

Part G

Transportation and Motor Vehicles

Transportation

Maryland Transportation Authority

Transportation Funding

During the economic downturn of the early 2000s, \$314.9 million was transferred from the Transportation Trust Fund (TTF) to the general fund. Of this amount \$50 million was transferred to the TTF as partial repayment in fiscal 2006 Chapter 472 of 2005, required subsequent transfers of \$264.9 million from the general fund to the Maryland Transportation Authority (MdTA) to finance the InterCounty Connector (ICC), beginning in fiscal 2008.

To aid in balancing the fiscal 2008 budget, the Governor proposed legislation, *Senate Bill 73/House Bill 57 (both failed)* to defer mandated general fund payments under Chapter 472 until a subsequent year. Although legislation altering the funding mandate was not passed, the purpose was effected through the budget process by deleting funds allowed for the ICC in fiscal 2008.

Public-Private Partnerships

A public-private partnership is an arrangement by which private entities assume some of the design responsibility or share the financial responsibility for a public project. Public-private partnerships (P3s) have been used to finance billions of dollars worth of new highway projects in the United States and may take several forms.

By regulation, MdTA has the authority to enter P3 arrangements for transit-oriented development, design-build contracts, and other relationships with the private sector. MdTA has undertaken several P3 projects using nontraditional financing mechanisms to finance transportation-related projects such as port and airport support facilities.

MdTA is currently using a design-build partnership to build the planned express toll lanes on Interstate 95. Under this arrangement, MdTA is responsible for a portion of the design process, while a private entity will finish the design and build the road. The State Highway

Administration (SHA) has built other highways in Maryland using such an approach. In addition, in the fall of 2006, MdTA issued a request for expressions of interest for private entities to design, build, and operate high occupancy toll lanes along the Corridor Cities Transit way.

In response to concerns about private entities controlling the operation and maintenance of public transportation facilities, *House Bill 227 (passed)* requires MdTA to provide 45-day notice to specified legislative committees before issuing a public notice of procurement for a P3 that allows private control over the operation or maintenance of an existing or future revenue-generating highway, bridge, tunnel, or transit facility. Moreover, before entering into such a P3, MdTA must submit a description of the proposed lease agreement and a financing plan that includes the length of the lease, the scope of any toll-setting authority to be granted to the private entity, the scope of any payments to the MdTA, and certain contractual requirements pertaining to the operation and maintenance of the facility and oversight.

Chesapeake Bay Bridge

The Chesapeake Bay Bridge, built in 1952, connects Maryland's Eastern Shore recreational regions with the metropolitan areas of Baltimore, Annapolis, and the District of Columbia. Based on one-way toll collection, it is estimated that over 26.5 million vehicles crossed the bridge in fiscal 2006. The 2004 *Bay Bridge Transportation Needs Report* estimates that, by 2025, traffic will increase on the bridge by at least 41 percent over 2001 levels on weekdays (61,000 vehicles in 2001, increasing to 86,000 in 2025) and summer Saturdays (95,000 on an August Saturday in 2001, set to increase to 135,000 in 2025). The Task Force on Traffic Capacity across the Chesapeake Bay, established in 2004, examined issues surrounding the construction of a new bay crossing, regardless of site location. The task force released its final report in 2006 but reached no definitive conclusion as to the location of a new bay crossing.

Senate Bill 42 (failed) would have prohibited the State Roads Commission, Maryland Department of Transportation (MDOT), MdTA, and Kent County from planning, designing, financing, condemning property for, or constructing an additional Chesapeake Bay crossing with a terminus in Kent County. *House Bill 981 (failed)* also would have prohibited a crossing in Kent County. In addition, this bill would have required MDOT and MdTA to consider alternatives to bridge crossings, such as providing incentives to encourage motorists to use the Susquehanna River Bridge on Interstate 95 and reestablishing ferry service across the bay. In addition, MDOT would have been required to carefully re-examine the provisions of the federal National Environmental Policy Act (NEPA) before making an assumption that an enactment of the General Assembly removing the concept of a Chesapeake Bay crossing with a terminus in Kent County would conflict with NEPA.

Maryland Transit Administration and Mass Transit

Mass Transit Funding

On January 11, 2007, Representative Tom Davis of Virginia reintroduced legislation in the U.S. Congress to provide federal funding for the Washington Metropolitan Area Transit Authority (WMATA). This pending federal legislation, H.R. 401, authorizes \$1.5 billion in

federal funding for WMATA over 10 years and requires that certain amendments to the WMATA compact be enacted by the signatories (Virginia, Maryland, and the District of Columbia). He introduced similar legislation during the 109th Congress.

One of the conditions of the proposed federal legislation requires each compact jurisdiction to identify a dedicated funding source “for the cost of operating and maintaining the adopted regional system.” Furthermore, the legislation defines dedicated funding source as “any source of funding which is earmarked or required under State or local law to be used [for payments].” The Transportation Trust Fund has been identified as Maryland’s dedicated funding source.

In addition to the funding requirements of H.R. 401, in January 2007, the Maryland Transit Funding Study Steering Committee reported on the funding needs of mass transit throughout the State. The Steering Committee projected a mass transit funding shortfall of \$950 million by 2012, with projected shortfalls reaching \$13.5 billion by 2027. To address the shortfall, the Steering Committee recommended a variety of revenue enhancements for mass transit, including an increase to the State sales tax. The Steering Committee found that sales tax revenue is a prevalent source of funding for mass transit projects across the nation.

To address the funding shortfalls identified by the Steering Committee, and despite assurances that the TTF would fulfill the dedicated funding requirements of the Davis bill, *Senate Bill 167*, *House Bill 393*, and *House Bill 434 (all failed)* each would have created a Mass Transit Account and would have dedicated portions of the State sales tax revenue to the Account to fund the capital and operating expenses of the Maryland Transit Administration (MTA) and WMATA. These bills also would have provided grants to local jurisdictions.

House Bill 393 would have increased the State sales and use tax rate from 5 percent to 6 percent, and dedicated 8.33 percent of sales tax revenue to the Mass Transit Account. *House Bill 434* would have increased the sales tax from 5.0 percent to 5.5 percent and dedicated 10 percent of sales tax revenues to the Mass Transit Account. *Senate Bill 167* would have required the Comptroller to distribute 2.5 percent of sales tax revenue to the Mass Transit Account in fiscal 2009 and 5 percent annually beginning in fiscal 2010.

Mass Transit Operation

Continuation of Rail Service: *Senate Bill 438/House Bill 770 (both passed)* requires MTA to continue to operate the passenger railroad service on certain lines at specified levels. MTA must continue to operate the Amtrak Line between Perryville and Penn Station in Baltimore (Penn line) at an equivalent or greater level of service than was provided on May 1, 1991. MTA also must continue to operate the passenger services on the CSX line between Frederick and Point of Rocks (Frederick extension) at an equivalent or greater level of service than was provided on December 17, 2001. In addition, the bills prohibit MTA from establishing or abandoning a rail station on an established route without first holding a public hearing.

Maryland Senior Rides Program: Under the Maryland Senior Rides Demonstration Program, MTA awards grants to organizations that provide door-to-door transportation for low-

to moderate-income seniors. *House Bill 1189 (passed)* renames the Maryland Senior Rides Demonstration Program as the Maryland Senior Rides Program and expands eligibility for grants through the program by repealing certain limits on grants. In addition, the bill increases the cap on total annual grant awards under the program from \$400,000 to \$500,000.

Public Hearings for Bus and Rail Service Changes: MTA has engaged in several controversial projects in the past two years: the Greater Baltimore Bus Initiative, the attempted closing of four MARC stations, and the proposed Baltimore Red Line study. In all three cases, the public expressed concern that MTA had not allowed for sufficient public input. *Senate Bill 463/House Bill 868 (both passed)* require MTA to hold a public hearing before permanently changing a bus or rail route alignment listed on a published time table or establishing or abandoning a rail transit station. In addition, the bills provide that if MTA is required to hold a public hearing on a matter, it may only take action on the matter within a specified period of time after the public hearing. MTA may add service on a new alignment branching off of an existing route without holding a public hearing if the addition of the new alignment does not alter the existing route.

State Highway Administration

According to the Federal Highway Administration, in 2004, 1,068 fatalities resulted from motor vehicle crashes in highway work zones. Of these, 83 percent occurred where the speed limit was 45 miles per hour or greater. In an effort to enhance the safety of individuals working on State highways, *Senate Bill 699 (passed)* requires the SHA, MdTA, or the appropriate local authority to implement safety measures to protect construction, maintenance, utility, and other highway workers. The safety measures apply to work on an expressway or controlled access highway with a speed limit of 45 miles per hour or more. While the specific procedures to be implemented are left to the appropriate authority's discretion, *Senate Bill 699* does require that for roadway work expected to last at least two weeks, priority must be given to the temporary or full closure of the roadway after consideration of various factors such a safety of the traveling public and availability of detours. In addition, when it is not feasible to close the roadway, or for projects on the shoulder, the bill requires appropriate authority to consider protecting highway workers by using barrier systems, such as temporary traffic barriers, movable concrete barriers, or movable link-system barriers, when the work is expected to last at least two weeks. Alternatively, the appropriate authority may provide for the presence of a law enforcement officer at the construction site if using barriers or closing lanes is not feasible.

Motor Vehicles

Licensing and Registration

Implementation Costs for the Federal REAL ID Act

The federal REAL ID Act of 2005 establishes national standards for state driver's licenses and identification cards. The Act mandates that only driver's licenses and identification

cards that meet the national standards will be accepted as valid identification for federal purposes after May 11, 2008. Likely to be included as a federal purpose are such acts as boarding an airplane or entering a federal building. Among other requirements, the Act dictates that states must verify the documents that applicants submit to obtain or renew a driver's license or identification card. The implementation of this requirement is expected to be costly for states and to significantly increase waiting times for driver's license and identification card applicants. A survey by the National Conference of State Legislatures estimated the cost for all states of implementing REAL ID to be \$11 billion over the first 5 years. *House Bill 1381 (failed)* would have required the Motor Vehicle Administration (MVA) to report to the Governor and the General Assembly on the additional staff, technology, and funding needed to implement REAL ID and the additional burdens on State residents resulting from REAL ID, including possible increased driver's license and identification card fees.

Restricting Driving Privileges for Truants

Senate Bill 519/House Bill 571 (both passed) prohibit MVA from issuing a learner's instructional permit to an applicant under the age of 16 years if the applicant's school attendance record indicates more than 10 unexcused absences during the prior school semester. A more detailed discussion of these bills may be found in the subpart "Education – Primary and Secondary" under Part L – Education of this *90 Day Report*.

Special and Commemorative Registration Plates

The MVA may issue a special commemorative registration plate for any geographical, historical, natural resource, or environmental commemoration of statewide significance. In addition, the MVA may issue a special registration plate honoring Maryland agriculture. The MVA collects additional fees for the issuance and renewal of these special plates for the benefit of the Chesapeake Bay Trust and the Maryland Agricultural Education Foundation, Inc., respectively. *Senate Bill 217/House Bill 220 (both passed)* extend by five years the termination dates of the Chesapeake Bay Commemorative Plate program and the special registration plate honoring State agriculture. The programs terminate in 2013. The bills also repeal the MVA's authority to issue the special registration plates to a Class B (for hire) vehicle.

Rules of the Road

Eluding the Police

If a police officer gives a visual or audible signal for a vehicle to stop (*e.g.*, by hand, voice, emergency light, or siren) and the police officer is in uniform, prominently displaying a badge or other insignia, the vehicle driver may not attempt to elude the police officer by willfully failing to stop the vehicle. If a police officer gives a visual or audible signal to stop and the officer is in an appropriately marked official police vehicle, whether or not the officer is in uniform, the vehicle driver also may not attempt to elude the officer by willfully failing to stop the vehicle. *Senate Bill 754 (passed)* alters the penalties for these violations when the police officer is signaling the driver to stop to apprehend the driver for committing a crime of violence for which the driver is subsequently convicted. A person convicted of fleeing and eluding a

police officer under these circumstances is guilty of a misdemeanor and is subject to a maximum penalty of three years imprisonment, a fine of \$5,000, or both.

Expanding the Definition of Highway to Improve Law Enforcement

In two recent cases, *United States v. Smith*, 395 F. 3d 516 (4th Cir. 2005), and *United States v. Adams*, 426 F. 3d 730 (4th Cir. 2005), the U.S. Court of Appeals for the Fourth Circuit ruled that roads on federal reservations and installations were not “highways” as defined under Virginia law, calling into question the enforcement of state law on federal property. Based on this precedent, the U.S. District Court for the District of Maryland concluded that Maryland traffic laws could no longer be enforced on roads in federal reservations and installations in Maryland because the roads are not open to the public without restriction and, thus, do not meet the definition of “highway” under Maryland law. *Senate Bill 35 (passed)* expands the definition of “highway” to include property in Maryland owned, leased, or controlled by the U.S. government, thus clarifying the application of Maryland law on federal property.

Exit Ramp Safety

An “expressway” is a highway of two or more traffic lanes in each direction that is designed to eliminate principal traffic hazards. An expressway is characterized by a median divider that separates opposing traffic and has grade separation structures, predetermined points of entrance and exit, vertical curves that provide long sight distances, and wide shoulders that enable parking away from traffic lanes. *Senate Bill 935 (passed)* establishes a new violation for the failure to stop at a nonfunctioning traffic control signal when approaching a highway from an expressway exit ramp. The MVA must assess two points against an individual’s driving record for a violation after conviction. A person convicted of this misdemeanor is subject to a maximum fine of \$500.

Automated Railroad Enforcement – Prince George’s County

In 2004, the Secretary of the U.S. Department of Transportation developed an action plan for improving safety at railroad crossings, including encouraging State and local governments to increase the use of automated enforcement. *House Bill 509 (passed)* authorizes the issuance of citations to drivers recorded by an automated railroad grade crossing enforcement system passing through railroad grade crossings in Prince George’s County in a way that violates the Maryland vehicle law. An “automated railroad grade crossing enforcement system” records a driver’s response to a traffic control signal or device located at a railroad grade crossing. The system produces recorded images that must include an image of the motor vehicle, the driver, the vehicle’s rear license plate, and the date, time, and location of the violation. The bill establishes a maximum civil penalty of \$100 for a violation recorded by automated railroad grade crossing enforcement. A violation is treated as a parking violation for certain purposes relating to the failure to pay the fine, is not a moving violation for the purpose of assessing points, may not be placed on the driving record of the vehicle owner or driver, and may not be considered in the provision of motor vehicle insurance coverage. However, if the fine is not paid and the violation is not contested, MVA may refuse to register or transfer the vehicle registration or may suspend the registration.

Roadside Solicitation – Anne Arundel County

Maryland law governing roadside solicitation varies by county. In Anne Arundel County, the county council has been authorized since 2004 to enact and implement a licensing program to govern roadside solicitation of money and donations and to prohibit roadside solicitation by minors. *Senate Bill 252 (passed)* repeals this authority and prohibits a person from standing in a highway in Anne Arundel County to solicit donations from a vehicle occupant or to advertise any message.

Electronic Traffic Citations

Senate Bill 587/House Bill 459 (both passed) authorize the issuance of traffic citations in an electronic format. The bill provides that an electronic or written traffic citation that conforms to State requirements is a sufficient charging document for the prosecution of any traffic offense. A more detailed discussion of these bills may be found under Part E – Crimes, Corrections and Public Safety of this *90 Day Report*.

Drunk and Drugged Driving

According to the U.S Department of Transportation, alcohol-impaired driving is one of the nation's deadliest crimes. The Insurance Institute for Highway Safety reports that although some progress has been made in reducing alcohol-impaired driving, most of that progress occurred during the 1980s and 1990s. From about 1982 to 1995, the percentage of fatally injured alcohol-impaired drivers who were 16 to 20 years old declined by more than half. Since then, the proportion of those fatalities has hovered around 25 percent. In 2005, half of all fatally injured drivers in the 21 to 30 year age group had alcohol concentrations at or above 0.08 percent. *Senate Bill 198/House Bill 758 (both passed)* establish the Task Force to Combat Driving Under the Influence of Drugs and Alcohol. Among other duties, the task force is required to identify national best practices for combating driving while under the influence of drugs or alcohol and recommend new State initiatives to address all impaired driving populations, including those found to be disproportionately responsible for driving fatalities, such as repeat offenders, drivers with blood alcohol concentrations of 0.15 percent or more, and underage drinkers. The task force must submit an interim report of its findings and recommendations to the Governor and the General Assembly by December 31, 2007. A final report is due by October 31, 2008.

Distracted Driving

A 2006 study completed by the National Highway Traffic Safety Administration and the Virginia Tech Transportation Institute concluded that driver inattention is the leading factor in most crashes and near crashes. According to the National Conference of State Legislatures, in recent years every state and the District of Columbia has considered legislation concerning distracted driving. *Senate Bill 30, House Bill 86, and House Bill 174 (all failed)* would have established the misdemeanor offense of distracted driving and also would have restricted the use of wireless communication devices by drivers of moving vehicles. *House Bill 1127 (failed)* would have established the offense of distracted driving but would have authorized enforcement

only as a secondary action when the driver was detained for another traffic violation. *Senate Bill 44 (failed)* would have prohibited the driver of a moving school vehicle carrying passengers from using a wireless communication device. The prohibition also would have applied to the adult holder of a learner's instructional permit or a provisional driver's license.

Racing Events on State Highways

In anticipation of a 1.2 mile hill climb up Polish Mountain on Gilpin Road in Allegany County, scheduled to take place during the spring of 2007, *Senate Bill 984/House Bill 1356 (both passed)* authorize the State Highway Administration (SHA) or a local authority, as applicable, to approve a motor vehicle racing event on a highway if the event is held under conditions that provide reasonable safety and prevent unreasonable interference with traffic. The sponsors of a motor vehicle or bicycle racing event must indemnify the State and local governments from any loss arising out of or relating to the racing event and provide comprehensive liability insurance. The bills terminate on September 30, 2009.

Equipment and Inspections

Maryland Clean Cars Act of 2007

Senate Bill 103/House Bill 131 (both passed), known as the Maryland Clean Cars Act of 2007, require the Maryland Department of the Environment, in consultation with the MVA, to establish by regulation a Low Emissions Vehicle Program applicable to vehicles of the 2011 model year and each model year thereafter. For a more detailed discussion of these bills, see the subpart "Environment" within Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Engine Brakes

Engine braking systems are used on large diesel trucks weighing as much 40 tons. An engine brake slows the vehicle down before application of the wheel brakes and is often used on steep downhill grades. The brake works using air compression and can make an explosive, roaring, staccato noise that can be heard over long distances. *House Bill 440 (passed)* prohibits a person from operating a commercial motor vehicle equipped with an engine brake unless the engine brake is connected to a properly functioning exhaust muffler system in constant operation while the vehicle's ignition is engaged. Disabling the muffler system is prohibited except to make repairs. A violator is guilty of a misdemeanor and subject to a fine ranging from \$250 to \$1,000 for a first offense. For a second or subsequent offense, the fine ranges from \$500 to \$1,000.

Exceptional Hauling Permits

Some dairy farmers suffer a financial loss if the entire contents of their bulk milk storage tanks cannot be hauled away to a processing plant in a single day. While the maximum weight load for a vehicle or combination of vehicles on State highways is 80,000 pounds gross weight, bulk milk storage tanks often contain more than 80,000 pounds. *Senate Bill 733/House Bill 420*

(both passed) authorize SHA to issue an exceptional milk hauling permit for a combination of vehicles that (1) carry raw liquid milk loaded from bulk liquid milk storage tanks at one or more farm locations; and (2) meet specified axle configurations. In addition, a combination of vehicles operating under the authority of an exceptional milk hauling permit may not exceed a maximum of 87,000 pounds gross combination weight and must pass an inspection twice annually, among other requirements. An exceptional milk hauling permit is subject to confiscation or revocation if the terms of the permit are violated. The bills terminate in 2011.

Miscellaneous

Admissibility of Driver and Registration Records

A computer printout of any driving or vehicle registration record of the MVA is admissible in a judicial proceeding in the same manner as the original record if obtained by a police agency or court through a computer terminal tied into the MVA. However, the original writing is required to prove the contents of the record, except as otherwise provided in rule or statute. The admissibility of driver and vehicle registration records is expanded under *House Bill 687 (passed)*, which authorizes the admissibility of a computer printout of any driving or vehicle registration record of the MVA in a judicial proceeding in the same manner as the original if the printout is obtained by the office of a sheriff, the Office of the State's Attorney, the Office of the State Prosecutor, or the Office of the Attorney General through a computer terminal tied into the MVA.

