# Department of Legislative Services
Maryland General Assembly
2021 Session

## FISCAL AND POLICY NOTE
**First Reader**

Senate Bill 863                    (Senator Waldstreicher)

Judicial Proceedings

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## Vehicle Laws – Enforcement and Use of Real–Time Digital Spotters

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This bill authorizes State and local law enforcement agencies to use fixed or mobile real-time digital spotters to assess, record, and transmit images of potential violations of specified offenses under the Maryland Vehicle Law. Fines for certain of those offenses are lowered and set at $25 for a first offense and either a maximum of or a flat $50 for a second or subsequent offense. A local jurisdiction that authorizes the use of real-time digital spotters must ensure that there is not a disparate impact on minority communities in the placement or use of real-time digital spotters. The Department of State Police (DSP) and the State Highway Administration (SHA) must jointly adopt regulations establishing standards and procedures for real-time digital spotters.

## Fiscal Summary

**State Effect:** General fund revenues decrease significantly beginning in FY 2022. Transportation Trust Fund (TTF) expenditures increase by $75,000 in FY 2022 only. The bill's impact otherwise depends on the extent to which digital spotters are employed, as discussed below.

| (in dollars) | FY 2022 | FY 2023 | FY 2024 | FY 2025 | FY 2026 |
|---|---|---|---|---|---|
| GF Revenue | (-) | (-) | (-) | (-) | (-) |
| SF Expenditure | $75,000 | $0 | $0 | $0 | $0 |
| Net Effect | (-) | (-) | (-) | (-) | (-) |

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

**Local Effect:** Local government expenditures potentially increase to the extent to which digital spotters are employed, as discussed below. Revenues are not affected.

**Small Business Effect:** None.

# Analysis

## Bill Summary/Current Law:

*Real-time Digital Spotter – Definition*

Under the bill, a "real-time digital spotter" means a visual assessment system that uses artificial intelligence to assess and transmit an image of a potential violation of the Maryland Vehicle Law to a law enforcement officer. "Violation," as defined under the bill, means a violation of specified offenses under the Maryland Vehicle Law relating to speed restrictions, mandatory seatbelt use, and the use of text messaging devices and handheld telephones while driving. "Agency," as it applies to the bill's provisions, means a State or local law enforcement agency that is authorized to issue a citation for a violation of the Maryland Vehicle Law.

*Real-time Digital Spotter – Authorized Use*

The bill authorizes an agency to use a fixed or mobile real-time digital spotter to assess, record, and transmit images of a potential violation to a law enforcement officer so that the officer may determine whether there is sufficient cause for the officer to stop the operator of a motor vehicle to issue a warning or citation.

However, a real-time digital spotter may not be used in a local jurisdiction unless its use is authorized by the governing body of the local jurisdiction by a local law enacted after reasonable notice and a public hearing. Before a county may use a real-time digital spotter on a State highway at a location 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 real-time digital spotter at that location.

*Recorded Violations*

Under the bill, an image captured by a real-time digital spotter is admissible as evidence of a violation. An agency that uses digital spotters must (1) ensure that any image captured by a real-time digital spotter that does not indicate a violation is expediently deleted or destroyed and (2) develop and implement policies for the shielding of personally identifiable information captured by a real-time digital spotter.

*Fines for Violations under the Maryland Vehicle Law*

**Exhibit 1** displays the current statutory maximum penalties, current prepayment penalties, statutory penalties under the bill, and fiscal 2020 violations for those offenses for which the bill alters monetary penalties.

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**Exhibit 1**
**Current Maximum and Prepayment Penalties, Penalties under the Bill, and**
**Fiscal 2020 Violations for Specified Traffic Offenses**

| | Current Law Penalty | | Penalty in the Bill By Offense: 1st / 2nd or | FY 2020 Violations | |
|---|---|---|---|---|---|
| **Offense** | **Maximum** | **Prepayment** | **Subsequent** | **Total** | **Prepaid** |
| Use of a text messaging device while driving (TR, § 21-1124.1) | $500 | $70 $110 if CTA | $25 / max. $50 | 1,494 | 1,186 |
| Use of a handheld telephone while driving (TR, § 21-1124.2) | $75-$175 | $83-$160 | $25 / max. $50 | 22,310 | 17,491 |
| Failure to comply with mandatory seat belt use requirements (TR, § 21-412.3) | $50 | $83 | $25 / $50 | 18,978 | 13,858 |

CTA: contributes to an accident
TR: Transportation Article

Notes: Fiscal 2020 data may have been affected by the COVID-19 pandemic. The prepayment penalties shown are the amounts set by the District Court as of October 2020; the prepayment penalty includes various court costs and a surcharge prescribed by statute. Under current law, certain penalties increase for subsequent offenses, as shown above.

Source: Judiciary (Administrative Office of the Courts); Department of Legislative Services

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*Race-based Traffic Stops*

The bill requires an agency that uses real-time digital spotters to include traffic stops using real-time digital spotters in traffic stop data compiled and reported annually to the Maryland Statistical Analysis Center (MSAC).

Under current law, a local law enforcement agency must adopt a policy against race-based traffic stops to be used as a management tool to promote nondiscriminatory law enforcement and in the training and counseling of officers. The Maryland Police Training and Standards Commission (MPTSC), in consultation with MSAC, is responsible for developing a model policy against race-based traffic stops that a law enforcement agency may use in the development of its own policy, a model format for the efficient recording of traffic stop data, and guidelines for data evaluation.

Law enforcement officers must record specified information in connection with each traffic stop, including the driver's race and ethnicity, to evaluate the manner in which the vehicle laws are being enforced. Each law enforcement agency must compile the data collected by its officers and submit an annual report to MSAC by March 1 annually for the prior calendar year.

These provisions do not apply to a law enforcement agency that is subject to an agreement with the U.S. Department of Justice (DOJ) requiring similar data collection; however, such agencies are required to provide copies of the report made to DOJ in lieu of the program's reporting requirements.

MSAC must analyze the data based on a methodology developed in consultation with MPTSC. By September 1 annually, MSAC must post on its website a filterable data display showing the collected data from the previous calendar. Beginning with data collected for calendar 2018, MSAC must include and maintain data from all prior years in the filterable data display. MSAC and MPTSC must jointly report noncompliance by law enforcement agencies to the Governor and the Legislative Policy Committee.

*Automated Enforcement Systems*

State law currently authorizes the use of various automated enforcement systems, including traffic control signal monitoring systems, speed monitoring systems, school bus monitoring systems, vehicle height monitoring systems, and work zone speed control systems.

**State Revenues:** As noted in Exhibit 1, the bill decreases the monetary penalties applicable to specified offenses under the Maryland Vehicle Law related to use of a text messaging device while driving, use of a handheld telephone while driving, and mandatory seat belt use.

Thus, general fund revenues decrease significantly beginning in fiscal 2022 due to the reduced monetary penalties for these offenses under the bill. The amount of the decrease cannot be reliably estimated, as it depends on the actual amount of the fines imposed and the amount of fines currently collected for violations of these offenses, for which data is

not readily available. *Under one illustrative scenario* – based on prepaid violations alone – general fund revenues decrease by *at least* $800,000 annually, based on (1) the current prepayment penalties established by the District Court for these offenses and accounting for assessed court costs and (2) an assumption that the number of prepaid violations for specified offenses remains constant at fiscal 2020 levels.

General fund revenues are also affected to the extent that more individuals issued citations for these offenses choose to prepay the lowered fines under the bill rather than contest the citation. To the extent that individuals who prepay citations for these offenses would otherwise contest the citations in the absence of the bill, fine revenue collected from these citations may increase or decrease, depending on the fine that would otherwise be imposed by the court.

Revenue losses are potentially offset, minimally, to the extent that the authorized use of real-time digital spotters in the State results in an increase in overall traffic enforcement activity. Any such impact, however, is uncertain, and depends on the extent and manner in which digital spotters are implemented in the State as a result of the bill.

**State Expenditures:** As noted above, the bill requires SHA and DSP to adopt regulations establishing standards and procedures for real-time digital spotters. SHA does not have the expertise with this technology to assist in the development of the regulations; thus, TTF expenditures increase by approximately $75,000 in fiscal 2022 for consulting services.

To the extent that State law enforcement agencies utilize digital spotters as authorized under the bill, State expenditures increase further due to initial start-up costs and ongoing implementation costs. Additionally, to the extent that the use of such technology results in increased overall traffic enforcement activity, expenditures for State law enforcement agencies may increase due to overtime costs related to increased court appearances by law enforcement officers. The District Court's caseload may also be affected to the extent that the bill results in an increase in traffic citations that go to trial. Conversely, due to the lower penalties under the bill, more individuals may opt to prepay fines and the need for court appearances/trials could be mitigated. Any such impact, however, cannot be reliably predicted, as it depends on the extent and manner in which real-time digital spotters are implemented under the bill.

**Local Expenditures:** To the extent that local jurisdictions opt to deploy digital spotters as authorized under the bill, local government expenditures increase due to initial start-up costs and ongoing implementation costs. To the extent that the use of such technology results in increased overall traffic enforcement activity, overtime expenses for local law enforcement agencies may increase due to more frequent court appearances by law enforcement officers. Conversely, due to the lower penalties under the bill, more

individuals may opt to prepay fines and the need for court appearances could be mitigated. However, any such impact cannot be reliably predicted, due to the reasons discussed above.

## Additional Information

**Prior Introductions:** None.

**Designated Cross File:** HB 1082 (Delegate Lopez) - Environment and Transportation and Judiciary.

**Information Source(s):** Anne Arundel, Charles, Frederick, and Montgomery counties; City of Havre de Grace; Governor's Office of Crime Prevention, Youth, and Victim Services; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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Analysis by: Elizabeth J. Allison

Direct Inquiries to:
(410) 946-5510
(301) 970-5510