

SENATE BILL 656

R1

5l2738
CF 5l2352

By: **Senator Madaleno**

Introduced and read first time: February 6, 2015

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Highway Administration – Entrance to State Highway – Permit Process**

3 FOR the purpose of requiring the State Highway Administration to consider whether a
4 proposed entrance to a State highway is consistent with the comprehensive plan
5 when determining whether to grant or deny a permit for the entrance; requiring the
6 Administration to determine whether to grant or deny a permit based on a
7 preponderance of certain evidence; requiring the Administration to grant or deny a
8 permit request on or before a certain time period; requiring the Administration to
9 promptly provide written notice and an explanation of the reasons for granting or
10 denying a permit request to certain persons; authorizing a land use authority for the
11 jurisdiction in which a proposed entrance is to be located to appeal the denial of a
12 permit before the Office of Administrative Hearings; clarifying that a permit for an
13 entrance from a residential subdivision to a State highway is governed by certain
14 provisions of law; defining certain terms; making a technical correction; and
15 generally relating to the permit process for entrances to State highways.

16 BY repealing and reenacting, without amendments,
17 Article – Land Use
18 Section 1–101(r) and 1–303
19 Annotated Code of Maryland
20 (2012 Volume and 2014 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Transportation
23 Section 8–625
24 Annotated Code of Maryland
25 (2008 Replacement Volume and 2014 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1

Article – Land Use

2 1–101.

3 (r) (1) “Subdivision” means:

4 (i) the process and configuration of land by which one or more lots,
5 tracts, or parcels of land are divided, consolidated, or established as one or more lots or
6 parcels, or other divisions of land, consistent with criteria established by the legislative
7 body of the local jurisdiction; or

8 (ii) the land so subdivided.

9 (2) “Subdivision” includes resubdivision.

10 1–303.

11 Except as provided in § 1–304 of this subtitle, when a provision in a statute listed
12 under § 1–302 of this subtitle requires an action to be “consistent with” or have “consistency
13 with” a comprehensive plan, the term shall mean an action taken that will further, and not
14 be contrary to, the following items in the plan:

15 (1) policies;

16 (2) timing of the implementation of the plan;

17 (3) timing of development;

18 (4) timing of rezoning;

19 (5) development patterns;

20 (6) land uses; and

21 (7) densities or intensities.

22 **Article – Transportation**

23 8–625.

24 (a) For purposes of this section, average daily traffic volume shall be determined
25 over a 1–year period by the procedures that the Administration uses to establish traffic
26 density.27 (b) (1) **(I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE**
28 **MEANINGS INDICATED.**

1 **(II) “CONSISTENT WITH” HAS THE MEANING STATED IN § 1-303**
2 **OF THE LAND USE ARTICLE.**

3 **(III) “LAND USE AUTHORITY” MEANS:**

4 **1. THE GOVERNING BODY OF A COUNTY OR OF A**
5 **MUNICIPAL CORPORATION;**

6 **2. A PLANNING COMMISSION, PLANNING BOARD, OR**
7 **PLANNING ADMINISTRATOR; OR**

8 **3. ANY OTHER STATE OR LOCAL OFFICIAL WITH**
9 **AUTHORITY TO APPROVE A SUBDIVISION OF PROPERTY.**

10 **(IV) “SUBDIVISION” HAS THE MEANING STATED IN § 1-101 OF**
11 **THE LAND USE ARTICLE.**

12 **(2)** Except in accordance with a permit issued by the Administration, a
13 person may not make any entrance from any commercial or industrial property **OR**
14 **RESIDENTIAL SUBDIVISION** to any State highway that carries an average traffic volume
15 of more than 2,000 vehicles a day.

16 **[(2)](3)** The Administration may apply to the circuit court in the
17 **[subdivision] COUNTY** in which the violation occurred or is threatened for appropriate
18 injunctive relief.

19 **(4) WHEN DETERMINING WHETHER TO GRANT OR DENY A REQUEST**
20 **FOR A PERMIT, THE ADMINISTRATION SHALL CONSIDER WHETHER THE PROPOSED**
21 **ENTRANCE IS CONSISTENT WITH THE COMPREHENSIVE PLAN FOR THE**
22 **JURISDICTION IN WHICH THE PROPOSED ENTRANCE IS TO BE LOCATED.**

23 **(5) THE ADMINISTRATION SHALL DETERMINE WHETHER TO GRANT**
24 **OR DENY A PERMIT REQUEST BASED ON WHETHER A PREPONDERANCE OF RELIABLE**
25 **EVIDENCE INDICATES THAT THE PROPOSED ENTRANCE IS CONSISTENT WITH THE**
26 **COMPREHENSIVE PLAN AND MEETS OTHER REQUIREMENTS FOR THE PERMIT.**

27 **(6) THE ADMINISTRATION SHALL GRANT OR DENY A PERMIT**
28 **REQUEST ON OR BEFORE THE EARLIER OF:**

29 **(I) 60 DAYS AFTER RECEIPT OF A WRITTEN REQUEST FROM A**
30 **LAND USE AUTHORITY FOR THE JURISDICTION IN WHICH THE PROPOSED ENTRANCE**
31 **IS TO BE LOCATED; OR**

1 **(II) 120 DAYS AFTER RECEIPT OF A COMPLETE PERMIT**
2 **APPLICATION FROM THE APPLICANT.**

3 **(7) THE ADMINISTRATION SHALL PROMPTLY PROVIDE WRITTEN**
4 **NOTICE AND AN EXPLANATION OF THE REASONS FOR GRANTING OR DENYING A**
5 **PERMIT REQUEST TO:**

6 **(I) THE APPLICANT; AND**

7 **(II) EACH LAND USE AUTHORITY FOR THE JURISDICTION IN**
8 **WHICH THE PROPOSED ENTRANCE IS TO BE LOCATED.**

9 **(8) A LAND USE AUTHORITY FOR THE JURISDICTION IN WHICH A**
10 **PROPOSED ENTRANCE IS TO BE LOCATED MAY APPEAL THE DENIAL OF A PERMIT**
11 **FOR THE ENTRANCE AS A CONTESTED CASE BEFORE THE OFFICE OF**
12 **ADMINISTRATIVE HEARINGS UNDER TITLE 10, SUBTITLE 2 OF THE STATE**
13 **GOVERNMENT ARTICLE.**

14 (c) (1) To promote highway safety, the Administration may limit the width of
15 existing entrances and exits and determine the locations of access points that may be used
16 by any commercial or industrial property owner or user into any existing section of a State
17 highway that carries an average traffic volume of more than 2,000 vehicles a day.

18 (2) If the Administration finds it expedient for traffic safety, the
19 Administration may:

20 (i) Limit the width and location of access points by any method that
21 it considers desirable; and

22 (ii) Deny an abutting property owner all new access along any
23 primary State highway if reasonable access to another public road is available to and from
24 the property.

25 (3) Denial of access under paragraph (2)(ii) of this subsection is an exercise
26 of the police power and does not require the payment of compensation.

27 (d) (1) This subsection does not apply to an expressway, freeway, interstate
28 highway, or parkway.

29 (2) Notwithstanding subsection (c)(2)(ii) of this section, the Administration
30 may not deny an owner of property abutting a State highway all access to the highway if
31 the abutment is within the boundaries of a municipal corporation unless:

32 (i) The property abuts another public road to which reasonable
33 access can be granted;

1 (ii) The denial is based on an access management plan that has been
2 agreed to by the Administration and the municipal corporation; or

3 (iii) The Administration pays just compensation to the property
4 owner as part of the exercise of eminent domain powers.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
6 1, 2015.