

SENATE BILL 863

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CF HB 1082

By: **Senator Waldstreicher**

Introduced and read first time: February 9, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Enforcement and Use of Real–Time Digital Spotters**

3 FOR the purpose of authorizing the use of a real–time digital spotter by law enforcement
4 agencies to detect and enforce certain violations of the Maryland Vehicle Law;
5 prohibiting the use of a real–time digital spotter in a local jurisdiction unless
6 authorized by the governing body by local law adopted after reasonable notice and a
7 public hearing; requiring a county, before using a real–time digital spotter at certain
8 locations, to obtain certain approval, provide certain notice, and offer a certain right
9 of first refusal; requiring a local jurisdiction that authorizes the use of real–time
10 digital spotters to ensure that the placement and use of real–time digital spotters
11 does not disproportionately impact certain communities; providing that an image
12 captured by a real–time digital spotter is admissible as evidence of a violation;
13 requiring a certain law enforcement agency to include traffic stops using real–time
14 digital spotters as part of certain data compilation and reporting requirements;
15 requiring a law enforcement agency to ensure that certain images captured by a
16 real–time digital spotter are deleted or destroyed; requiring a law enforcement
17 agency to develop and implement policies for the shielding of certain information
18 captured by a real–time digital spotter; reducing certain fines for certain violations
19 of the Maryland Vehicle Law; requiring the Department of State Police and the State
20 Highway Administration jointly to adopt certain regulations; updating an obsolete
21 reference; defining certain terms; altering a certain definition; and generally relating
22 to enforcement of the Maryland Vehicle Law and the use of real–time digital
23 spotters.

24 BY repealing and reenacting, without amendments,

25 Article – Transportation

26 Section 21–801(a), 21–1124.1(b) and (c), 21–1124.2(b) through (d), 21–1124.3, and
27 22–412.3(b) and (c)

28 Annotated Code of Maryland

29 (2020 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
 2 Article – Transportation
 3 Section 21–1124.1(d), 21–1124.2(e), 22–412.3(k), and 25–113
 4 Annotated Code of Maryland
 5 (2020 Replacement Volume)

6 BY adding to
 7 Article – Transportation
 8 Section 21–1124.1(d) and 21–1133
 9 Annotated Code of Maryland
 10 (2020 Replacement Volume)

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

13 **Article – Transportation**

14 21–801.

15 (a) A person may not drive a vehicle on a highway at a speed that, with regard to
 16 the actual and potential dangers existing, is more than that which is reasonable and
 17 prudent under the conditions.

18 21–1124.1.

19 (b) Subject to subsection (c) of this section, an individual may not use a text
 20 messaging device to write, send, or read a text message or an electronic message while
 21 operating a motor vehicle in the travel portion of the roadway.

22 (c) This section does not apply to the use of:

23 (1) A global positioning system; or

24 (2) A text messaging device to contact a 9–1–1 system.

25 **(D) AN INDIVIDUAL CONVICTED OF A VIOLATION OF THIS SECTION IS**
 26 **SUBJECT TO:**

27 **(1) FOR A FIRST OFFENSE, A FINE OF \$25; AND**

28 **(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE OF NOT MORE**
 29 **THAN \$50.**

30 **[(d)] (E)** (1) If the Administration receives satisfactory evidence that an
 31 individual who is under the age of 18 years has violated this section, the Administration:

1 (i) May suspend the individual's driver's license for not more than
2 90 days; and

3 (ii) May issue a restricted license for the period of suspension that is
4 limited to driving a motor vehicle:

- 5 1. In the course of the individual's employment;
- 6 2. For the purpose of driving to or from a place of
7 employment; or
- 8 3. For the purpose of driving to or from school.

9 (2) An individual may request a hearing as provided for a suspension or
10 revocation under Title 12, Subtitle 2 of this article.

11 21-1124.2.

12 (b) This section does not apply to:

13 (1) Emergency use of a handheld telephone, including calls to:

- 14 (i) A 9-1-1 system;
- 15 (ii) A hospital;
- 16 (iii) An ambulance service provider;
- 17 (iv) A fire department;
- 18 (v) A law enforcement agency; or
- 19 (vi) A first aid squad;

20 (2) Use of a handheld telephone by the following individuals when acting
21 within the scope of official duty:

- 22 (i) Law enforcement personnel; and
- 23 (ii) Emergency personnel;

24 (3) Use of a handheld telephone as a text messaging device as defined in §
25 21-1124.1 of this subtitle; and

26 (4) Use of a handheld telephone as a communication device utilizing
27 push-to-talk technology by an individual operating a commercial motor vehicle, as defined
28 in 49 C.F.R. Part 390.5 of the Federal Motor Carrier Safety Regulations.

1 (c) The following individuals may not use a handheld telephone while operating
2 a motor vehicle:

3 (1) A driver of a Class H (school) vehicle that is carrying passengers and in
4 motion; and

5 (2) A holder of a learner's instructional permit or a provisional driver's
6 license who is 18 years of age or older.

7 (d) (1) This subsection does not apply to an individual specified in subsection
8 (c) of this section.

9 (2) A driver of a motor vehicle that is in motion may not use the driver's
10 hands to use a handheld telephone other than to initiate or terminate a wireless telephone
11 call or to turn on or turn off the handheld telephone.

12 (e) (1) A person convicted of a violation of this section is subject to the
13 following penalties:

14 (i) For a first offense, a fine of ~~[not more than \$75]~~ **\$25; AND**

15 (ii) For a second **OR SUBSEQUENT** offense, a fine of not more than
16 **[\$125; and**

17 (iii) For a third or subsequent offense, a fine of not more than **\$175]**
18 **\$50.**

19 (2) Points may not be assessed against the individual under § 16-402 of
20 this article unless the offense contributes to an accident.
21 21-1124.3.

22 (a) A person may not commit a violation of § 21-1124.1 or § 21-1124.2 of this
23 subtitle that causes an accident that directly results in the death or, as defined in §
24 20-102(c) of this article, serious bodily injury of another person.

25 (b) A person convicted of a violation of this section is subject to imprisonment not
26 exceeding 1 year or a fine not exceeding \$5,000 or both.

27 (c) A sentence imposed under this section shall be separate from and concurrent
28 with any other sentence imposed for any crime based wholly or partly on the act
29 establishing the violation of this section.

30 **21-1133.**

1 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
2 **INDICATED.**

3 **(2) “AGENCY” MEANS A STATE OR LOCAL LAW ENFORCEMENT**
4 **AGENCY THAT IS AUTHORIZED TO ISSUE A CITATION FOR A VIOLATION OF THE**
5 **MARYLAND VEHICLE LAW.**

6 **(3) “REAL-TIME DIGITAL SPOTTER” MEANS A VISUAL ASSESSMENT**
7 **SYSTEM THAT USES ARTIFICIAL INTELLIGENCE TO ASSESS AND TRANSMIT AN IMAGE**
8 **OF A POTENTIAL VIOLATION OF THE MARYLAND VEHICLE LAW TO A LAW**
9 **ENFORCEMENT OFFICER.**

10 **(4) “VIOLATION” MEANS A VIOLATION OF:**

11 **(I) § 21-801 THROUGH § 21-804 OF THIS TITLE;**

12 **(II) § 21-1124.1 THROUGH § 21-1124.3 OF THIS SUBTITLE; OR**

13 **(III) § 22-412.3 OF THIS ARTICLE.**

14 **(B) AN AGENCY MAY USE A FIXED OR MOBILE REAL-TIME DIGITAL SPOTTER**
15 **TO ASSESS, RECORD, AND TRANSMIT IMAGES OF A POTENTIAL VIOLATION TO A LAW**
16 **ENFORCEMENT OFFICER SO THAT THE OFFICER MAY DETERMINE WHETHER THERE**
17 **IS SUFFICIENT CAUSE FOR THE OFFICER TO STOP THE OPERATOR OF A MOTOR**
18 **VEHICLE TO ISSUE A WARNING OR CITATION.**

19 **(C) (1) A REAL-TIME DIGITAL SPOTTER MAY NOT BE USED IN A LOCAL**
20 **JURISDICTION UNDER THIS SECTION UNLESS ITS USE IS AUTHORIZED BY THE**
21 **GOVERNING BODY OF THE LOCAL JURISDICTION BY LOCAL LAW ENACTED AFTER**
22 **REASONABLE NOTICE AND A PUBLIC HEARING.**

23 **(2) BEFORE A COUNTY MAY USE A REAL-TIME DIGITAL SPOTTER ON A**
24 **STATE HIGHWAY AT A LOCATION WITHIN A MUNICIPAL CORPORATION, THE COUNTY**
25 **SHALL:**

26 **(I) OBTAIN THE APPROVAL OF THE STATE HIGHWAY**
27 **ADMINISTRATION;**

28 **(II) NOTIFY THE MUNICIPAL CORPORATION OF THE STATE**
29 **HIGHWAY ADMINISTRATION’S APPROVAL OF THE USE OF A REAL-TIME DIGITAL**
30 **SPOTTER AT THAT LOCATION; AND**

1 **(III) GRANT THE MUNICIPAL CORPORATION 60 DAYS AFTER THE**
2 **DATE OF THE COUNTY'S NOTICE TO THE MUNICIPAL CORPORATION TO ENACT AN**
3 **ORDINANCE AUTHORIZING THE MUNICIPAL CORPORATION INSTEAD OF THE COUNTY**
4 **TO USE A REAL-TIME DIGITAL SPOTTER AT THAT LOCATION.**

5 **(3) A LOCAL JURISDICTION THAT AUTHORIZES THE USE OF**
6 **REAL-TIME DIGITAL SPOTTERS UNDER THIS SUBSECTION SHALL ENSURE THAT**
7 **THERE IS NOT A DISPARATE IMPACT ON MINORITY COMMUNITIES IN THE**
8 **PLACEMENT OR USE OF REAL-TIME DIGITAL SPOTTERS.**

9 **(D) AN IMAGE CAPTURED BY A REAL-TIME DIGITAL SPOTTER IS ADMISSIBLE**
10 **AS EVIDENCE OF A VIOLATION.**

11 **(E) AN AGENCY THAT USES REAL-TIME DIGITAL SPOTTERS SHALL:**

12 **(1) INCLUDE TRAFFIC STOPS USING REAL-TIME DIGITAL SPOTTERS**
13 **AS PART OF ITS DATA COMPILATION AND REPORTING REQUIREMENTS UNDER §**
14 **25-113 OF THIS ARTICLE;**

15 **(2) ENSURE THAT ANY IMAGE CAPTURED BY A REAL-TIME DIGITAL**
16 **SPOTTER THAT DOES NOT INDICATE A VIOLATION IS EXPEDIENTLY DELETED OR**
17 **DESTROYED; AND**

18 **(3) DEVELOP AND IMPLEMENT POLICIES FOR THE SHIELDING OF**
19 **PERSONALLY IDENTIFIABLE INFORMATION CAPTURED BY A REAL-TIME DIGITAL**
20 **SPOTTER.**

21 **(F) THE DEPARTMENT OF STATE POLICE AND THE STATE HIGHWAY**
22 **ADMINISTRATION JOINTLY SHALL ADOPT REGULATIONS ESTABLISHING**
23 **STANDARDS AND PROCEDURES FOR REAL-TIME DIGITAL SPOTTERS AUTHORIZED**
24 **UNDER THIS SECTION.**

25 22-412.3.

26 (b) A person may not operate a motor vehicle unless the person and each occupant
27 under 16 years old are restrained by a seat belt or a child safety seat as provided in §
28 22-412.2 of this subtitle.

29 (c) (1) The provisions of this subsection apply to a person who is at least 16
30 years old.

31 (2) Unless a person is restrained by a seat belt, the person may not be a
32 passenger in an outboard front seat of a motor vehicle.

1 (3) (i) Unless a person is restrained by a seat belt, the person may not
2 be a passenger in a rear seat of a motor vehicle.

3 (ii) A police officer may enforce this paragraph only as a secondary
4 action when the police officer detains a driver of a motor vehicle for a suspected violation
5 of another provision of the Code.

6 (k) Any person convicted of a violation of this section is subject to:

7 **(1) FOR A FIRST OFFENSE, A FINE OF \$25; AND**

8 **(2) FOR A SECOND OR SUBSEQUENT OFFENSE, a fine of [not more than]**
9 \$50.

10 25–113.

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

12 (2) “Law enforcement agency” means an agency that is listed in § 3–101(e)
13 of the Public Safety Article.

14 (3) “Law enforcement officer” means any person who, in an official
15 capacity, is authorized by law to make arrests and who is an employee of a law enforcement
16 agency.

17 (4) “Maryland Police Training and Standards Commission” means the unit
18 within the Department of Public Safety and Correctional Services established under §
19 3–202 of the Public Safety Article.

20 (5) “Maryland Statistical Analysis Center” means the research,
21 development, and evaluation component of the Governor’s Office of Crime Prevention,
22 Youth, and Victim Services.

23 (6) (i) “Traffic stop” means any instance when a law enforcement officer
24 stops the driver of a motor vehicle and detains the driver for any period of time for a
25 violation of the Maryland Vehicle Law.

26 (ii) **“TRAFFIC STOP” INCLUDES A STOP BASED ON THE USE OF A**
27 **REAL–TIME DIGITAL SPOTTER UNDER § 21–1133 OF THIS ARTICLE.**

28 **(III)** “Traffic stop” does not include:

29 1. A checkpoint or roadblock stop;

30 2. A stop of multiple vehicles due to a traffic accident or
31 emergency situation requiring the stopping of vehicles for public safety purposes;

1 3. A stop based on the use of radar, laser, or vascar
2 technology; or

3 4. A stop based on the use of license plate reader technology.

4 (b) The Maryland Police Training and Standards Commission, in consultation
5 with the Maryland Statistical Analysis Center, shall develop:

6 (1) A model format for the efficient recording of data required under
7 subsection (d) of this section on an electronic device, or by any other means, for use by a
8 law enforcement agency;

9 (2) Guidelines that each law enforcement agency may use as a
10 management tool to evaluate data collected by its officers for use in counseling and
11 improved training;

12 (3) A standardized format that each law enforcement agency shall use in
13 reporting data to the Maryland Statistical Analysis Center under subsection (e) of this
14 section; and

15 (4) A model policy against race-based traffic stops that a law enforcement
16 agency may use in developing its policy in accordance with subsection (g) of this section.

17 (c) (1) Subject to paragraph (2) of this subsection, this section applies to each
18 law enforcement agency that has one or more law enforcement officers.

19 (2) Except as provided in subsection (e)(2) of this section, this section does
20 not apply to a law enforcement agency that is subject to an agreement with the United
21 States Department of Justice that requires the law enforcement agency to collect data on
22 the race or ethnicity of the drivers of motor vehicles stopped.

23 (d) Each time a law enforcement officer makes a traffic stop, that officer shall
24 report the following information to the law enforcement agency that employs the officer
25 using the format developed under subsection (b)(1) of this section:

26 (1) The date, location, and time of the stop;

27 (2) The approximate duration of the stop;

28 (3) The traffic violation or violations alleged to have been committed that
29 led to the stop;

30 (4) Whether a search was conducted as a result of the stop;

1 (5) If a search was conducted, the reason for the search, whether the search
2 was consensual or nonconsensual, whether a person was searched, and whether a person's
3 property was searched;

4 (6) Whether any contraband or other property was seized in the course of
5 the search;

6 (7) Whether a warning, safety equipment repair order, or citation was
7 issued as a result of the stop;

8 (8) If a warning, safety equipment repair order, or citation was issued, the
9 basis for issuing the warning, safety equipment repair order, or citation;

10 (9) Whether an arrest was made as a result of either the stop or the search;

11 (10) If an arrest was made, the crime charged;

12 (11) The state in which the stopped vehicle is registered;

13 (12) The gender of the driver;

14 (13) The date of birth of the driver;

15 (14) The state and, if available on the driver's license, the county of
16 residence of the driver; and

17 (15) The race or ethnicity of the driver as:

18 (i) Asian;

19 (ii) Black;

20 (iii) Hispanic;

21 (iv) White; or

22 (v) Other.

23 (e) (1) A law enforcement agency shall:

24 (i) Compile the data described in subsection (d) of this section for
25 the calendar year as a report in the format required under subsection (b)(3) of this section;
26 and

27 (ii) Submit the report to the Maryland Statistical Analysis Center no
28 later than March 1 of the following calendar year.

1 (2) A law enforcement agency that is exempt under subsection (c)(2) of this
2 section shall submit to the Maryland Statistical Analysis Center copies of reports it submits
3 to the United States Department of Justice in lieu of the report required under paragraph
4 (1) of this subsection.

5 (f) (1) The Maryland Statistical Analysis Center shall analyze the annual
6 reports of law enforcement agencies submitted under subsection (e) of this section based on
7 a methodology developed in consultation with the Maryland Police Training and Standards
8 Commission.

9 (2) (i) On or before September 1 each year, the Maryland Statistical
10 Analysis Center shall post on its website in a location that is easily accessible to the public
11 a filterable data display showing all data collected under this section for the previous
12 calendar year.

13 (ii) A filterable data display under this paragraph shall allow a
14 person to:

15 1. Filter the traffic stop data by county or municipality or law
16 enforcement agency; and

17 2. Review various visuals associated with data items
18 reported under subsection (d) of this section.

19 (iii) Beginning with data collected for calendar year 2018, the
20 Maryland Statistical Analysis Center shall include and maintain data from all prior years
21 in the filterable data display.

22 (iv) When the Maryland Statistical Analysis Center updates a
23 filterable data display under this section, the Governor's Office of Crime [Control and]
24 Prevention, **YOUTH, AND VICTIM SERVICES** shall provide electronic and written notice
25 of the update to the General Assembly in accordance with § 2-1257 of the State Government
26 Article.

27 (g) (1) A law enforcement agency shall adopt a policy against race-based
28 traffic stops that is to be used as a management tool to promote nondiscriminatory law
29 enforcement and in the training and counseling of its officers.

30 (2) (i) The policy shall prohibit the practice of using an individual's race
31 or ethnicity as the sole justification to initiate a traffic stop.

32 (ii) The policy shall make clear that it may not be construed to alter
33 the authority of a law enforcement officer to make an arrest, conduct a search or seizure,
34 or otherwise fulfill the officer's law enforcement obligations.

35 (3) The policy shall provide for the law enforcement agency to periodically
36 review data collected by its officers under subsection (d) of this section and to review the

1 annual report of the Maryland Statistical Analysis Center for purposes of paragraph (1) of
2 this subsection.

3 (h) (1) If a law enforcement agency fails to comply with the reporting
4 provisions of this section, the Maryland Statistical Analysis Center shall report the
5 noncompliance to the Maryland Police Training and Standards Commission.

6 (2) The Maryland Police Training and Standards Commission shall contact
7 the law enforcement agency and request that the agency comply with the required
8 reporting provisions.

9 (3) If the law enforcement agency fails to comply with the required
10 reporting provisions within 30 days after being contacted by the Maryland Police Training
11 and Standards Commission, the Maryland Statistical Analysis Center and the Maryland
12 Police Training and Standards Commission jointly shall report the noncompliance to the
13 Governor and the Legislative Policy Committee of the General Assembly.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2021.