

# HOUSE BILL 929

R5

3lr1841

---

By: **Delegates Malone and McMillan**

Introduced and read first time: February 7, 2013

Assigned to: Environmental Matters

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicles – Speed Monitoring Systems – Local Jurisdictions**

3 FOR the purpose of clarifying that a certain warning period for violations recorded by  
4 speed monitoring systems operated by local jurisdictions begins when the first  
5 speed monitoring system in the jurisdiction is in use; applying certain notice  
6 and signage standards for unmanned local stationary speed monitoring systems  
7 to all local stationary speed monitoring systems; altering the standards for  
8 signage required for local stationary speed monitoring systems; clarifying that a  
9 certificate alleging that a certain speeding violation occurred is required to be  
10 sworn to or affirmed by a certain law enforcement officer; and generally relating  
11 to speed monitoring systems operated by local jurisdictions.

12 BY repealing and reenacting, with amendments,  
13 Article – Transportation  
14 Section 21–809  
15 Annotated Code of Maryland  
16 (2012 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Transportation**

20 21–809.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) “Agency” means:

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) A law enforcement agency of a local political subdivision  
2 that is authorized to issue a citation for a violation of the Maryland Vehicle Law or of  
3 local traffic laws or regulations; or

4 (ii) For a municipal corporation that does not maintain a police  
5 force, an agency established or designated by the municipal corporation to implement  
6 this subtitle using speed monitoring systems in accordance with this section.

7 (3) (i) "Owner" means the registered owner of a motor vehicle or a  
8 lessee of a motor vehicle under a lease of 6 months or more.

9 (ii) "Owner" does not include:

10 1. A motor vehicle rental or leasing company; or

11 2. A holder of a special registration plate issued under  
12 Title 13, Subtitle 9, Part III of this article.

13 (4) "Recorded image" means an image recorded by a speed monitoring  
14 system:

15 (i) On:

16 1. A photograph;

17 2. A microphotograph;

18 3. An electronic image;

19 4. Videotape; or

20 5. Any other medium; and

21 (ii) Showing:

22 1. The rear of a motor vehicle;

23 2. At least two time-stamped images of the motor  
24 vehicle that include the same stationary object near the motor vehicle; and

25 3. On at least one image or portion of tape, a clear and  
26 legible identification of the entire registration plate number of the motor vehicle.

27 (5) "Speed monitoring system" means a device with one or more motor  
28 vehicle sensors producing recorded images of motor vehicles traveling at speeds at  
29 least 12 miles per hour above the posted speed limit.

1           (6)   “Speed monitoring system operator” means a representative of an  
2 agency or contractor that operates a speed monitoring system.

3           (b)   (1)   (i)   A speed monitoring system may not be used in a local  
4 jurisdiction under this section unless its use is authorized by the governing body of the  
5 local jurisdiction by local law enacted after reasonable notice and a public hearing.

6                       (ii)   Before a county may use a speed monitoring system on a  
7 State highway at a location within a municipal corporation, the county shall:

8                               1.   Obtain the approval of the State Highway  
9 Administration;

10                              2.   Notify the municipal corporation of the State  
11 Highway Administration’s approval of the use of a speed monitoring system at that  
12 location; and

13                              3.   Grant the municipal corporation 60 days from the  
14 date of the county’s notice to the municipal corporation to enact an ordinance  
15 authorizing the municipal corporation instead of the county to use a speed monitoring  
16 system at that location.

17                              (iii)  1.   This subparagraph applies only in Prince George’s  
18 County.

19                                       2.   In the county, a municipal corporation may  
20 implement and use a speed monitoring system consistent with the requirements of  
21 this subsection on a county highway at a location within its corporate limits if the  
22 municipal corporation:

23   A.   Submits to the county a plan describing the boundary  
24 of the applicable school zone and the proposed location of the speed monitoring system;  
25 and

26   B.   Requests and receives permission from the county to  
27 use the speed monitoring system at the proposed location.

28                                       3.   If the county fails to respond to the request within 60  
29 days, the municipal corporation may implement and use the speed monitoring system  
30 as described in the plan submission.

31                                       4.   The county may not:

32   A.   Unreasonably deny a request under this  
33 subparagraph; or

1 B. Place exactions, fees, or unreasonable restrictions on  
2 the implementation and use of a speed monitoring system under this subparagraph.

3 5. The county shall state in writing the reasons for any  
4 denial of a request under this subparagraph.

5 6. A municipal corporation may contest in the circuit  
6 court a county denial of a request under this subparagraph.

7 (iv) In Prince George's County, if a municipal corporation has  
8 established a school zone that is within one-quarter mile of a school zone established  
9 in another municipal corporation, the municipal corporation may not implement or use  
10 a speed monitoring system in that school zone unless it has obtained the approval of  
11 the other municipal corporation.

12 (v) An ordinance or resolution adopted by the governing body of  
13 a local jurisdiction under this paragraph shall provide that for a period of at least 30  
14 days after the first speed monitoring system is [placed] **IN USE** in the local  
15 jurisdiction, a violation recorded by any speed monitoring system in the local  
16 jurisdiction may be enforced only by the issuance of a warning.

17 (vi) This section applies to a violation of this subtitle recorded by  
18 a speed monitoring system that meets the requirements of this subsection and has  
19 been placed:

20 1. In Montgomery County, on a highway in a residential  
21 district, as defined in § 21-101 of this title, with a maximum posted speed limit of 35  
22 miles per hour, which speed limit was established using generally accepted traffic  
23 engineering practices;

24 2. In a school zone established under § 21-803.1 of this  
25 subtitle; or

26 3. In Prince George's County, on that part of a highway  
27 located within the grounds of an institution of higher education as defined in §  
28 10-101(h) of the Education Article, or within one-half mile of the grounds of a  
29 building or property used by the institution of higher education where generally  
30 accepted traffic and engineering practices indicate that motor vehicle, pedestrian, or  
31 bicycle traffic is substantially generated or influenced by the institution of higher  
32 education.

33 (vii) Before activating [an unmanned] A stationary speed  
34 monitoring system, the local jurisdiction shall:

35 1. Publish notice of the location of the speed monitoring  
36 system on its website and in a newspaper of general circulation in the jurisdiction;

1                                   2.     Ensure that each sign that designates a school zone  
2 **IS:**

3                                   **A.     PROXIMATE TO A SIGN THAT** indicates that speed  
4 monitoring systems are in use in **THE** school [zones] **ZONE; AND**

5                                   **B.     IN ACCORDANCE WITH THE MANUAL AND**  
6 **SPECIFICATIONS FOR A UNIFORM SYSTEM OF TRAFFIC CONTROL DEVICES**  
7 **ADOPTED BY THE STATE HIGHWAY ADMINISTRATION UNDER § 25-104 OF THIS**  
8 **ARTICLE; and**

9                                   3.     With regard to a speed monitoring system established  
10 based on proximity to an institution of higher education under paragraph (1)(vi)3 of  
11 this subsection, ensure that all speed limit signs approaching and within the segment  
12 of highway on which the speed monitoring system is located include signs that:

13                                   A.     Are in accordance with the manual and specifications  
14 for a uniform system of traffic control devices adopted by the State Highway  
15 Administration under § 25-104 of this article; and

16                                   B.     Indicate that a speed monitoring system is in use.

17                                   (viii) A speed monitoring system in a school zone may operate  
18 only Monday through Friday between 6:00 a.m. and 8:00 p.m.

19                                   (2)   (i)    A speed monitoring system operator shall complete training  
20 by a manufacturer of speed monitoring systems in the procedures for setting up and  
21 operating the speed monitoring system.

22                                   (ii)   The manufacturer shall issue a signed certificate to the  
23 speed monitoring system operator on completion of the training.

24                                   (iii)  The certificate of training shall be admitted as evidence in  
25 any court proceeding for a violation of this section.

26                                   (3)   A speed monitoring system operator shall fill out and sign a daily  
27 set-up log for a speed monitoring system that:

28                                   (i)    States that the speed monitoring system operator  
29 successfully performed the manufacturer-specified self-test of the speed monitoring  
30 system prior to producing a recorded image;

31                                   (ii)   Shall be kept on file; and

32                                   (iii)  Shall be admitted as evidence in any court proceeding for a  
33 violation of this section.



1 (vii) The amount of the civil penalty imposed and the date by  
2 which the civil penalty should be paid;

3 (viii) A signed statement by a duly authorized law enforcement  
4 officer employed by or under contract with an agency that, based on inspection of  
5 recorded images, the motor vehicle was being operated in violation of this subtitle;

6 (ix) A statement that recorded images are evidence of a violation  
7 of this subtitle;

8 (x) Information advising the person alleged to be liable under  
9 this section of the manner and time in which liability as alleged in the citation may be  
10 contested in the District Court; and

11 (xi) Information advising the person alleged to be liable under  
12 this section that failure to pay the civil penalty or to contest liability in a timely  
13 manner:

14 1. Is an admission of liability;

15 2. May result in the refusal by the Administration to  
16 register the motor vehicle; and

17 3. May result in the suspension of the motor vehicle  
18 registration.

19 (2) An agency may mail a warning notice instead of a citation to the  
20 owner liable under subsection (c) of this section.

21 (3) Except as provided in subsection (f)(4) of this section, an agency  
22 may not mail a citation to a person who is not an owner.

23 (4) Except as provided in subsection (f)(4) of this section, a citation  
24 issued under this section shall be mailed no later than 2 weeks after the alleged  
25 violation if the vehicle is registered in this State, and 30 days after the alleged  
26 violation if the vehicle is registered in another state.

27 (5) A person who receives a citation under paragraph (1) of this  
28 subsection may:

29 (i) Pay the civil penalty, in accordance with instructions on the  
30 citation, directly to the political subdivision; or

31 (ii) Elect to stand trial in the District Court for the alleged  
32 violation.

1 (e) (1) A certificate alleging that the violation of this subtitle occurred and  
2 the requirements under subsection (b) of this section have been satisfied, sworn to, or  
3 affirmed by [an agent or employee of] **A DULY AUTHORIZED LAW ENFORCEMENT**  
4 **OFFICER EMPLOYED BY OR UNDER CONTRACT WITH** an agency, based on  
5 inspection of recorded images produced by a speed monitoring system, shall be  
6 evidence of the facts contained in the certificate and shall be admissible in a  
7 proceeding alleging a violation under this section without the presence or testimony of  
8 the speed monitoring system operator who performed the requirements under  
9 subsection (b) of this section.

10 (2) If a person who received a citation under subsection (d) of this  
11 section desires the speed monitoring system operator to be present and testify at trial,  
12 the person shall notify the court and the State in writing no later than 20 days before  
13 trial.

14 (3) Adjudication of liability shall be based on a preponderance of  
15 evidence.

16 (f) (1) The District Court may consider in defense of a violation:

17 (i) Subject to paragraph (2) of this subsection, that the motor  
18 vehicle or the registration plates of the motor vehicle were stolen before the violation  
19 occurred and were not under the control or possession of the owner at the time of the  
20 violation;

21 (ii) Subject to paragraph (3) of this subsection, evidence that the  
22 person named in the citation was not operating the vehicle at the time of the violation;  
23 and

24 (iii) Any other issues and evidence that the District Court deems  
25 pertinent.

26 (2) To demonstrate that the motor vehicle or the registration plates  
27 were stolen before the violation occurred and were not under the control or possession  
28 of the owner at the time of the violation, the owner shall submit proof that a police  
29 report regarding the stolen motor vehicle or registration plates was filed in a timely  
30 manner.

31 (3) To satisfy the evidentiary burden under paragraph (1)(ii) of this  
32 subsection, the person named in the citation shall provide to the District Court a  
33 letter, sworn to or affirmed by the person and mailed by certified mail, return receipt  
34 requested, that:

35 (i) States that the person named in the citation was not  
36 operating the vehicle at the time of the violation; and

37 (ii) Includes any other corroborating evidence.



1           (4) (i) If the District Court finds that the person named in the  
2 citation was not operating the vehicle at the time of the violation or receives evidence  
3 under paragraph (3) of this subsection identifying the person driving the vehicle at the  
4 time of the violation, the clerk of the court shall provide to the agency issuing the  
5 citation a copy of any evidence substantiating who was operating the vehicle at the  
6 time of the violation.

7           (ii) On receipt of substantiating evidence from the District  
8 Court under subparagraph (i) of this paragraph, an agency may issue a citation as  
9 provided in subsection (d) of this section to the person who the evidence indicates was  
10 operating the vehicle at the time of the violation.

11           (iii) A citation issued under subparagraph (ii) of this paragraph  
12 shall be mailed no later than 2 weeks after receipt of the evidence from the District  
13 Court.

14           (g) If a person liable under this section does not pay the civil penalty or  
15 contest the violation, the Administration:

16           (1) May refuse to register or reregister the motor vehicle cited for the  
17 violation; or

18           (2) May suspend the registration of the motor vehicle cited for the  
19 violation.

20           (h) A violation for which a civil penalty is imposed under this section:

21           (1) Is not a moving violation for the purpose of assessing points under  
22 § 16–402 of this article;

23           (2) May not be recorded by the Administration on the driving record of  
24 the owner or driver of the vehicle;

25           (3) May be treated as a parking violation for purposes of § 26–305 of  
26 this article; and

27           (4) May not be considered in the provision of motor vehicle insurance  
28 coverage.

29           (i) In consultation with the appropriate local government agencies, the Chief  
30 Judge of the District Court shall adopt procedures for the issuance of citations, the  
31 trial of civil violations, and the collection of civil penalties under this section.

32           (j) (1) An agency or an agent or contractor designated by the agency shall  
33 administer and process civil citations issued under this section in coordination with  
34 the District Court.

1                   (2)     If a contractor operates a speed monitoring system on behalf of a  
2 local jurisdiction, the contractor's fee may not be contingent on the number of citations  
3 issued or paid.

4                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2013.