

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor  
101 City Hall  
Baltimore, Maryland 21202

June 1, 2010

The Honorable President and  
Members of the Baltimore  
City Council  
c/o Karen Randle, Executive Secretary  
409 City Hall  
Baltimore, MD 21202

RE: City Council Bill 09-0432 - Parking, Standing and Stopping of  
Vehicles-Obstructed Alleys

Dear President and Members

You requested that the Law Department with regard to City Council Bill 09-0432. Bill 432 is designed to clarify the law related to obstructing the free passage of traffic with a vehicle. The bill prohibits the parking, stopping or standing of a vehicle on a two-way street that prevents the passage of other vehicles or street cars. The bill also prohibits the parking, stopping, standing of vehicles on one-way streets that prevent the passage of other vehicles and street cars in the one-way travel lane. Finally the bill provides that an alley is not considered to be obstructed by a parked, stopped or standing vehicle if a 10-foot side travel lane through the alley is left for other vehicles.

The Maryland Ann. Code, Transportation Art., Sec. 25-101.1 states that except as otherwise expressly provided, the provisions of the Maryland Vehicle Law (consisting of Section 11-101 through Sec. 27-114) are statewide in their effect. Except as otherwise expressly authorized in this subsection ... no local authority or political subdivision of this State may otherwise make or enforce any local law, ordinance, or regulation on any subject covered by the Maryland Vehicle Law. Sec. 25-101.1(b). The provisions of the Maryland Vehicle Law prevail over all local legislation and regulation on any subject with which the Maryland Vehicle Law deals. All public local laws, ordinances and regulations that are inconsistent or identical with or equivalent to any provision in the Maryland Vehicle Law are repealed. Sec. 25.101.1(c). Sec. 25-102 provides of a grant of authority to local jurisdictions in some areas. Specifically, Sec. 25-102(a)(1) states that "the Maryland Vehicle Law does not prevent a local authority, in reasonable exercise of its police power, from exercising the following powers as to highways under its jurisdiction: ...regulating or prohibiting the stopping, standing or parking of vehicles."

F/A

The grant of authority with respect to parking regulation has been the subject of several opinions of the Maryland Attorney General. In the most recent opinion, the



City Council Bill 09-0432

June 1, 2010

Page 2

conclusion was that a local ordinance which prohibited persons from making solicitations while standing in the roadway was preempted by state law which regulated soliciting by pedestrians standing in a roadway. However, the local law went further than the state law and prohibited solicitation from vehicles, from the sidewalk and in public and private parking areas. These portions of the local law were not preempted as they were not covered by the Maryland Vehicle Law. See 93 Md.Op.Atty.Gen. 31 (2008). Similarly, in 73 Md.Op.Atty.Gen. 252 (1988), the Attorney General addressed whether a local law regulating truck parking on private property was preempted. The Attorney General concluded that the Maryland Vehicle Law is not intended to preempt all local legislation of traffic-related matters. The local law in this instance was not preempted because the matters covered were not covered in the Maryland Vehicle Law.

Section 21-1001 of the Maryland Vehicle Law covers stopping, standing and parking restrictions on highways. Section 21-1001(b) states that except as otherwise provided in this section, on any highway outside of a business district or a residential district, a person may not leave any vehicle standing, without providing an unobstructed width of the roadway opposite the standing vehicle for the free passage of other vehicles. This section applies only to highways outside of a business district or a residential district. A local jurisdiction can therefore adopt a regulation that applies to areas within a business district or residential district but not to highways outside those districts.

Although it is likely the intent of City Council Bill 432 to apply within business and residential districts, the law in its current form and as amended by the bill could be interpreted as applying to highways outside of business and residential districts. The Law Department recommends amending the bill to limit its application to areas within business or residential districts thereby avoiding preemption by the Maryland Vehicle Law. The definition of "highway" is broad and would apply to alleys. See Transportation Art., Sec 11-127.

Subject to adoption of the recommended amendment, the Law Department approves City Council Bill 09-0432 for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro  
Chief Solicitor

cc: Honorable MaryPat Clarke  
George Nilson, City Solicitor

Angela Gibson, City Council Liaison  
Ashlea Brown, Assistant Solicitor  
Hilary Ruley, Assistant Solicitor  
Terese Brown, Assistant Solicitor

Amendments City Council Bill 09-0432

1. On page 1, line 19 and on page 2, line 2, after “STREET” insert “within a business or residential district” and the same on page 2, line 6, after “alley”.