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

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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 County with respect to the placement and installation of directional or promotional 10 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 certain circumstances and may order the removal of a sign under certain 14 circumstances; authorizing the Administration to charge an annual fee for a sign 15 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

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20 Article – Environment

Section 4-801 to be under the new subtitle "Subtitle 8. Washington

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.



$\frac{1}{2}$	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
3	Article – Environment
4 5	SUBTITLE 8. WASHINGTON COUNTY - CHESAPEAKE BAY TOTAL MAXIMUM DAILY LOAD.
6	4–801.
7 8	(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.
9 10 11 12	(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.
13 14	(II) "BAY TMDL" INCLUDES ANY MODIFICATIONS TO THE BAY TMDL MADE BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY.
15 16 17	(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.
18 19	(II) "WIP" INCLUDES ANY MODIFICATIONS MADE BY THE STATE TO A WIP.
20	(B) THIS SECTION APPLIES ONLY IN WASHINGTON COUNTY.
21 22 23	(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:
24	(1) RURAL BUSINESS (RB);
25	(2) BUSINESS TRANSITIONAL (BT);
26	(3) BUSINESS LOCAL (BL);
27	(4) BUSINESS GENERAL (BG);
28	(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.

Article – Transportation

12 8–605.

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- 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 Administration shall assume the full cost of installing and maintaining traffic signals required at the intersection of a State highway with any municipal street or highway or at any other place along a State highway that is within the limits of any municipal 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.
- (d) (1) For the purpose of providing information to the driving public on the availability of gas, food, lodging, camping, or attractions, the Administration may place along State controlled access highways specific service signs, subject to the applicable 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.

1	1 (iii) The Administration shall consult with:	
2 3	v I	o drafting
4 5 6	5 government officials concerning the placement of specific service signs	=
7 8 9	8 for the full administrative and operational cost of procurement, install	
1	(D-1) (1) THIS SUBSECTION APPLIES ONLY IN STATE RIGHTS-OF-WAY LOCATED IN THE FOLLOWING ZONING CLASSIFICATION WASHINGTON COUNTY:	HIGHWAY ATIONS IN
13	(I) RURAL BUSINESS (RB);	
4	4 (II) BUSINESS TRANSITIONAL (BT);	
5	5 (III) BUSINESS LOCAL (BL);	
6	(IV) BUSINESS GENERAL (BG);	
17	(V) PLANNED BUSINESS (PB); OR	
18	(VI) AGRICULTURAL (A(R)) OR (A).	
20 21	(2) (I) THE STATE HIGHWAY ADMINISTRATION SHALL NO. IN GOOD FAITH WITH COMMERCIAL PROPERTY OWNERS WITH RESPECT PLACEMENT, AND INSTALLATION BY A COMMERCIAL BUSINESS, OF DIRECT PROMOTIONAL SIGNS IN STATE HIGHWAY RIGHTS-OF-WAY.	TO THE
24	(II) A COMMERCIAL BUSINESS THAT INSTALLS A DIR OR PROMOTIONAL SIGN SHALL PAY THE FULL ADMINISTRATIVE AND OPE COSTS OF PROCURING, INSTALLING, MAINTAINING, AND REMOVING THE	RATIONAL
26 27		BSECTION,

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 2. 4 MAY ORDER THE REMOVAL OF A DIRECTIONAL OR 5 PROMOTIONAL SIGN IF IT DETERMINES THAT THE SIGN IS CAUSING A SAFETY ISSUE. 6 THE STATE HIGHWAY ADMINISTRATION MAY CHARGE AN 7 ANNUAL FEE FOR A DIRECTIONAL OR PROMOTIONAL SIGN INSTALLED UNDER THIS 8 SUBSECTION. 9 THE STATE HIGHWAY ADMINISTRATION MAY ADOPT **(V)** REGULATIONS TO IMPLEMENT THIS SUBSECTION. 10 11 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 Except for a sign placed or maintained by the Administration or with (1)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)Without resort to legal proceedings, a sign placed or maintained (i) in violation of this subsection may be removed and destroyed by the Administration, a law 19 20 enforcement officer, or the government of the county or municipal corporation in which the 21 sign was located. 22The Administration or the government of the county or (ii) 23municipal corporation that removed or destroyed the sign may, if the sign is a commercial 24sign: 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 not exceeding \$25 per commercial sign, which, if not paid after being cited and assessed by 31 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

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the commercial sign was located.

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HOUSE BILL 1133

- 1 (ii) As to a county or a municipal corporation in which the 2 commercial sign was located, the civil action in the District Court may be brought by the 3 county attorney or, if the commercial sign was located in a municipal corporation, the 4 municipal corporation attorney.
 - (iii) The Administration, a county, or a municipal corporation:
- 6 1. May enforce this subsection only by the issuance of a warning for the first 3 months after initiating a sign removal program; and
- 8 2. Shall enforce this subsection on a viewpoint and content 9 neutral basis.
- 10 (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.
- 15 (5) The Administration, a county, or a municipal corporation shall retain 16 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.