

REQUIRE MDOT TO USE CERTAIN BARRIERS WHEN CLOSING A FREEWAY FOR CONSTRUCTION

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Senate Bill 43 (S-1) as reported from House committee
Sponsor: Sen. John Cherry
House Committee: Transportation, Mobility and Infrastructure
Senate Committee: Transportation and Infrastructure
Complete to 6-22-23

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 164 of 2023)

SUMMARY:

Senate Bill 43 would amend 1917 PA 165, which governs construction road closures, to require the Michigan Department of Transportation (MDOT) to use concrete or equivalent crashworthy temporary barriers when completely closing a freeway to traffic and to use such barriers to separate road workers from traffic if a portion of a freeway is closed at night.

Currently, the act allows officials to close a *highway* or part of a highway under construction, improvement, or repair. A highway must not be closed until *suitable barriers* have been erected at the ends of the closed highway and at the points where it intersects with other highways.

Highway includes roads and streets.

Suitable barrier means a barrier that conforms to the Michigan Manual on Uniform Traffic Control Devices.¹

The bill would retain the above provisions and add that, if MDOT closes a *freeway* or portion of a freeway to construct, improve, or repair the freeway, freeway portion, or a bridge located on the freeway or freeway portion, both of the following apply:

- If the freeway is closed completely to traffic, it must be closed using concrete barriers or equivalent *crashworthy* temporary traffic barriers. Ramp access to the freeway could be closed with barricades, concrete barriers, or other equivalent crashworthy temporary traffic barriers to maintain access for construction traffic and emergency services.
- If the freeway is not closed completely to traffic and a portion of the freeway is closed at any time between half an hour after sunset to half an hour before sunrise for work scheduled to be done at that time in a contract between a contractor and MDOT, concrete barriers or equivalent crashworthy temporary traffic barriers must separate any road workers who are performing work from traffic.

¹ https://mdotcf.state.mi.us/public/tands/Details_Web/mmutcdcompleteinteractive.pdf

Freeway would mean a divided arterial highway for through traffic with full control of access and with all crossroads separated in grade from pavements for through traffic.

Crashworthy would mean (as defined in the Michigan Manual on Uniform Traffic Control Devices) a characteristic of a roadside appurtenance that has been successfully crash tested in accordance with a national standard such as the National Cooperative Highway Research Program (NCHRP) Report 350, “Recommended Procedures for the Safety Performance Evaluation of Highway Features.”²

However, the bill would not apply if a freeway or freeway portion described above is closed for not more than three days for an emergency repair, utility crossing, maintenance, or other short-duration operation.

Finally, the bill would allow MDOT to exercise its engineering judgment in designing and placing concrete barriers or equivalent crashworthy temporary traffic barriers and associated traffic control devices for freeway closures to account for site-specific conditions, such as roadway grade, equipment malfunctions, emergency service, law enforcement needs, crash history, or work duration. If it is the engineering judgment that the use of concrete barriers would cause additional risks for road users, additional safety measures to protect road workers would have to be included in the contract between the contractor and MDOT.

MCL 247.291 and proposed MCL 247.291a and 247.291b

FISCAL IMPACT:

1917 PA 165 deals with the closure of highways or portions of highways that are under construction, improvement, or repair and with bridges on highways that are under construction or repair. Specifically, the act authorizes the “officials in charge of” the highways or bridges to close them while they are under construction, improvement, or repair and requires the erection of suitable barriers at both ends of the closure. (The act does not specify who “officials in charge of” highways are.) The act also requires detours to be provided around the closed road or bridge and provides penalties for noncompliance.

It appears that the act currently applies to some local road agencies to the extent that they have jurisdiction over highways (which under the act include roads and streets), as well as to MDOT. However, as described above, the bill’s amendatory language would apply only to MDOT and to freeways (as defined by the bill) under MDOT jurisdiction. The bill would establish specific statutory requirements for MDOT with respect to the erection of barriers on freeways and freeway bridges under MDOT jurisdiction when those facilities are closed for construction, improvement, or repair. The bill also would allow MDOT to exercise its engineering judgment to account for site-specific conditions. If it is determined that concrete barriers at a specific site would pose additional risks to road users, additional

² https://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_350-a.pdf

safety measures to protect construction workers would have to be included in the contract between MDOT and the contractor.

It is not clear at this time if the proposed statutory requirements would be a change to MDOT's current operations or would impose additional costs on the department's construction projects.

The bill has no apparent impact on local units of government.

POSITIONS:

A representative of Operating Engineers Local 324 testified in support of the bill.
(6-20-23)

The following entities indicated support for the bill (6-20-23):

- Michigan Department of Transportation
- Oakland County Commission

Legislative Analyst: E. Best
Fiscal Analyst: William E. Hamilton

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.