

Part G

Transportation and Motor Vehicles

Transportation

Magnetic Levitation Transportation System (Maglev)

The Baltimore-Washington area is one of two finalists in the competition for federal funding to construct a Maglev transportation system. If the area is selected, federal aid would be available for a proposed 40-mile Maglev project linking Camden Yards in Baltimore and Baltimore-Washington International Airport to Union Station in Washington, DC. The Maglev would provide a 16-minute trip between Baltimore and Washington and could be expanded to provide service to other locations on the East Coast. The project's total cost is approximately \$4.4 billion, of which Maryland would be required to contribute \$500 million.

During the 2002 interim, the Task Force to Evaluate the Development and Construction of a Magnetic Levitation Transportation System studied alternative funding mechanisms and the potential for a public-private partnership for the design, construction, ownership, and operation of a Maglev system. In its February 2003 report, the task force recommended that a study be conducted to ascertain the costs and benefits of Maglev.

The Fiscal 2004 Budget includes approximately \$2 million in federal funding but cuts \$1 million in State funds to complete the Environmental Impact Statement for the Maglev system. Language adopted in the Fiscal 2004 Budget and a provision of the 2003 Budget Reconciliation and Financing Act (BRFA) prohibits the State from constructing a Maglev system unless specifically authorized by an act of the General Assembly. The budget language and BRFA provision also prohibit the use of State general or special funds to study, develop, or construct a Maglev system.

Public-Private Partnerships

Senate Bill 497/House Bill 1162 (both failed) would have authorized the Maryland Transportation Authority (MdTA) to enter into public-private partnership agreements with private entities to buy, build, or improve various transportation facilities, including highways. The bills also would have authorized the MdTA to contract with private entities for maintenance

and services related to new, expanded, or purchased transportation facilities. Currently, MdTA regulations authorize these agreements for ports, railroads, airports, and transit facilities; however, the regulations do not apply to highways. *Senate Bill 497/House Bill 1162* included provisions to address various public policy concerns. For example, a partnership agreement would have been required to provide for payment of the prevailing wage rate and to apply only to projects that were eventually incorporated into the State's six-year capital program. The bills also would have required procurement procedures for public-private partnership agreement to ensure minority business participation.

Chesapeake Bay Bridge Traffic Congestion

Traffic congestion at the Chesapeake Bay Bridge continues to be a problem, particularly during the summer vacation season. During the 2003 session, the General Assembly considered measures to alleviate traffic congestion at the bridge. *House Bill 51 (failed)* would have prohibited the MdTA from collecting tolls on the Bay Bridge when traffic waiting to cross the bridge extended more than five miles and the average speed of vehicles in the line of traffic was less than 30 miles per hour. Such backups occur approximately 13 times per year during the nonpeak season and every weekend during the 19-week beach season. Toll revenues were estimated to decline by approximately \$1.7 million in fiscal 2004 and \$2.3 million annually if the bill had been enacted.

Motor Vehicles

Drunk Driving

“John’s Law” – Prohibition on Driving after Drunk Driving Arrest

In July 2000, a drunk driver tragically killed a young Naval Academy graduate named John Elliott. The driver had been arrested three hours prior to the fatal accident on a separate drunk driving charge but was released to the custody of a friend who subsequently allowed the drunk driver to return behind the wheel. Although police may arrest a person for a drunk or drugged driving offense, there is no requirement to detain the person, who is often released to a friend or family member following the completion of the arrest procedures.

In order to help prevent drunk drivers from immediately getting back behind the wheel, the General Assembly passed *Senate Bill 383 (passed)*, which prohibits a person who has been arrested for a drunk or drugged driving offense from driving within 12 hours after arrest. *House Bill 6 (passed)* contains identical provisions. The bills are named “John’s Law” in memory of John Elliott.

The bills prohibit a person from driving a motor vehicle within 12 hours after arrest if the person is arrested for driving or attempting to drive while under the influence of, or impaired by alcohol, drugs or drugs and alcohol, or a controlled dangerous substance, or for causing a homicide or life-threatening injury by motor vehicle or vessel while under the influence of, or impaired by alcohol, drugs or drugs and alcohol, or a controlled dangerous substance. A

violation is a misdemeanor and subject to imprisonment for up to two months, a maximum fine of \$500, or both. The Motor Vehicle Administration (MVA) is also required to assess eight points against the person's driver's license, and the license is subject to suspension.

Repeat Offender Penalties

Mandatory Imprisonment: Provisions in the federal Transportation Equity Act of the 21st Century (TEA-21) condition the use of federal funds for highway construction projects on state enactment of laws that increase sanctions for drivers with repeat intoxicated driving offenses. The General Assembly passed a repeat offender law compliant with TEA-21 standards in the 2002 session. According to Mothers Against Drunk Driving, 33 states, including Maryland, have enacted a repeat offender law that meets the requirements of TEA-21.

TEA-21 establishes a range of penalties for states to enact for repeat offenders convicted of violating the state's standard drunk driving offense. In Maryland, the standard offense is driving or attempting to drive while under the influence of alcohol or alcohol per se (which is demonstrated by a blood alcohol concentration of .08 or above). Among the penalties for repeat offenders required by TEA-21 are that the offender receives a mandatory sentence of either minimum periods of imprisonment or community service (minimum five days imprisonment or 30 days community service for a second offense within five years of a first conviction, and at least ten days imprisonment or 60 days of community service for a third or subsequent offense within five years), and to participate in alcohol abuse assessment and alcohol treatment if necessary.

Senate Bill 405 (passed) requires a mandatory period of imprisonment by eliminating community service as an option for repeat offenders who are convicted of driving or attempting to drive while under the influence of alcohol or under the influence of alcohol per se. The bill also specifies that home detention for the purposes of participating in an alcohol treatment program is an allowable form of imprisonment.

Out-of-State Offenses: Senate Bill 380/House Bill 94 (both passed) apply Maryland's subsequent offender penalties to include out-of-state drunk and drugged driving offenses. Under the bills, a conviction for a crime committed in another state or under federal jurisdiction, that, if committed in this State, would constitute a violation of Maryland's drunk or drugged driving provisions, shall be considered a prior offense under Maryland law for the purpose of repeat offender penalties.

Alcohol or Drug Treatment as a Condition of Probation

If a court places an individual on probation before judgment or following conviction for a violation of a drunk or drugged driving offense, ***Senate Bill 427/House Bill 347 (both passed)*** require the court to order the defendant to participate in an alcohol or drug treatment or education program approved by the State Department of Health and Mental Hygiene as a condition of the probation, unless the court finds and states on the record that the public's and defendant's interests do not require such a condition.

Vehicle Laws – Licensing and Registration

Driver's License Application Requirements

House Bill 838 (passed) requires a driver's license applicant to provide the applicant's Social Security number (SSN) in the application. If the applicant does not have an SSN, the applicant must certify that fact in the application.

The bill is in response to requirements by the U.S. Department of Health and Human Services (HHS), which notified the State that it would reject Maryland's plan for child support enforcement because the State does not require an SSN on a driver's license application. HHS warned that this noncompliance could lead to withholding of the State's entire allotment of federal aid to needy families (\$229.1 million in federal fiscal 2002) and all cooperative reimbursement payments for child support services (\$66.8 million). Also at risk was approximately \$2.5 million in federally funded salaries for clerks of the court and masters in the family services program who administer child support enforcement services in the judicial branch.

The bill also establishes a 12-member joint executive-legislative Task Force to Study Driver Licensing Documentation. The task force is required to study the potential use of foreign documentation as proof of age, identity, and residency of a State driver's license applicant and to make recommendations to the General Assembly regarding the type of documentation that the MVA may accept from a driver's license applicant. The task force must report its findings and recommendations to the General Assembly by December 1, 2004.

Identification Cards

House Bill 876 (passed) shortens the amount of time that a photo identification card remains effective for a person under the age of 16 from five years to two. Identification cards contain a photograph of the individual to whom the card is issued and include information such as the cardholder's address, birth date, sex, and physical description. Requiring more recent photographs and descriptions of children may assist law enforcement authorities in locating missing children more quickly.

Senate Bill 109 (Ch. 10) authorizes the MVA to cancel an identification card if it determines that the holder was not entitled to the identification card, failed to give the required or correct information in the identification card application, or fraudulently applied for or obtained the identification card. If the MVA cancels an identification card, the holder must immediately surrender the canceled identification card to the MVA. Violators are guilty of a misdemeanor and will be subject to a maximum fine of \$500, imprisonment for not more than two months, or both. The bill reflects one of the recommendations of a joint task force that studied ways to improve protection against terrorism.

Drivers with Epilepsy

The MVA may suspend an individual's license indefinitely, after notifying the driver and conducting a hearing, if the driver cannot drive safely because of a physical or mental condition. However, if the individual's driving ability is adversely affected by epilepsy, the MVA is not allowed to suspend or revoke the individual's license for more than 90 days unless the individual experiences a seizure within 90 days after the suspension or revocation began. *House Bill 685 (passed)* authorizes the MVA to suspend or revoke a driver's license, or refuse to issue or renew a license, for longer than 90 days if the individual's driving may be adversely affected by epilepsy. Review of the medical certification requirements resulting in this legislation grew out of a highly publicized fatal accident in Frederick County involving an epileptic driver with a prior license suspension who had a seizure at the time of the accident.

Failure to Pay at the Pump

Senate Bill 282/House Bill 49 (both passed) allow the MVA to suspend an individual's driver's license for up to 30 days after the first conviction for failure to pay for motor fuel after dispensing it into a vehicle, a crime known as a "drive off." A 30-day suspension is mandatory for a person who is convicted more than once. The bills allow a licensee to request a hearing if the individual's license is suspended for fuel theft.

Vehicle Dealers

Dealer Fees: *Senate Bill 438/House Bill 454 (both passed)* increase the maximum processing fee that a vehicle dealer may charge a consumer for the sale of a vehicle from \$25 to \$100 and add services for which the dealer may charge. Processing fees are not required by law, a fact that must be included in the contract. Under the bills, a contract must also state, in 12 point type or larger, that freight charges are not required by law. Upon request, a dealer must disclose (in writing) the services included in the processing charge.

Surety Bonds: Legislation enacted in 1999 increased the maximum bond amount required of vehicle dealers to reflect larger inventories; however, it mistakenly applied the requirements only to "motor" vehicle dealers. *Senate Bill 96 (Ch. 6)* specifies that a vehicle dealer who is licensed to sell trailers or semitrailers over 15 feet in length will be subject to the same surety bond requirements as a used motor vehicle dealer; the bond amount will be based on trailer or semitrailer sales during the preceding license year. The bill sets the minimum surety bond for new dealers of trailers or semitrailers over 15 feet in length at \$15,000.

Trauma Physicians Funding – Vehicle Registration Surcharge

In recent years, trauma centers across the country have faced growing financial difficulties as a result of a number of factors, perhaps the most serious of which are the costs associated with uncompensated care. In an effort to address this issue in Maryland, *Senate Bill 479 (passed)* raises, for a two-year period beginning July 1, 2003, the vehicle registration surcharge from \$11 to \$13.50. While \$11 of the surcharge continues to fund the Maryland Emergency Medical System Operations Fund, the additional \$2.50 raised under the bill will be

distributed to the Maryland Trauma Physician Services Fund to defer the costs of uncompensated care and to maintain trauma physicians on call. For a more detailed discussion of this issue, see Part J – Health Care Facilities and Regulation of this *90 Day Report*.

Montgomery County – Vehicle Registration Surcharge

In June 2002, the Montgomery County Executive proposed a \$1 billion, ten-year transportation plan for the county, which would be financed by a three-cent county property tax increase, a ten-cent per gallon increase in the 23.5-cent per gallon State gasoline tax, a \$25 vehicle registration fee, and a tax on property development. Almost half (47 percent) of the additional money was to be spent on transit, including a 40 percent expansion of bus service and expanded employer incentives for transit, and another 10 percent would be spent for pedestrian and traffic safety and new hiker/biker trails. The plan also earmarked several east-west roadway projects.

As part of this program, *House Bill 563 (passed)* authorizes the Montgomery County Council to collect a surcharge for each vehicle registered by a resident of Montgomery County. The amount of the surcharge may not exceed the State vehicle registration fee and temporary residents would not have to pay the surcharge. The bill also requires the MVA to provide the county with vehicle registration information and authorizes the MVA to refuse to register a vehicle if the surcharge is not paid. The bill exempts vehicles that are currently exempt from the State registration fee, as well as hybrid vehicles. It also caps at \$10,000 the annual total amount that a vehicle rental company must pay.

Rules of the Road

Speed Monitoring Cameras

Background: In 1997, the General Assembly passed legislation authorizing law enforcement agencies to mail a citation to a motor vehicle owner whose vehicle was recorded running a solid red light by a traffic control signal monitoring system, or red light camera. In subsequent sessions, legislation was introduced that would allow the use of similar technology to identify speeding drivers. Photo radar enforcement systems that detect speeders function in a manner very similar to red light cameras. Frequently, the photo radar system is located in a mobile unit with a radar detector and a camera. A speeding vehicle triggers the camera and a photograph is taken of the vehicle. The photos indicate the date, time, and recorded speed.

According to the National Conference of State Legislatures and the Insurance Institute for Highway Safety, a few states, including Colorado, Oregon, and Utah, have authorized the use of automated enforcement for speeding violations. The state of Washington authorizes automated speed enforcement, but only on a pilot basis in four jurisdictions. The District of Columbia has had a speed camera enforcement program since August 2001. Also, automated speed enforcement systems are used extensively throughout Europe and in Australia.

Senate Bill 455 (passed) authorizes State and local law enforcement agencies to issue warnings or citations to vehicle owners for speeding at least ten miles per hour above the posted

speed limit, based on recorded images collected by speed monitoring systems. The speed monitoring systems, or speed cameras, may be placed only on a highway in a residential district with a posted maximum speed limit of 35 miles per hour or in a school zone.

Speed Camera Placement: Speed cameras may be placed in a local jurisdiction only if their use is authorized by the governing body through ordinance or resolution after reasonable notice and a public hearing. The ordinance or resolution must require the issuance of warnings only for at least the first 45 days after the first speed camera is placed in a local jurisdiction. Before placing an unmanned stationary speed camera, a local jurisdiction must publish notice of its location in a general circulation newspaper within the jurisdiction. Each school zone sign in a local jurisdiction that uses speed cameras must indicate that speed cameras are used in school zones. In a residential district, a speed camera may not be placed within 100 feet of the bottom of a hill or steep decline or a sign indicating a change in the posted speed limit.

Collection and Distribution of Penalties: The maximum penalty that may be assessed is a civil penalty of \$100, but the penalty must be the lower of the fine set by the District Court in the penalty deposit schedule or the fine set by the local jurisdiction. A citation resulting from a speed camera may be treated as a parking violation and is not a moving violation for the purpose of assessing points against a license. The violation may not be placed on the driving record of the owner or driver of the vehicle or considered with regard to vehicle insurance rates. If a fine is not paid and the violation is not contested, the MVA may refuse to register or reregister the vehicle or the registration may be suspended. The bill also establishes training and record keeping requirements for speed camera operators, including the performance of periodic calibration checks.

Generally, uncontested citations from automated traffic enforcement systems are paid directly to local governments and the penalties assessed from contested citations are paid to the District Court for distribution to various transportation-related funds. However, [*Senate Bill 455*](#) provides a different funding distribution mechanism for uncontested citations. The bill creates the Homeland Security Fund (HSF) and requires local governments to pay a portion of the revenues from uncontested citations to HSF. Local governments that deploy speed camera systems may retain enough of the collected penalties to cover the costs of installation and maintenance and they may also retain 33 percent of the collected penalties to be used for homeland security purposes.

Homeland Security Fund: The purpose of HSF is to support the homeland security needs of counties, Baltimore City, and municipalities. A “homeland security purpose” is one that is related to the detection of, preparation for, prevention of, protection against, or response to the threat of a terrorist attack or the recovery from a terrorist attack. The bill requires that up to \$5 million per fiscal year, but not more than a cumulative total of \$20 million, be allocated to the low interest revolving loan account of the Volunteer Company Assistance Fund. Professional fire departments with homeland security needs may apply for the funds. After distribution to the loan account, the Department of State Police is required to retain 10 percent of the remaining funds for homeland security purposes.

Any remaining funds are distributed to local governments under the State Aid for Police Protection formula, adjusted to include Baltimore City, except the amount Baltimore City may receive may not exceed the amount that Prince George's County receives. The provisions relating to HSF and distribution of HSF monies terminate on September 30, 2010. After that, local jurisdictions must use revenues from speed cameras to increase local expenditures for public safety. The requirement to distribute collected penalties to HSF does not apply to the collection of penalties from contested citations that are processed by the District Court. Those funds from contested citations are collected by the District Court for distribution to various transportation-related funds.

It is likely that the local governments that implement speed camera systems will acquire new revenues to supplement their homeland security efforts. The extent to which local governments without speed camera systems would receive funding from HSF would depend on the remaining revenues in HSF after mandated distributions. The Maryland Department of Transportation (MDOT) does not have plans to install speed cameras, as authorized by this legislation.

Red Light Cameras

Standard Length of Yellow Light: *Senate Bill 193 (passed)* will standardize the operation of red light cameras by requiring the agency primarily responsible for traffic control at an intersection monitored by a traffic control signal monitoring system (red light camera) to ensure that the length of time that a yellow light is displayed before changing to a red light is set in accordance with regulations adopted by the State Highway Administration, consistent with standards or guidelines established by the Federal Highway Administration. The State Highway Administration must adopt the regulations by October 1, 2003.

Limitation of Program: *Senate Bill 246 (failed)* would have repealed the authority of local governments to install red light cameras at intersections, unless they were located in school zones, at railroad crossings, or when a law enforcement officer is present and a citation is issued at the general time and place of the violation.

Railroad Crossings by Commercial Vehicles

In 1999, the federal government adopted regulations that required new penalties on commercial drivers and their employers regarding violations of railroad grade crossings. States were required to comply with the new regulations by October 4, 2002, or risk having federal highway funding withheld. MDOT advised that actions were taken to comply with the federal regulations; however, the need for legislative changes was overlooked. Maryland is at risk of losing about \$15.4 million in federal highway funding in fiscal 2004 if State laws and regulations do not comply with federal requirements. If Maryland continues to be out of compliance, sanctions increase to \$28.4 million as of fiscal 2005 for every year that Maryland is not in compliance. *Senate Bill 724/House Bill 1050 (both passed)* establish safety protocol requirements for commercial motor vehicle operators and their employers related to railroad grade crossings. The bills require the MVA to disqualify a commercial driver from driving for a specified period of time if the driver is convicted of violating federal, State, or local laws or

regulations pertaining to railroad crossings. The bills require the assessment of a maximum civil fine of \$10,000 against employers who knowingly require, allow, permit, or authorize commercial driver employees to violate laws or regulations pertaining to railroad grade crossings.

Distracted Driving

The debate surrounding telephone use by drivers continues to focus on driver distraction. Nationwide, the National Highway Transportation Safety Administration estimates that 25 to 30 percent of motor vehicle crashes (about 1.2 million accidents) are caused by driver distraction. According to Maryland State Police accident report data from January 1, 2001, through June 30, 2002, failure to “give full attention” was a contributing circumstance in 57 percent of accidents.

In 2001, New York became the first state to prohibit the use of hand-held cell phones while driving, except in emergencies. The maximum penalty for illegal cell phone use in New York is \$100. A recent study by the Insurance Institute for Highway Safety suggests that passage of the New York law has reduced the use of hand-held phones while driving. *House Bill 63 (failed)* would have prohibited a driver of a motor vehicle from operating a hand-held telephone while the vehicle is in motion. Violators would have been guilty of a misdemeanor and been assessed one point against the driver’s license.

Although most state legislatures, to date, have been reluctant to ban cell phone use in motor vehicles, one state has applied such a ban to minors. In 2001, New Jersey enacted legislation that prohibits drivers under 21 years old and who only have a learner’s permit from using a mobile phone while driving. *Senate Bill 220 (failed)* would have prohibited a driver under the age of 18 from operating a mobile telephone while the motor vehicle is in motion.

Changing Lanes

House Bill 73 (failed) would have required a driver of a vehicle in the far left lane of a highway with two or more lanes moving in the same direction to give way to the right in favor of an overtaking vehicle when it is safe and practicable to do so. The provision would not have applied to a vehicle in the far left lane that is preparing for a left turn or to a vehicle in a high occupancy vehicle lane. A violation of the provision would have been a misdemeanor and required a one point assessment against the person’s driving record.

Senate Bill 87 (failed) would have required drivers who were approaching emergency vehicles using authorized emergency signals to either vacate the lane closest to the emergency vehicle if two or more lanes of traffic were moving in the same direction or reduce speed if the road was one lane of traffic moving in the direction of the emergency vehicle.

Pedestrian Right-of-Way

The rules for driver behavior when encountering pedestrians were further clarified with *House Bill 738 (passed)*, which requires the driver of a vehicle to stop when a pedestrian crossing the roadway in a crosswalk is approaching from a lane that is adjacent to the half of the

roadway on which the vehicle is traveling. This requirement to yield to pedestrians does not apply where there is a pedestrian tunnel or overhead pedestrian crossing, or where a traffic control signal is in operation.

Motorcycle Parking

Any authorized State agency and any political subdivision of the State may adopt ordinances and regulations that regulate vehicle parking, vehicle impoundment or towing, and parking citations for violations. However, *Senate Bill 650/House Bill 923 (both passed)* limit local government regulation of motorcycle parking by providing that local governments may not adopt or enforce an ordinance or regulation that prohibits the parking of more than one motorcycle in a space served by a single parking meter.

Equipment and Inspections

Emissions Inspection Exemption for Hybrid Vehicles

Senate Bill 206/House Bill 61 (both passed) exempt a hybrid vehicle from the State's Vehicle Emissions Inspections Program until September 2006 if the vehicle's city fuel economy is at least 50 miles per gallon. Approximately 1,000 vehicle owners would qualify annually for the exemption. Hybrid vehicles use two sources of power – gasoline and one of several types of alternative fuel, such as methanol and denatured ethanol or natural gas (compressed or liquefied).

Salvage Vehicle Inspection Fees

House Bill 260 (passed) shifts the distribution of salvage vehicle inspection fees (approximately \$180,000 in fiscal 2004) from the Vehicle Theft Prevention Fund to the Auto Theft Unit of the Department of State Police to recover the costs of administering the salvage inspection program. State and county police must inspect salvage vehicles to ensure that vehicles are not stolen or comprised of stolen parts. In 2002, the State Police inspected 11,334 vehicles.