

# Legislative Analysis



## REQUIRE USE OF CERTAIN TRAFFIC CONTROL DEVICES WHEN CLOSING A FREEWAY FOR CONSTRUCTION

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<http://www.house.mi.gov/hfa>

**House Bill 5734 as introduced**  
**Sponsor: Rep. Jack O'Malley**  
**Committee: Transportation**  
**Revised 3-13-22**

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

### SUMMARY:

House Bill 5734 would amend 1915 PA 165, which governs construction road closures, to require the Michigan Department of Transportation (MDOT) to use crash-tested barriers when completely closing a freeway to traffic and to use concrete barriers separating road workers from traffic if a portion of a freeway is closed at night.

The act currently 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.<sup>1</sup>

The bill would retain the above provisions and add that, except for emergency repairs, if MDOT completely closes a *freeway* or part of a freeway to traffic to construct, improve, or repair the freeway or a bridge located on the freeway, the freeway must be closed using *crashworthy* temporary traffic barriers.

*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."<sup>2</sup>

If a portion of a freeway that is not completely closed to traffic were closed at any time between half an hour after sunset to half an hour before sunrise, except for emergency repairs, concrete barriers would have to separate any road workers who are present from traffic.

MCL 247.291 and proposed MCL 247.291a and 247.291b

<sup>1</sup> [https://mdotcf.state.mi.us/public/tands/Details\\_Web/mmutcdcompleteinteractive.pdf](https://mdotcf.state.mi.us/public/tands/Details_Web/mmutcdcompleteinteractive.pdf)

<sup>2</sup> [https://onlinepubs.trb.org/onlinepubs/nchrp/nchrp\\_rpt\\_350-a.pdf](https://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_350-a.pdf)

## **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 subject 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” 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.

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.

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■ 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.