SPONSOR: Rep. Bush & Rep. Michael Smith & Sen. Walsh
Reps. Ramone, Spiegelman, Yearick; Sen. Pettyjohn

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 484

AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO ENTRANCE PERMITS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 146, Title 17 of the Delaware Code by making insertions as shown by underline and deletions as shown by strike through as follows:

§ 146. Access to state-maintained highways.

(a) The Department is authorized to adopt standards and regulations for the location, design, construction, reconstruction, maintenance, use and control of vehicular and pedestrian access to and from any state-maintained highway in order to protect public safety, to maintain smooth traffic flow, to maintain highway right-of-way drainage, to regulate drainage from property leading into or carried by the highway drainage system and any other public purpose, as determined by the Department.

(b) No person, firm, corporation or the like shall construct, open, reconstruct, maintain, modify or use any crossing or entrance onto a state-maintained highway, street or road, including any drainage modifications leading into or carried by the highway drainage system, without first having complied with standards and regulations adopted by the Department and having obtained a permit issued by the Department.

(c) Any person, firm, corporation or the like who constructs, opens, reconstructs, maintains, uses or modifies an entrance onto or an exit from a state-maintained highway, street or road without first having complied with standards and regulations adopted by the Department and having obtained a permit from the Department for such entrance or exit shall be punished by a fine of not less than $100 nor more than $1,000 for each offense, and a further sum in an amount equal to the amount fined for the initial offense for each and every day such violation exists.

(d) For purposes of this section, whenever the use to which a property is being put is changed such that there will be a significant alteration in the character, flow or volume of traffic, as determined within the sole discretion of the Department, a new permit shall be required.

(e) The Justice of the Peace Courts shall have jurisdiction over violations of this section.

(f) In addition to whatever legal or equitable remedies are available, the Department may install barricades across or remove any entrance or exit constructed, opened, reconstructed, maintained, modified or used in violation of this section and the standards or regulations adopted pursuant thereto, at the expense of the property owner.

(g) The Department shall issue a temporary entrance permit to a developer to perform clearing and grading activities within 5 days of application for any commercial or economic development project upon presentation to the Department of an erosion and sediment control permit. Any developer who obtains such temporary entrance permit and performs such clearing and grading activities does so at its own risk and the state including all of its agencies shall not be responsible for any harm that occurs to the developer for any reason including but not limited to denial of the project, required modifications to plans or work, and permits not being issued.

SYNOPSIS

This bill expedites the issuance of a temporary entrance permit for commercial and economic development projects.