*Senate Bill 98/House Bill 72 (both passed)* prohibit a driver from using a text messaging device to write or send a text message while operating a motor vehicle in motion or in the travel portion of the roadway. A violator is guilty of a misdemeanor and subject to a maximum fine of \$500. The prohibition does not apply to the use of a global positioning system or the use of a text messaging device to contact a 9-1-1 system. A “text messaging device,” as defined in the bills, means a handheld device used to send a text message or an electronic message via a short message service, wireless telephone service, or electronic communication network.

### **Drunk and Drugged Driving**

#### **Task Force to Combat Driving Under the Influence of Drugs and Alcohol**

Chapters 533 and 534 of 2007 established the Task Force to Combat Driving Under the Influence of Drugs and Alcohol. The task force was created to address (1) actions necessary to implement national best practices for combating drunk and drugged driving offenses; (2) new State initiatives to address all impaired driving populations; (3) actions to sustain and enhance the public’s awareness and concern for the dangers imposed by impaired driving; and (4) strategies for improved coordination of management, funding, and resources at State and local levels.

The task force reported that an increasing number of people arrested for driving under the influence of alcohol or while impaired by alcohol and/or drugs are repeat offenders and any alcohol-related driving event is a reliable predictor of future recidivism.

**Modified Suspension for Subsequent Offense:** *Senate Bill 262 (passed)* contains provisions recommended by the task force. The bill clarifies that, unless otherwise specified, MVA is authorized to impose a one-year driver's license suspension on a person who is convicted of *any* drunk or impaired driving offense more than once within a five-year period. On request of a person whose license is suspended under this provision, MVA may issue a restricted driver's license for the suspension period if the person participates in the Ignition Interlock System Program.

The bill *requires* MVA to impose a one-year driver's license suspension on any driver convicted of driving under the influence of alcohol or while impaired by a controlled dangerous substance after a previous conviction of these offenses within a five-year period. The mandatory suspension period may be modified under specified circumstances. After notice and hearing requirements are met and MVA imposes a mandatory suspension of a driver's license, MVA may modify the mandatory suspension by imposing a suspension period of at least 45 days and ordering the person to maintain, for the remainder of the one-year suspension period, an ignition interlock system on each motor vehicle owned or operated by the person. The person's driver's license must carry a restriction that prohibits the person from driving a motor vehicle that is not equipped with an ignition interlock system and allows the person to drive only to and from work, school, an alcohol or drug treatment program, or an ignition interlock system service facility. Such a person who participates in the Ignition Interlock System Program for at least three months is exempt from the requirement of having to maintain an ignition interlock system on each motor vehicle owned or operated by the person after the expiration of the one-year mandatory suspension period.

**Limitations on Probation Before Judgment:** *Senate Bill 259/House Bill 301 (both passed)* extend, from 5 to 10 years, the period during which a prior conviction for specified alcohol- and/or drug-related driving offenses disqualifies a person from eligibility to be placed on probation before judgment (PBJ) for subsequent offenses. If a defendant is ordered into treatment as a condition of probation, the bills also extend, from 5 to 10 years, the period during which a court is prohibited from striking or staying the entry of judgment and placing the defendant on probation if, in that time, the defendant has been convicted of an alcohol- and/or drug-related driving offense or was placed on PBJ after being charged with an alcohol- and/or drug-related driving offense.

**Violation of Alcohol Restrictions:** *Senate Bill 263/House Bill 305 (both passed)* make the conviction for a violation of an alcohol restriction on a driver's license that is imposed by the MVA a misdemeanor. The bills subject a person who violates this restriction to maximum penalties of up to two months imprisonment and/or a fine of \$500. The bills also establish that the violation of any restriction imposed on a driver's license or the violation of any rule or regulation under the Maryland Vehicle Law may subject the violator to up to two months imprisonment and/or a fine of up to \$500.

### **Drinking Driver Monitor Program (DDMP) Fee Increase**

Special program fees for DDMP were established by the Budget Reconciliation and Financing Act of 2005 (Chapter 444). The fees were set at \$45 per month, a level expected to generate \$7.6 million annually and allow DDMP to be self-supporting. The fees have generated only about \$6.5 million annually, however, resulting in general fund deficiency appropriations of \$1.0 million in fiscal 2006, and \$1.5 million each in fiscal 2007 and 2008 to cover the full operating costs of the program. The DDMP fees terminate on June 30, 2010. *House Bill 101 (passed)*, the Budget Reconciliation and Financing Act of 2009, increases the monthly fee for participation in DDMP from \$45 to \$55 and removes the termination date for the fee so that all program participants continue to pay the fee after fiscal 2010.

### **Teen Driving Safety**

According to a 2006 study conducted by the Johns Hopkins Bloomberg School of Public Health, graduated driver licensing (GDL) programs reduce the incidence of fatal crashes by 16-year-old drivers by 11%. Analyzing various components of state GDL laws, the researchers found that, the greater the number of program components, the fewer the number of traffic accident fatalities. Thus, states with a five-component program reduced fatalities by 18% as compared with states with no graduated licensing laws, and states with a six- or seven-component program were able to reduce fatalities by 21%. The Insurance Institute for Highway Safety (IIHS) has given Maryland's GDL system its highest possible rating.

*Senate Bill 265/House Bill 303 (both passed)* enhance the restrictions of Maryland's GDL system. Under the bills, MVA is prohibited from issuing:

- a provisional license to anyone younger than 16 years, 6 months, or within 9 months of being convicted or granted probation before judgment for a moving violation; or
- a driver's license to anyone younger than 18, or within 18 months of either the granting of probation before judgment for a moving violation or the imposition of a provisional driver's license restriction, or from the date of restoration of a provisional license that has been cancelled.

For an individual younger than 18 who held a provisional license on the date of a violation for which the individual was convicted or granted probation before judgment, MVA may:

- for a second offense, suspend the driver's license for 30 days and impose an education and employment only restriction for 90 days following the suspension;
- for a third offense, suspend the license for up to 180 days, require the driver to attend a young driver improvement program, and impose an education and employment only restriction for 180 days following the suspension; and

- for a fourth or subsequent offense, revoke the license for at least 180 days and require the driver to apply for reinstatement of the revoked license, including retaking and passing the skills and driving examinations.

Finally, the bills require MVA to submit an application for a criminal history records check for a driving instructor candidate to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services. The information obtained from the Central Repository is confidential and must be forwarded to the driving instructor candidate and MVA.

In addition, *Senate Bill 219 (passed)* requires the clerk of the court to report to MVA on any child found to have committed a delinquent act for (1) failing to remain at the scene of an accident involving bodily injury, death, or property damage; or (2) fleeing and eluding a police officer. MVA must then suspend the license of the child for six months for a first offense and for one year for a second or subsequent offense. The bill also requires MVA to suspend the provisional license of an individual younger than age 18, who accumulates five or more points in a 12-month period, for six months for a first offense and one year for a second or subsequent offense. If a provisional license holder younger than age 18 is guilty of reckless or negligent driving, aggressive driving, or engaging in a racing or a speed contest, MVA must suspend the license for six months for a first offense and one year for a second or subsequent offense.

## **Manufacturers and Dealers**

*Senate Bill 668 (passed)* adds and clarifies prohibitions for the protection of motor vehicle dealerships from discriminatory or coercive business practices by manufacturers, distributors, and factory branches and otherwise strengthens various dealership franchise rights.