



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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**Bill Number:** H. 4033 Introduced on March 22, 2017  
**Author:** Hixon  
**Subject:** Penalties Associated with Speeding in Work Zones  
**Requestor:** House Education and Public Works  
**RFA Analyst(s):** Gardner and Wren  
**Impact Date:** March 28, 2017

**Estimate of Fiscal Impact**

	<b>FY 2017-18</b>	<b>FY 2018-19</b>
<b>State Expenditure</b>		
General Fund	Undetermined	\$0
Other and Federal	Undetermined	\$0
Full-Time Equivalent Position(s)	0.00	0.00
<b>State Revenue</b>		
General Fund	Undetermined	\$0
Other and Federal	Undetermined	\$0
<b>Local Expenditure</b>	Undetermined	\$0
<b>Local Revenue</b>	Undetermined	\$0

**Fiscal Impact Summary**

The bill will increase General Fund expenses for the Department of Motor Vehicles by \$19,000 for coding and testing. The expenditure impact on the General Fund and Other Funds is undetermined for the Department of Corrections due to lack of data to estimate the bill's affect on the prison population. The revenue impact on the General Fund and Other Funds is undetermined because data is not available to estimate funds that would be generated from fines, assessments and surcharges imposed for convictions of endangering a highway worker. The expenditure and revenue impact on local government is undetermined because the affect of the bill on summary court caseloads and funds generated from court fines, assessments and surcharges cannot be estimated.

**Explanation of Fiscal Impact**

**Introduced on March 22, 2017**

**State Expenditure**

Existing law mandates that it is unlawful for a person to drive a motor vehicle in a highway work zone at a speed in excess of posted limits and establishes the penalty for this misdemeanor offense to be not less than \$75 nor more than \$200, or imprisonment for not more than 30 days, or both. The bill deletes this provision and modifies the definition of the term "highway work zone." Previously, this term was defined as the area between the premier and terminal signs demarcating the work zone. The new definition more specifically defines the term as an area of roadway, bridge, shoulder, median, or associated right of way where construction, maintenance, utility work, accident response, or other incident response is being performed. To ensure the flow of motor vehicles through a work zone is controlled, the zone must be demarcated with properly

installed devices that meet Department of Transportation standards and include signs reducing the normal speed limit. The bill also adds a new definition of the term “highway worker.” A highway worker is defined as the following persons who perform work in a highway work zone: a maintenance, repair or construction worker; a public safety officer enforcing work zone-related transportation management or traffic control; and an officer or firefighter, an emergency medical services provider, or other authorized person who removes hazards or responds to accidents or other incidents.

The bill also creates the offense of endangerment of a highway worker for persons operating a motor vehicle within a highway work zone at any time who drive through or around a work zone in a lane not clearly designated for use by motor vehicles traveling through or around a work zone. This offense also applies to drivers who at any time fail to obey traffic control devices erected for the purpose of controlling the flow of vehicles through the work zone except in cases of emergency, avoidance of an obstacle, or the protection of the health and safety of another person. Drivers will not be cited or convicted for endangerment of a highway worker when the offense occurs in the absence of highway workers in either the work zone or in the area proximate to where the act occurs.

A person found guilty of the offense of endangerment of a highway worker whereby the worker suffers no physical injury shall be convicted of a misdemeanor; fined not more than \$1,000 and not less than \$500, or imprisoned for not more than 30 days, or both; and have two points assessed against his motor vehicle operating record. A person found guilty of the offense of endangerment of a highway worker whereby the worker suffers physical injury proximately caused by the offense shall be convicted of a misdemeanor; fined not more than \$2,000 and not less than \$1,000, or imprisoned for not more than 60 days, or both; and have four points assessed against his motor vehicle operating record. A person found guilty of the offense of endangerment of a highway worker whereby the worker suffers great bodily injury that creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or functional impairment of a bodily member or organ shall be convicted of a misdemeanor; fined not more than \$5,000 and not less than \$2,000, or imprisoned for not more than three years, or both; and have six points assessed against his motor vehicle operating record. A person found guilty of the offense of endangerment of a highway worker whereby the worker dies within three years of as approximate result of injury related to the endangerment of the highway worker shall be convicted of the felony of reckless vehicular homicide; fined not more than \$1,000 and not less than \$5,000, or imprisoned for not more than 10 years, or both; and subject to the same license reinstatement provisions and related conditions as provided for reckless vehicular homicide in Section 56-5-2910. Section 56-1-720, which defines the schedule of points for traffic violations, will be modified to make conforming changes to the point system as described above.

All fines imposed for endangerment of a highway worker are mandatory and may not be waived or reduced. Fifty percent of each assessed fine shall be remitted to the State Treasurer and deposited into a special account, separate from the General Fund, to be used by the Department of Public Safety for work zone enforcement. Twenty-five percent of each assessed fine shall be deposited into the State Highway Fund for use by the Department of Transportation to hire off-duty state, county, or municipal police officers to monitor construction or maintenance zones. In cases where the mechanical failure of a person’s motor vehicle or where the negligence of a highway worker or another person causes an act or omission constituting the offense of

endangerment of a highway worker, the driver shall not be cited or convicted for the offense. The bill also repeals Section 56-5-1536 relating to requirements for driving in a temporary work zone and penalties for convictions, comprised of fines of not less than three hundred dollars nor more than \$500.

**Judicial Department.** This bill creates a new offense of endangerment of a highway worker and provides penalties for the offense. It also deletes the existing offense and penalties for speeding in a highway work zone and repeals the provisions and penalties related to the failure to keep a motor vehicle under control, use due caution, yield right of way, and maintain a safe speed in a temporary work zone. While both of these types of cases are heard in summary court, cases tried for the new offense will be heard in summary and general sessions courts. There is no data available to estimate the number of new cases that would be generated at the circuit court level. However, if additional hearings or trials will be held in general sessions court as a result of the bill, it could lead to a backlog in general sessions courts. The department expects to manage any increase in the number of cases within current resources.

**Commission on Prosecution Coordination.** The commission indicates there is no method by which to estimate the number of new cases that may be tried due to the bill's creation of new crimes. However, the commission expects to manage any additional costs associated with an increase in cases within current resources.

**Commission on Indigent Defense.** The commission indicates there is no method by which to estimate the number of new cases that may be tried due to the bill's creation of new crimes. However, the commission expects to manage any additional costs associated with an increase in cases within current resources.

**Department of Motor Vehicles.** The agency indicates that this bill will increase expenses by \$19,000 for coding and extensive testing to ensure that all external interfaces are working properly and violations are passed to DMV correctly.

**Department of Corrections.** This bill creates a new offense of endangerment of a highway worker and provides monetary penalties or prison sentences, or both, for convictions. Prison sentence times associated with convictions for these offenses range from not more than 30 days to not more than three years. There is no data available to estimate the increase in admissions that may result from the bill, therefore the expenditure impact cannot be determined. The department does expect the prison population to increase once the bill becomes effective.

### **State Revenue**

The bill creates the offense of endangerment of a highway worker and provides for punishment by fines or imprisonment, or both. Any fines imposed are mandatory and may not be waived. Fifty percent of each fine is remitted to the State Treasurer and deposited in a special account separate and apart from the General Fund. The special account is designated for use by the Department of Public Safety for work zone enforcement. Twenty-five percent of each assessed fine is deposited to the State Highway Fund for use by the Department of Transportation to hire off-duty state, county, or municipal police officers to monitor construction or maintenance zones. Distribution of the remaining twenty-five percent is not specified. If the remaining twenty-five percent is distributed in accordance with existing law governing the distribution of fines, the

remaining funds would be distributed among the General Fund, specified state agencies and programs, and local government. Assessments and applicable surcharges on convictions would also be distributed among the General Fund, specified state agencies and programs, and local government. Because data is not available to estimate the number of convictions or the specific fines that may be imposed, the revenue impact of this bill on the General Fund and Other Funds is undetermined.

### **Local Expenditure**

This bill creates a new offense of endangerment of a highway worker and provides penalties for the offense. It also deletes the existing offense and penalties for speeding in a highway work zone and repeals the provisions and penalties related to the failure to keep a motor vehicle under control, use due caution, yield right of way, and maintain a safe speed in a temporary work zone. While both of these types of cases are heard in summary court, cases tried for the new offense will be heard in summary and general sessions courts. However, because data is not available to estimate the impact on the caseload of the summary courts, the expenditure impact on local government is undetermined.

### **Local Revenue**

The bill creates the offense of endangerment of a highway worker and provides for punishment by fines or imprisonment, or both. Any fines imposed are mandatory and may not be waived. Fifty percent of each fine is remitted to the State Treasurer and deposited in a special account separate and apart from the General Fund. The special account is designated for use by the Department of Public Safety for work zone enforcement. Twenty-five percent of each assessed fine is deposited to the State Highway Fund for use by the Department of Transportation to hire off-duty state, county, or municipal police officers to monitor construction or maintenance zones. Distribution of the remaining twenty-five percent is not specified. If the remaining twenty-five percent is distributed in accordance with existing law governing the distribution of fines, the remaining funds would be distributed among the General Fund, specified state agencies and programs, and local government. Assessments and applicable surcharges on convictions would also be distributed among the General Fund, specified state agencies and programs, and local government. Because data is not available to estimate the number of convictions or the specific fines that may be imposed, the revenue impact of this bill for local government is undetermined.



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Frank A. Rainwater, Executive Director