Department of Legislative Services

Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 819 (Senator Klausmeier)
Judicial Proceedings

Distracted Driving Monitoring Systems - Authorization

This bill authorizes the use of distracted driver monitoring systems on State and local highways to record violations of specified offenses relating to the use of wireless communication devices, text messaging devices, and handheld telephones while driving. Unless the driver of the motor vehicle received a citation from a police officer at the time of a specified violation, the owner or driver of a motor vehicle is subject to a civil penalty of up to $500 if the motor vehicle is recorded by a distracted driver monitoring system during the commission of the violation. The bill expands existing statutory provisions governing the collection and disposition of fines collected as a result of automated monitoring systems to apply to distracted driver monitoring systems. The District Court has exclusive original civil jurisdiction in a civil infraction under the bill. 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 imposed under the bill.

Fiscal Summary

State Effect: The bill is authorizing in nature. The impact on State finances depends on the extent to which the systems are deployed, as discussed below. The District Court can likely adopt procedures as required under the bill with existing resources.

Local Effect: The bill is authorizing in nature. The impact on local government finances depends on the extent to which the systems are deployed, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary:

Definitions:

"Agency" means (1) a law enforcement agency that is authorized to issue a citation for a violation of the Maryland Vehicle Law or of local traffic laws or regulations or (2) for a municipal corporation that does not maintain a police force, an agency established or designated by the municipal corporation to implement specified provisions of the Maryland Vehicle Law using distracted driving monitoring systems in accordance with the bill.

"Distracted driving monitoring system" means a device designed to capture a recorded image of a driver of a motor vehicle committing a violation. "Violation," as defined under the bill, means a violation of specified offenses under the Maryland Vehicle Law relating to the use of wireless communication devices, text messaging devices, and handheld telephones while driving.

"Owner" means the registered owner of a motor vehicle or a lessee of a motor vehicle under a lease of six months or more. "Owner" does not include a motor vehicle leasing company or a specified holder of a special registration plate.

"Recorded image" means images recorded by a distracted driver monitoring system (1) on at least two photographs, microphotographs, or electronic images, on videotape, or on any other medium and (2) showing a motor vehicle and, on at least one image or portion of tape, clearly identifying the registration plate number of the motor vehicle.

Issuance of Citations and Collection and Disposition of Fines

The bill expands existing statutory provisions governing the issuance of citations and the collection and disposition of fines collected as a result of automated monitoring systems to apply to distracted driver monitoring systems. Accordingly, a citation issued as a result of a distracted driver monitoring system controlled by a political subdivision must provide that, in an uncontested case, the penalty be paid directly to the political subdivision; a citation issued as a result of a distracted driver monitoring system in a case contested in District Court must provide that the penalty be paid directly to the District Court. Civil penalties resulting from citations issued using a distracted driver monitoring system that are collected by the District Court must be collected and distributed in accordance with existing statutory provisions.

A political subdivision may recover the costs of implementing and administering distracted driver monitoring systems from fines collected by the political subdivision as a result of

violations enforced by distracted driver monitoring systems and may spend the remaining balance solely for public safety purposes, including pedestrian safety programs, as specified under existing statutory provisions.

Admissibility of Recorded Images as Evidence

Consistent with existing evidentiary provisions pertaining to images recorded by automated monitoring systems, a recorded image of a motor vehicle produced by a distracted driver monitoring system in accordance with the bill is admissible in a proceeding concerning a civil citation issued under the bill for a violation of specified offenses without authentication.

Authorized Use of Distracted Driver Monitoring Systems

An agency may use distracted driver monitoring systems (1) on highways maintained by a local jurisdiction, if authorized by the governing body of the local jurisdiction or (2) on State highways, if authorized by the State Highway Administration (SHA). A distracted driving monitoring system may not be used in a local jurisdiction unless its use is authorized by the governing body of the local jurisdiction by local law enacted after reasonable notice and a public hearing.

Required Approval and Notice

Before a county may use a distracted driving monitoring system on State highways located within a municipal corporation, the county must (1) obtain the approval of SHA; (2) notify the municipal corporation of SHA's approval; and (3) grant the municipal corporation 60 days from the date of the county's notice to enact an ordinance authorizing the municipal corporation, instead of the county, to use a distracted driver monitoring system.

Before beginning the use of distracted driver monitoring systems, an agency must publish notice that the agency has adopted the use of distracted driver monitoring systems on its website and in a newspaper of general circulation in the jurisdiction in which the distracted driver monitoring system will be used.

Required Signage

A local jurisdiction that uses a distracted driver monitoring system must prominently place signs on roads within the local jurisdiction providing notice that distracted driver monitoring systems are in use in the jurisdiction. Similarly, SHA must place signs prominently providing notice that distracted driver monitoring systems are in use on State highways.

Recorded Violations

A recorded image by a distracted driver monitoring system indicating that the driver of a motor vehicle has committed a violation must include specified images and information.

Unless the driver of the motor vehicle received a citation from a police officer at the time of the violation, the owner or driver of a motor vehicle is subject to a civil penalty of up to $500 if the motor vehicle is recorded by a distracted driver monitoring system during the commission of a violation. The District Court must prescribe a uniform citation form, as specified, and a civil penalty, which must be indicated on the citation, to be paid by persons who choose to prepay the civil penalty without appearing in District Court.

Citations

An agency generally must mail to the owner liable for a violation recorded by a distracted driver monitoring system a citation that includes specified information in accordance with the bill. The agency may mail a warning notice in place of a citation. Generally, a citation must be issued within two weeks of the alleged violation. A person who receives a citation may pay the civil penalty in accordance with the instructions on the citation or elect to stand trial.

Certifications Alleging a Violation

A certification alleging that a violation occurred, sworn to or affirmed by a duly authorized agent of an agency, based on the inspection of a recorded image produced by a distracted driver monitoring system must be evidence of the facts contained in the certificate and must be admissible in any proceeding concerning the alleged violation. Adjudication of liability must be based on a preponderance of the evidence.

Defenses of Violations

The District Court may consider in defense of a violation (1) that the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation; (2) evidence that the person named in the citation was not operating the vehicle at the time of the violation; and (3) any other issues and evidence that the District Court considers pertinent, as specified.

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 specified evidence identifying the person driving the vehicle at the time of the violation, the clerk of the court must provide the agency issuing the citation a copy of any evidence substantiating who was operating the vehicle at the time

of the violation. The issuing agency may, within two weeks of receipt of such evidence, issue a citation to the person whom the evidence indicates was operating the vehicle at the time of the violation.

Penalties

If the citation is not paid and the violation not contested, the Motor Vehicle Administration (MVA) may refuse to register or reregister or may suspend the registration of the motor vehicle. A violation for which a civil penalty is imposed is not a moving violation for the purpose of points assessment, may not be recorded on the driving record of the owner or driver of the vehicle, and may not be considered in the provision of motor vehicle insurance.

Current Law:

Prohibited Use of Wireless Communication and Text Messaging Devices While Driving

No individual may, except to access a global positioning system or contact a 9-1-1 system, use a text messaging device to write, send, or read a text message or other electronic message while operating a motor vehicle on the roadway. In addition, an individual younger than age 18 may not, except to contact a 9-1-1 system, use a wireless communication device while operating a motor vehicle. A "wireless communication device" is a handheld or hands-free device used to access wireless telephone service.

A violation of these provisions is a misdemeanor, and a violator is subject to a maximum fine of $500. MVA may suspend, for up to 90 days, the driver's license of a minor who unlawfully uses a wireless communication or text messaging device while operating a motor vehicle, and MVA may issue a restricted license, as specified, for the period of suspension. The prepayment penalty established by the District Court for a violation of these provisions is $70, and MVA must assess one point against the license. If the violation contributes to an accident, the prepayment penalty is $110, and MVA must assess three points against the license.

Prohibited Use of Handheld Telephones While Driving

The driver of a school vehicle that is carrying passengers and is in motion is prohibited from using a handheld telephone while operating a motor vehicle. The prohibition against using a handheld telephone while operating a motor vehicle also applies to the holder of a learner's instructional permit or provisional driver's license who is age 18 or older. Any other adult driver of a motor vehicle that is in motion may only use the driver's hands to initiate or terminate a wireless telephone call or to turn the handheld telephone on or off; otherwise, the driver may not use a handheld telephone.

These prohibitions do not apply to the emergency use of a handheld telephone, including calls to a 9-1-1 system, hospital, ambulance service provider, fire department, law enforcement agency, or first aid squad. These prohibitions also do not apply to law enforcement or emergency personnel when acting within the scope of official duty or the use of push-to-talk technology by a commercial operator. A court may waive the penalty for a first offender who provides proof that the person has acquired hands-free equipment to comply with State law.

A violation of the above provisions is a misdemeanor, subject to a maximum fine of $175 for a third or subsequent offense; the maximum fines for a first and second offense are $75 and $125, respectively. The prepayment penalty established by the District Court is (1) $83 for a first offense; (2) $140 for a second offense; and (3) $160 for a third or subsequent offense. MVA does not assess points for this offense unless the violation contributes to an accident, in which case three points are assessed against the violator's license.

Automated Monitoring Systems

State law authorizes the use of various automated monitoring systems, including traffic control system monitoring systems, speed monitoring systems, school bus monitoring systems, vehicle height monitoring systems, and work zone speed control systems. For more information on the most prevalent forms of automated enforcement, see the **Appendix – Automated Enforcement**.

Background: The District Court advises that, in fiscal 2019, there were 24 citations issued for unlawful use of a wireless communication device by an individual younger than age 18; 2,263 citations issued for unlawful use of a text messaging device while driving; and 31,179 citations issued for unlawful use of a handheld telephone while driving.

State Revenues: To the extent the District Court collects fines for citations issued under the bill, general fund revenues increase. Any such impact depends on the extent to which distracted driver monitoring systems are deployed in the State and the amount of the fine established for a violation. If the fine is set at or near the maximum of $500, more citations are likely to be contested.

State Expenditures: As noted above, the bill authorizes the use of distracted driver monitoring systems by specified law enforcement agencies in the State and other specified local agencies. The bill's impact on State expenditures depends on the extent to which distracted driver monitoring system programs are implemented in the State.

To the extent that State law enforcement agencies utilize distracted driver monitoring systems under the bill, State expenditures increase as a result of related start-up costs and

ongoing implementation costs. To the extent that distracted driver monitoring systems are used on State highways, Transportation Trust Fund expenditures increase to install required signage; SHA estimates related costs at approximately $900 per sign.

In addition, should distracted driver monitoring systems be deployed by State and/or local agencies, general fund expenditures for the District Court increase for programming changes necessary to collect payments for citations issued under the bill. Programming-related costs may total approximately $50,900. The District Court advises that, to the extent that the bill results in significantly increased workloads, additional personnel may be needed, and general fund expenditures increase further.

Local Fiscal Effect: To the extent that local jurisdictions deploy distracted driver monitoring systems, local government expenditures increase as a result of start-up costs and ongoing implementation costs. Local revenues also increase to the extent local jurisdictions collect penalties from citations issued as a result of locally controlled distracted driver monitoring systems. Local governments may recover the costs of implementing and administering distracted driver monitoring systems from fines collected by a local government as a result of violations enforced by distracted driver monitoring systems and may spend the remaining balance solely for public safety purposes, including pedestrian safety programs.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Anne Arundel, Charles, and Frederick, and Montgomery counties; Maryland Association of Counties; City of Havre de Grace; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - February 27, 2020
an/aad

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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. Since that time, the General Assembly has expanded the authorization several times.

- 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.

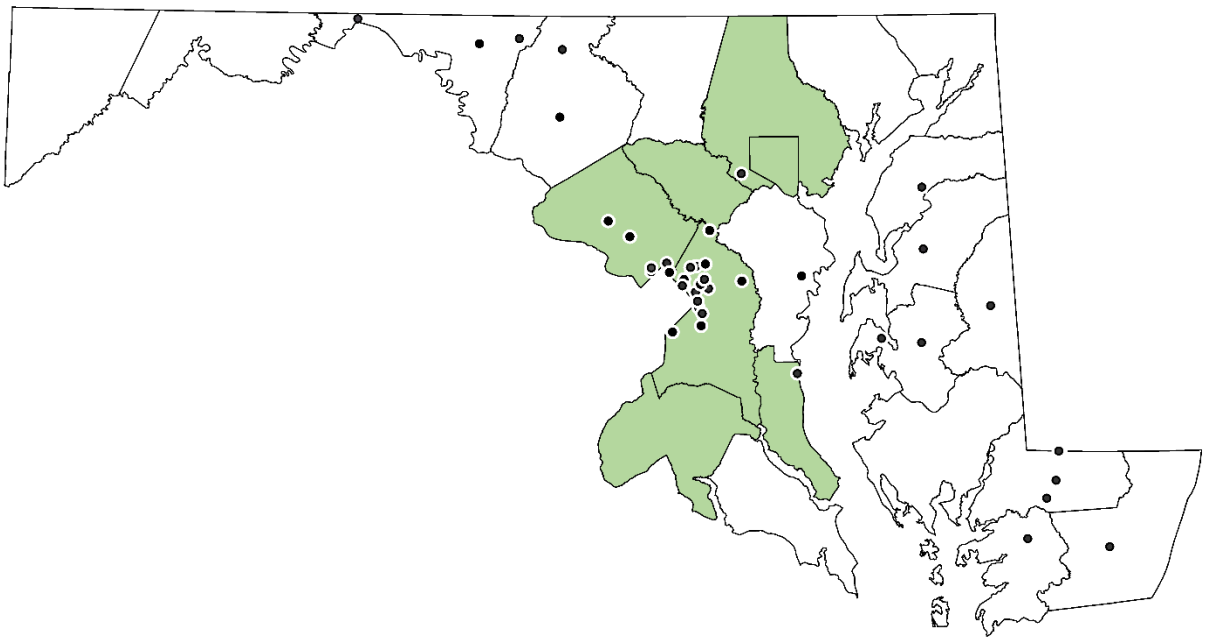
- Chapter 806 of 2018 authorized Prince George's County to place one speed camera at the intersection of Old Fort Road and Maryland Route 210 (Indian Head Highway), subject to specified requirements. Chapter 586 of 2019 repealed the limitation on the location of speed cameras that may be placed on Indian Head Highway and increased (to three) the number of speed cameras that the county (and local jurisdictions within the county) may use on the highway (presumably only until the existing authorization terminates September 30, 2023).

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), approximately 150 jurisdictions across the nation use speed cameras. In Maryland, speed cameras are used in six counties and Baltimore City, 40 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 2020.

Exhibit 1
Local Speed Monitoring System Enforcement in Maryland
January 2020



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 2020, approximately

$204,100 was remitted in fiscal 2019 (with data pending for the City of Seat Pleasant only), while $226,800 was remitted in fiscal 2018.

Exhibit 2
Local Speed Monitoring Systems Data (Aggregated)
Fiscal 2014-2019

Fiscal Year	Fine Revenues	System Costs	Net Revenues	Due to State
2019*	$60,258,673	$32,846,505	$27,412,488	$204,144
2018	63,749,052	31,395,278	32,376,854	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 2020; data pending for City of Seat Pleasant.

Source: Comptroller's Office; Department of Legislative Services

Also, in fiscal 2019, the Comptroller reports that 47 (excluding the City of Seat Pleasant) local jurisdictions generated speed monitoring system fine revenues of about $60.3 million, of which about $27.4 million (45.5%) was retained by local jurisdictions for public safety programs after recovery of the costs of implementing the systems. Between fiscal 2018 and 2019, total fine revenues decreased by approximately $3.5 million while implementation expenditures increased by about $1.5 million. Net revenues retained by local jurisdictions for public safety decreased by approximately $5.0 million between fiscal 2018 and 2019.

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 Work Zone Safety Information Clearinghouse shows that there were 754 fatalities in highway work zones nationwide in 2018, including 10 in Maryland. The number of work zone fatalities in Maryland in 2018 decreased by four compared to 2017. Nationally, the number of work zone fatalities decreased by about 55 compared to 2017.

Traffic Control Signal Monitoring Systems (Red Light Cameras)

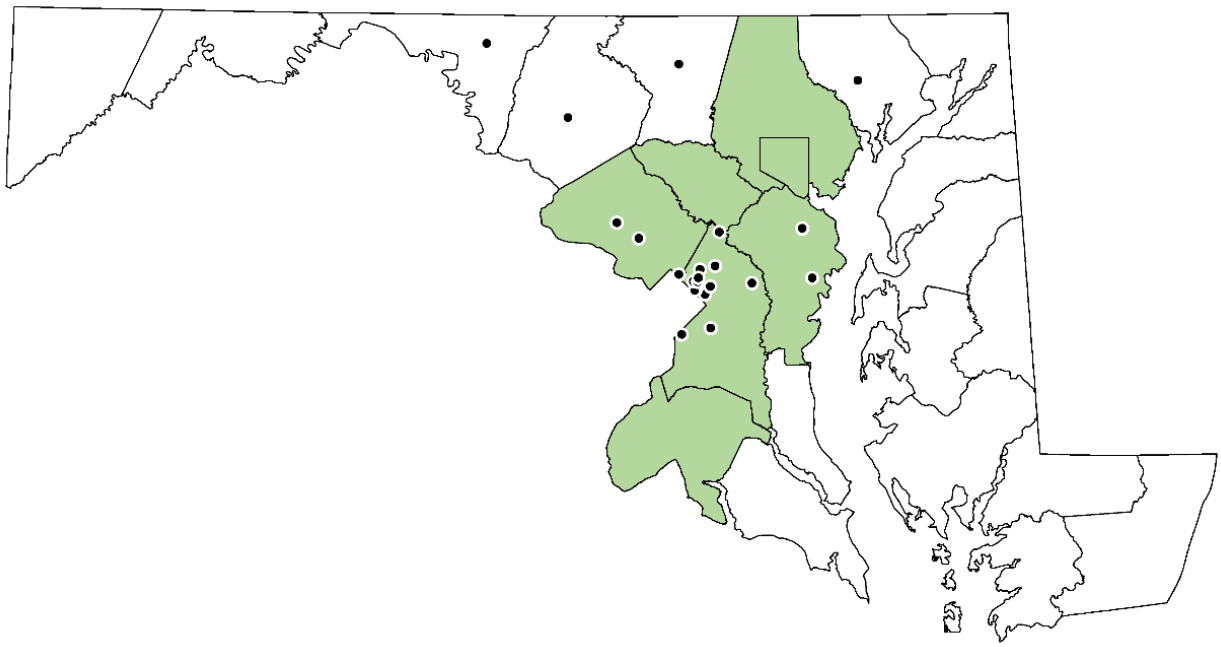
Unless the driver of a motor vehicle receives a citation from a police officer at the time of the violation, the owner or driver of a vehicle recorded by a red light monitoring system entering an intersection against a red signal in violation of the Maryland Vehicle Law is subject to a civil penalty 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, approximately 340 jurisdictions across the nation have red light camera programs as of January 2020. 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 2020.

Exhibit 3
Local Red Light Camera Enforcement in Maryland
January 2020



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