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FISCAL AND POLICY NOTE
First Reader

Senate Bill 179

(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: Because the bill is authorizing in nature, the impact on State finances generally depends on the extent to which the systems are deployed, as discussed below. Nevertheless, the District Court must be prepared should any systems be deployed, with programming costs totaling \$52,000 in FY 2022 only. 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 driver monitoring systems in accordance with the bill.

“Distracted driver monitoring system” means a device designed to capture a recorded image of 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. In any other judicial proceeding, a recorded image produced by a distracted driver monitoring system is admissible as otherwise provided by law.

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 driver 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 driver 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 is evidence of the facts contained in the certificate and is admissible in any proceeding concerning the alleged violation. Adjudication of liability must be based on a preponderance of the evidence.

Defense 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.

Requirements for Administering Agencies and Contractors

Any agency, or an agent or contractor designated by the agency, must administer and process civil citations issued under the bill in coordination with the District Court. A contractor's fee may not be contingent on a pre-ticket basis on the number of citations issued or paid.

Except in response to a valid subpoena or court order, a contractor may not display, send, transmit, or otherwise share an image or video recorded by a distracted driver monitoring system that depicts the driver or any passenger of a motor vehicle unless edited to obscure the identity of the driver and each passenger. A person who violates this provision is guilty of a misdemeanor and subject to a fine of up to \$5,000.

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.

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.

The bill's penalty provision for unlawfully sharing images and/or videos recorded by a distracted driver monitoring system is not expected to materially affect general fund revenues.

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 and for potential planning costs.

In addition, in anticipation of any distracted driver monitoring systems being deployed by State and/or local agencies, general fund expenditures for the District Court increase for programming changes necessary to collect payments for citations that may be issued under the bill. Programming-related costs total approximately \$52,000. 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: SB 819 of 2020, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Designated Cross File: None.

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

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