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Senate Bill 43 (Substitute S-1)
Sponsor: Senator John Cherry
Committee: Transportation and Infrastructure

(Senate-passed version)

Date Completed: 3-10-23

CONTENT

The bill would amend Public Act 165 of 1917, which governs the placement of suitable barriers during the closure of highways for improvement or repair, to do the following:

- **Require the Michigan Department of Transportation (MDOT) to use concrete barriers or equivalent crashworthy temporary traffic barriers when closing a freeway or a portion of freeway for construction, improvement, or repair.**
- **Specify that the requirement would not apply if the freeway or portion of freeway were closed for not more than three days for an emergency repair, utility crossing, maintenance, or other short-duration operation.**
- **Allow MDOT to exercise its engineering judgement in designing and placing concrete barriers or equivalent crashworthy temporary traffic barriers and associated traffic control devices for each closure of a freeway or portion of freeway.**

Under the Act, officials in charge of constructing, improving, or repairing highways may close any highway or portion of highway for those purposes. The highway or portion of highway may not be closed until suitable barriers have been erected at the ends of the closed highway or portion of highway, and at the point of intersection of the closed highway or portion of highway. The Act specifies that suitable barriers include those that conform to the Manual of Uniform Traffic Control Devices adopted under Public Act 300 of 1949. The bill would delete the provision concerning suitable barriers and would subject the other provisions to the requirements described below.

Under the bill, except as otherwise provided, if MDOT closed any freeway or portion of freeway under its jurisdiction for construction, improvement, or repair of that freeway, a portion of freeway, or a bridge located upon that freeway or portion of freeway, the following would apply:

- If the freeway were closed completely to traffic, it would have to be closed using concrete barriers or equivalent crashworthy temporary traffic barriers; ramp access 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 were not closed completely to traffic and a portion of the freeway was closed at any time between a half hour after sunset to a half 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 would have to separate any road workers who were performing work from traffic.

The bill specifies that the provisions above would not apply if the freeway or portion of freeway were closed for not more than three days for an emergency repair, utility crossing, maintenance, or other short-duration operation.

The bill would allow MDOT to exercise its engineering judgement in designing and placing concrete barriers or equivalent crashworthy temporary traffic barriers and associated traffic control devices for each closure of a freeway or portion of freeway to account for site-specific conditions, including, but not limited to, roadway grade, equipment malfunctions, emergency service, law enforcement needs, crash history, or work duration. If the engineering judgement determined 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.

The bill would define "crashworthy" as that term 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 Report 350, "Recommended Procedures for the Safety Performance Evaluation of Highway Features." "Suitable barrier" would mean a barrier that conforms to the Michigan Manual on Uniform Traffic Control Devices. "Michigan Manual on Uniform Traffic Control Devices" would mean the Manual on Uniform Traffic Control Devices adopted under Section 608 of the Michigan Vehicle Code.

"Freeway" would mean that term as defined in Section 18a of the Michigan Vehicle Code: a divided arterial highway for through traffic with full control of access and with all crossroads separated in grade from pavements for through traffic. "Highway" would include roads and streets.

MCL 247.291 et al.

PREVIOUS LEGISLATION

(Please note: The information in this summary provides a cursory overview of previous legislation and its progress. It does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

The bill is similar to Senate Bill 887 from the 2021-2022 Legislative Session.

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the State and no fiscal impact on local governments. The bill could result in increased costs to the State if the costs of the barrier materials were more expensive, or the barriers themselves were more expensive to install and uninstall, than previous materials used. However, the bill could result in a decreased cost to the State if fewer accidents and worker injuries or deaths occurred.

Fiscal Analyst: Bobby Canell

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.