

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1368 (Delegates Healey and Stein)
Environment and Transportation

Vehicle Laws - Move Over Safety Monitoring System - Authorization

This bill establishes a regulatory framework for the use of “move over safety monitoring systems” in the State. Specifically, the systems are authorized for use on specified emergency or police vehicles to capture visual evidence of a violation of the Maryland Vehicle Law’s “move over” requirement, which generally requires a driver (1) approaching an emergency vehicle, which includes a police vehicle, that is stopped, standing, or parked (as well as specified other vehicles not affected by the bill) to make a lane change or slow to a reasonable and prudent speed and (2) to yield right-of-way and take specified safety precautions when being approached by an emergency or police vehicle. **The bill takes effect June 1, 2019.**

Fiscal Summary

State Effect: General fund expenditures by the District Court increase by approximately \$29,000 in FY 2019 only for one-time programming costs. General fund revenues may increase minimally, but not likely until FY 2020, due to fine revenue from contested cases; the District Court can likely handle any increase in caseloads with existing resources.

Local Effect: Local government expenditures increase in any jurisdiction that chooses to install and maintain monitoring systems under the bill. Similarly, local revenues increase, likely minimally, due to the fine revenue collected by local governments.

Small Business Effect: None.

Analysis

Bill Summary:

Move Over Safety Monitoring Systems and Reporting of Violations

“Move over safety monitoring system” means a recording device placed on an emergency vehicle that is designed to capture a recorded video or images of a motor vehicle committing a “move over” violation using (1) video or another visual recording; (2) certified radar, lidar, or another speed measuring device; or (3) a computer or recording system.

A move over safety monitoring system may be used on the emergency vehicles owned by (1) a law enforcement agency of a local political subdivision that is otherwise authorized to issue a citation for a violation of the Maryland Vehicle Law or local traffic laws or regulations and (2) a State or local volunteer fire company, rescue squad, fire department, or ambulance service.

If an emergency vehicle operator witnesses a violation, the operator may report the violation to an appropriate law enforcement agency. Any such report must include specified identifying information about the violator, including specified video evidence that could be collected through a move over safety monitoring system.

A recorded image indicating that the driver of a motor vehicle has committed the violation must include an image of the motor vehicle, an image of at least one of the motor vehicle’s registration plates, the time and date of the violation, and to the extent possible, the location of the violation.

Civil Citations and Penalties

Unless the driver of a motor vehicle received a citation from a police officer at the time of a violation, the owner of the vehicle (or driver, as specified) is subject to a civil penalty if the motor vehicle is recorded committing the violation by a move over safety monitoring system. The civil penalty is \$100. The District Court has exclusive original civil jurisdiction over this violation and must prescribe a uniform citation form that meets specified requirements. Adjudication of liability in the District Court is based on a preponderance of the evidence.

Any civil citation must be mailed to the appropriate liable person by a law enforcement agency and include specified information. A citation must be mailed no later than two weeks after the alleged violation. A person may pay the civil penalty or elect to stand trial for the alleged violation, as specified. In an uncontested case, the penalty must be paid

directly to the appropriate political subdivision, and in a contested case, the penalty must be paid to the District Court. A law enforcement agency may mail a warning notice to the owner of a motor vehicle instead of a civil citation.

From the fines collected by a local government, the jurisdiction may recover the costs of implementing the program and must spend any remaining balance for public safety, including pedestrian safety programs. However, if after recovering implementation costs the balance of revenues generated exceeds 10% of the local jurisdiction's total revenues for the fiscal year, then any remaining amount above 10% must be remitted to the Comptroller and deposited in the State general fund.

Evidence and Proceedings

Any recorded image of a motor vehicle produced by a move over safety monitoring system, is admissible in a proceeding concerning the related civil citation, without authentication. Similarly, a certificate alleging that a violation occurred, sworn to or affirmed by a duly authorized agent of a law enforcement agency, based on the inspection of move over safety monitoring system images must be considered evidence of the facts contained in the certificate and is admissible in a proceeding.

The bill specifies certain factors and processes that a defendant may use in a defense against the citation related to (1) a motor vehicle or registration plates that were stolen before the violation occurred; (2) another individual, not named in the citation, operating the motor vehicle when the violation occurred; and (3) other classifications of vehicle that may receive a violation (*i.e.*, trucks, tractors, trailers, and passenger buses).

If the District Court finds that the person named in the citation was not operating the vehicle at the time of the violation or receives evidence that identifies the person who was driving the vehicle at the time of the violation, it must provide any appropriate evidence to the law enforcement agency. The agency may then issue a citation to the person that the evidence indicates was operating the vehicle at the time of the violation, but it must be issued within two weeks of receiving the information.

Other Provisions

If a civil penalty is not paid and the violation is not contested, the Motor Vehicle Administration (MVA) may suspend, refuse to register, or refuse to reregister the registration of the motor vehicle.

A violation for which a civil penalty is imposed (1) is not a moving violation for the purpose of assessing points on a driver's license and may not be recorded by MVA on the driving record of the owner or driver of the vehicle; (2) may be treated as a parking

violation; and (3) may not be considered in the provision of motor vehicle insurance coverage.

In consultation with law enforcement agencies, the Chief Judge of the District Court must adopt procedures for the issuance of citations, trials for violations, and the collection of civil penalties.

Current Law:

Safety Precautions Required Near Emergency Vehicles

Drivers in the State are required to take safety precautions when approached by an emergency vehicle or police vehicle using its audible and visual warning signs (generally sirens and flashing lights). When approached by such a vehicle, unless otherwise directed by a police officer, a driver must (1) yield the right-of-way; (2) pull over as close to the nearest edge or curb of the roadway, clear of any intersection; and (3) stop and stay in that position until the vehicle has passed. When proceeding in the same direction as such a vehicle, a driver may not pass the vehicle unless the vehicle has stopped or otherwise directed by a police officer. The Maryland Vehicle Law also requires drivers to “move over” when approaching specified vehicles that are stopped, standing, or parked; this requirement is discussed in greater detail in the following section.

A violation of these provisions is a misdemeanor, and a violator is subject to a maximum fine of \$500. The prepayment penalty established by the District Court is \$110, and MVA must assess one point against a violator’s license (except for violations in which the driver passes a moving emergency or police vehicle, then two points must be assessed against a violator’s license). For a violation that contributes to an accident, the prepayment penalty is \$150 or, if the accident results in death or serious bodily injury, \$750. MVA must assess three points against a violator’s license if the violation contributes to an accident.

“Move Over” Requirement

A driver of a vehicle generally has the duty to move over or slow down, unless otherwise directed by a police officer or traffic control device, when approaching – from the rear – certain types of vehicles (an emergency vehicle, specified commercial vehicle, service vehicle, tow truck, or waste or recycling collection vehicle) that are stopped, standing, or parked. If the stopped, standing, or parked vehicle meets specified visual signal requirements, the driver must, and only if practicable, make a lane change into an available lane that is nonadjacent to the specified vehicle. A driver of a vehicle making a required lane change must exercise due regard for safety and traffic conditions. If, however, the driver is unable to lawfully make a lane change, as specified, the driver must slow to a reasonable and prudent speed safe for existing weather, road, and traffic conditions. This

“move over” requirement was extended by Chapter 545 of 2018 to encompass (as noted above) a driver of a vehicle approaching a stopped, standing, or parked (1) commercial vehicle that is providing emergency maintenance to a disabled vehicle; (2) service vehicle; or (3) waste or recycling collection vehicle.

Definitions

“Service vehicles” means any of the following vehicles that MVA designates as such: (1) vehicles of federal, State, or local agencies; (2) vehicles of public service companies; and (3) vehicles of persons performing governmental functions under a contract with any federal, State, or local government.

“Emergency vehicle” means any of the following vehicles that MVA designates as such: (1) vehicles of federal, State, or local law enforcement agencies; (2) vehicles of volunteer fire companies, rescue squads, fire departments, the Maryland Institute for Emergency Medical Services Systems, or the Maryland Fire and Rescue Institute; (3) State vehicles used in response to oil or hazardous materials spills; (4) State vehicles designated for emergency use by the Commissioner of Correction; (5) ambulances; (6) organ delivery vehicles; and (7) special vehicles funded or provided by federal, State, or local government and used for emergency or rescue purposes in the State.

Background: For a discussion on related systems, please see **Appendix – Automated Enforcement**.

According to the District Court, 5,927 citations were issued in fiscal 2018 for failure to make a lane change or slow to a reasonable and prudent speed while passing an emergency vehicle, tow truck, or other specified vehicle. Some of these violations may have been related to tow trucks or other specified vehicles, which are not covered by the bill. In that same year, there were 1,851 violations of other provisions of the move over requirement.

State Fiscal Effect:

District Court

While fine revenues are paid to a local jurisdiction in an uncontested case, fine revenues are paid to the District Court for contested cases. Due to the new civil penalty and enforcement mechanism for move over violations established by the bill, the number of individuals opting for a trial in the District Court is likely to increase. Accordingly, general fund revenues may increase minimally, as fine revenues paid by individuals convicted in District Court are paid into the general fund. The increase in District Court caseloads is likely negligible and can be handled with existing resources.

The District Court advises that its payments systems must be upgraded under the bill in order to accept and process the new citation. As such, general fund expenditures increase by approximately \$29,000 in fiscal 2019 only in order to upgrade the systems.

Local Fiscal Effect: To the extent that a local government chooses to use any “move over safety monitoring systems,” as authorized under the bill, local expenditures increase to purchase, install, and maintain the systems. Because fine revenues are paid to the jurisdiction in an uncontested case, local revenues increase, likely minimally, in those jurisdictions as law enforcement agencies begin to issue civil penalties. The magnitude of any such impact depends on the cost of any such system and which local governments choose to implement monitoring systems under the bill and, therefore, cannot be reliably estimated at this time.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of State Police; Montgomery County; Maryland Association of Counties; City of Bowie; Maryland Department of Transportation; Department of Legislative Services

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Appendix – Automated Enforcement

Speed Monitoring Systems

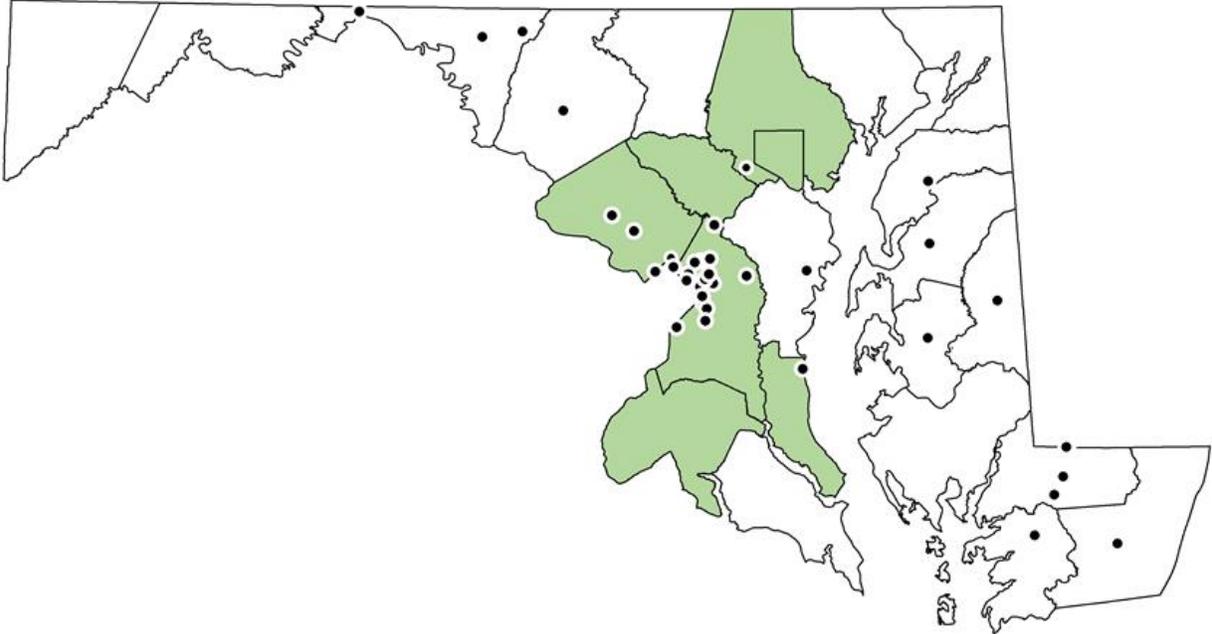
Chapter 15 of 2006 authorized the first use of speed monitoring systems in the State, but it only applied to highways in school zones and residential districts in Montgomery County. Chapter 500 of 2009 expanded statewide the authorization for the use of speed monitoring systems in school zones and also authorized the use of work zone speed control systems. Chapter 474 of 2010 authorized the use of speed monitoring systems in Prince George's County on a highway located within the grounds of an institution of higher education or on nearby highways under certain circumstances. Chapter 806 of 2018 authorized Prince George's County to place one speed camera at the intersection of Old Fort Road and Maryland Route 210 (Indian Head Highway), subject to specified requirements.

Unless the driver of a motor vehicle received a citation from a police officer at the time of the violation, the owner or driver of the vehicle is subject to a civil penalty if the vehicle is recorded speeding at least 12 miles per hour above the posted speed limit by a speed monitoring system in violation of specified speed restrictions in the Maryland Vehicle Law. The maximum fine for a citation issued by a speed monitoring system operator is \$40. However, a local law enforcement or other designated agency operating the speed monitoring system may mail a warning notice instead of a citation.

A speed monitoring system may be placed in a school zone for operation between 6:00 a.m. and 8:00 p.m., Monday through Friday. Before a speed monitoring system may be used in a local jurisdiction, its use must be authorized by the governing body by ordinance or resolution adopted after reasonable notice and a public hearing, and its location must be published on the jurisdiction's website and in a newspaper of general circulation in the jurisdiction.

According to the Insurance Institute for Highway Safety (IIHS), 137 jurisdictions across the nation use speed cameras. In addition, Illinois, Maryland, and Oregon use speed cameras statewide in work zones. In Maryland, speed cameras are used in six counties and Baltimore City, 38 other jurisdictions, and by the State Highway Administration (SHA) on a statewide basis for work zones. **Exhibit 1** shows local speed camera usage across the State as of January 2019.

Exhibit 1
Local Speed Monitoring System Enforcement in Maryland
January 2019



Note: ● represents municipal corporations that operate speed monitoring systems; ■ represents counties that operate speed monitoring systems. Speed cameras are also operated in highway work zones statewide.

Source: Insurance Institute for Highway Safety; Comptroller's Office; Department of Legislative Services

From the fines generated by a speed monitoring system, the relevant jurisdiction may recover the costs of implementing the system and may spend any remaining balance solely for public safety purposes, including for pedestrian safety programs. However, if the balance of revenues after cost recovery for any fiscal year is greater than 10% of the jurisdiction's total revenues, the excess must be remitted to the Comptroller. As shown in **Exhibit 2**, according to data from the Comptroller, as of January 2019, approximately \$226,800 was remitted in fiscal 2018, while no money was remitted in fiscal 2017 (with data pending for fiscal 2018 from Prince George's County only).

Exhibit 2
Local Speed Monitoring Systems Data (Aggregated)
Fiscal 2014-2018

<u>Fiscal Year</u>	<u>Fine Revenues</u>	<u>System Costs</u>	<u>Net Revenues</u>	<u>Due to State</u>
2018*	\$56,855,016	\$27,262,388	\$29,615,707	\$226,822
2017	54,802,197	30,145,731	24,757,588	-
2016	57,198,345	31,637,019	25,208,963	-
2015	56,966,652	28,794,043	28,175,109	456,006
2014	53,842,875	32,978,310	20,864,564	-

* As of January 2019; data pending for Prince George’s County.

Source: Comptroller’s Office; Department of Legislative Services

Also, in fiscal 2018, the Comptroller reports that 46 (excluding Prince George’s County) local jurisdictions generated speed monitoring system fine revenues of about \$56.9 million, of which about \$30.0 million (52.7%) was retained by local jurisdictions for public safety programs after recovery of the costs of implementing the systems. Between fiscal 2017 and 2018, total fine revenues increased by approximately \$2.1 million while implementation expenditures decreased by \$2.9 million. Net revenues retained by local jurisdictions for public safety increased by approximately \$4.6 million between fiscal 2017 and 2018.

Speed Monitoring System Reform – Chapter 491 of 2014

The General Assembly passed House Bill 929 of 2014 (enacted as Chapter 491) in response to significant concerns from the public and media scrutiny of speed cameras in Baltimore City and several other jurisdictions. These concerns centered around two common criticisms of speed cameras: (1) that technical issues and insufficient review of recorded images resulted in erroneously generated citations; and (2) that the contracts with vendors were structured in such a manner as to establish an incentive to generate more citations and revenues, thereby casting doubt on the integrity or purpose of speed monitoring programs. Thus, Chapter 491 required jurisdictions to impose new restrictions and requirements on their contracts with speed monitoring vendors and established numerous additional requirements and restrictions pertaining to the issuance of citations, the calibration and self-testing of systems, the review of erroneous citations, and the use and placement of systems in school zones.

Automated Speed Enforcement Efficacy

National and international studies of automated speed enforcement, as well as local program evaluations, provide some insight into the level of effectiveness of such enforcement mechanisms. According to IIHS, several studies have documented reductions in crashes in the vicinities of speed cameras, including crashes that result in an injury or fatality.

A 2015 study by IIHS of speed camera usage in Montgomery County, Maryland, showed long-term changes in driver behavior as well as reductions in injuries and deaths. Montgomery County introduced speed cameras in 2007, and an initial review of the program by IIHS six months into the program found that the percentage of vehicles going more than 10 miles per hour over the speed limit (which, at that time, was the enforcement threshold) declined by 70% on roads with speed cameras. The 2015 study showed a 59% reduction in the likelihood of a driver exceeding the speed limit by more than 10 miles per hour, compared with similar roads in Virginia without speed cameras. The same comparison showed a 19% reduction in the likelihood that a crash would involve a fatality or an incapacitating injury.

Data from the National Highway Traffic Safety Administration shows that there were 799 fatalities in highway work zones nationwide in 2017, including 14 in Maryland. The number of work zone fatalities in Maryland in 2017 was the highest number of fatalities since 2005. (Nationally, the number of work zone fatalities was the highest number since 2007). Nevertheless, on average, the number of work zone fatalities has declined significantly since the program's commencement. Between 2010 and 2017, work zone fatalities averaged 7.5 per year in Maryland, a reduction of about 39% from the eight-year average of 12.4 fatalities per year from 2002 through 2009.

Nationally, there was also a similar, but less significant, drop in work zone fatalities, with an approximately 30% reduction in the eight-year average between 2010 and 2017, as compared with the period from 2002 through 2009. Federal data also shows that work zone fatalities, *as a percentage of total traffic fatalities*, have dropped in Maryland, comparing averages from 2002 through 2009 to those from 2010 through 2017. Again, the reduction in Maryland is greater than the similar, but less significant, reduction nationally in terms of the percentage of traffic fatalities occurring in work zones.

Traffic Control Signal Monitoring Systems (Red Light Cameras)

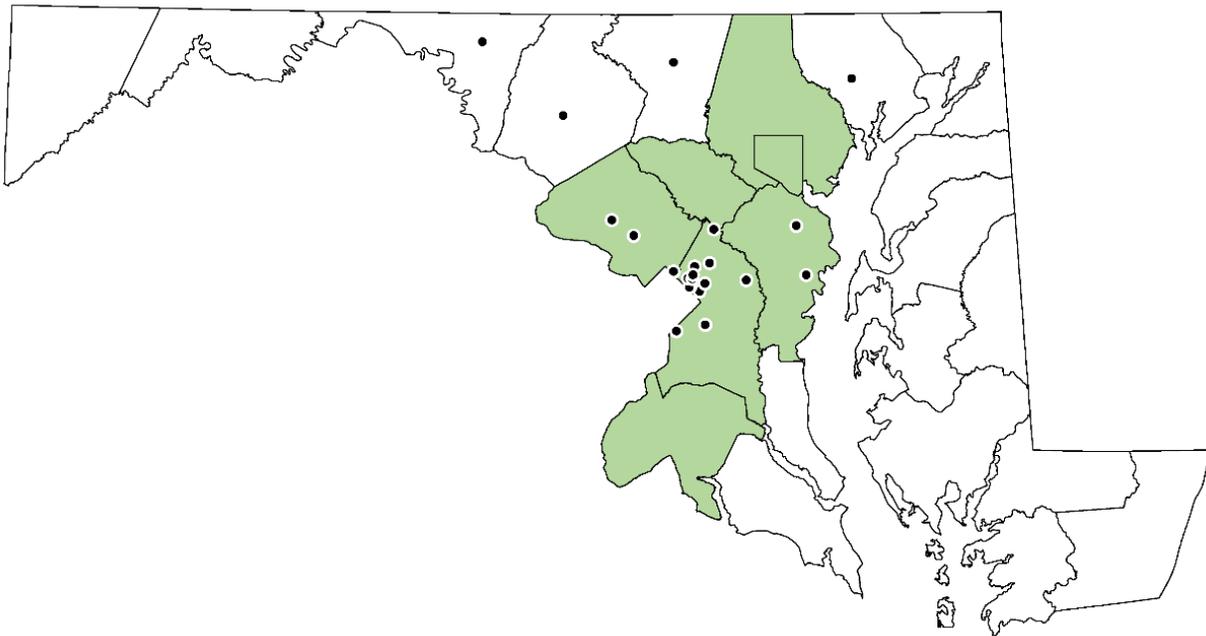
Unless the driver of a motor vehicle receives a citation from a police officer at the time of the violation, the owner or driver of a vehicle recorded by a red light monitoring system entering an intersection against a red signal in violation of the Maryland Vehicle Law is subject to a civil penalty of up to \$100. Red light camera enforcement applies to a violation

of specified Maryland Vehicle Law requirements applicable to a vehicle approaching a steady circular red signal or arrow, including (1) stopping at a clearly marked stop line, or crosswalk if there is no stop line, or intersection if there is no crosswalk and (2) remaining stopped until a signal allows the vehicle to proceed.

A driver is specifically authorized under the Maryland Vehicle Law to cautiously enter an intersection to make a right turn (or left turn from a one-way street to another one-way street) after stopping at a steady red light, unless a sign otherwise prohibits the turn.

According to IIHS, 390 jurisdictions across the nation have red light camera programs as of January 2019. In Maryland, six counties, Baltimore City, and 22 other jurisdictions use red light cameras. **Exhibit 3** shows red light camera usage across the State as of January 2019.

Exhibit 3
Local Red Light Camera Enforcement in Maryland
January 2019



Note: ● represents municipal corporations that operate red light camera systems; ■ represents counties that operate red light camera systems.

Source: Insurance Institute for Highway Safety; Department of Legislative Services
