

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 694 (Delegate Bronrott, *et al.*)

Environmental Matters

Rules

Vehicle Laws - Speed Monitoring Systems - Radar Cameras

This bill authorizes the use of speed monitoring systems to identify and fine speeders. The bill also establishes a Homeland Security Fund (HSF), financed by the revenues from the collected uncontested penalties from speed monitoring systems, and provides for distribution of monies from the HSF. Provisions relating to the establishment of the HSF and distribution of those funds terminate September 30, 2010.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) revenues could increase significantly from additional fines paid to the District Court from contested citations. Special fund revenues could increase from uncontested civil penalties that would be remitted to the HSF. Special fund revenues to the Department of State Police (DSP) could increase to the extent that funds remain in the HSF after required distributions. Potential minimal increase in general fund revenues from investment earnings and reversions. A significant number of additional citations could increase administrative expenditures for the District Court and the Motor Vehicle Administration (MVA).

Local Effect: The full effect on local finances depends on the extent to which speed camera systems are deployed, but based on local experience with red light camera programs, it is expected that revenues would be more than double the expenditures for a speed monitoring system. Local governments that deploy systems would be authorized to retain enough of the collected uncontested penalties to recover costs and also retain 33% of the collected penalties to be used for homeland security purposes. Any remaining requirements must be remitted to the HSF.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill authorizes State and local law enforcement agencies to issue citations or warnings to vehicle owners for speeding at least ten miles per hour above the posted speed limit, based on recorded images collected by speed monitoring systems, and provides for a maximum civil penalty of \$100. The civil penalty must be the lower of the fine set by the District Court in the penalty deposit schedule or the fine set by the local jurisdiction. Such violations may be treated as parking violations, but are not moving violations for the purpose of point assessment, may not be placed on the driving record of the owner or driver of the vehicle, and may not be considered in the provision of vehicle insurance.

Homeland Security: The bill creates the HSF to be administered by DSP and provides that revenues from uncontested citations issued by speed camera systems must be deposited in the HSF. Local governments that deploy speed camera systems may retain a portion of the collected uncontested penalties to cover the documented costs of implementing and maintaining speed monitoring systems. A local government may also retain 33% of the collected uncontested penalties to be used only for homeland security purposes. Remaining collected penalties must be remitted to the HSF. The HSF also consists of monies appropriated in the State budget and monies from any other source accepted for the benefit of the HSF. The fund is a special, nonlapsing fund, but any balance remaining in the fund at the end of each fiscal year must revert to the general fund.

The purpose of the HSF is to support homeland security needs of counties, Baltimore City, and municipal corporations. A “homeland security purpose” is one that relates to the detection of, preparation for, prevention of, or response to the threat of a terrorist attack or the recovery from a terrorist attack. Such a purpose includes:

- emergency fire and rescue services;
- ensuring communication system interoperability;
- the securing of protective clothing for public safety and health providers;
- providing alternatives to the use of volatile chemicals for water and waste water treatment;
- overtime payment for public safety and health providers;
- enhancing security at public buildings and facilities;
- training in bioterrorism response and hazardous materials handling; and

- public education.

The bill requires DSP to distribute all the money in the HSF or up to \$5 million per fiscal year, whichever is less, to the low interest revolving loan account of the Volunteer Company Assistance Fund. DSP may not distribute more than a cumulative total of \$20 million to the Volunteer Company Assistance Fund. Up to \$5 million of the funds distributed to the Volunteer Company Assistance Fund may be provided to professional fire departments that demonstrate needs directly related to homeland security purposes. After distribution to the Volunteer Company Assistance Fund, DSP must distribute 10% of the remaining monies in the HSF to DSP for homeland security purposes.

Remaining monies must be distributed for homeland security purposes on a quarterly basis to counties, Baltimore City, and municipal corporations in the same proportion that grants are distributed under the State Aid for Police Protection Fund, as provided by statute, adjusted to include Baltimore City as a recipient. However, Baltimore City may not receive an HSF distribution greater than that distributed to Prince George's County. The distribution to local governments from the HSF may be used to supplement, but may not supplant existing local expenditures for homeland security purposes. Each recipient of HSF funds must file a report with the Department of Legislative Services that details the amount received and how the money was used. Recipients are subject to audit by the Office of Legislative Audits with regard to the use of HSF monies. DSP is prohibited from distributing HSF monies to any recipient that fails to file the required annual report. Each recipient of a loan from the low interest revolving loan account must include a detailed statement of how the loan will be used for homeland security purposes.

The State Treasurer is required to invest HSF earnings in the same manner as other State monies. Any investment earnings must accrue to the State general fund. DSP is required to adopt regulations to administer the HSF and implement provisions relating to the HSF.

Speed Monitoring Systems: A “recorded image” is an image of a part of a motor vehicle recorded by a speed monitoring system on a photograph, a microphotograph, an electronic image, videotape, or any other medium, which clearly identifies the registration plate number of the motor vehicle and a stationary object near the vehicle. A “speed monitoring system” is a device with one or more motor vehicle sensors producing recorded images of motor vehicles traveling at speeds at least ten miles per hour above the posted speed limit.

A speed monitoring system may be placed on a highway in a residential district with a maximum posted speed limit of 35 miles per hour or in a school zone. 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. The ordinance or resolution must require the issuance of warnings only during

the first 45 days, at a minimum, after the first speed monitoring system is placed in a local jurisdiction. Before placing an unmanned stationary speed system, a local jurisdiction must publish notice of its location in a general circulation newspaper in the jurisdiction. The local jurisdiction must also ensure that each school zone sign indicates that a speed monitoring system is used in the school zone. In a residential district, a speed monitoring system may not be placed within 100 feet from the bottom of a hill or steep decline or a change in the posted speed limit. The bill establishes training and recordkeeping requirements for speed monitoring system operators, including the performance of calibration checks as specified by the system manufacturer and an annual calibration check performed by an independent laboratory.

Unless the driver receives a citation from a police officer at the time of the violation, a person who receives a citation by mail may pay the specified civil penalty to the issuing jurisdiction or elect to stand trial in District Court. A warning notice may be issued instead of a citation. In addition to other required information, the citation must include at least two successive recorded images of the vehicle, each with an imprinted data bar that shows the vehicle's speed and the date and time the image was recorded. A recorded image from a speed monitoring system may be used only to identify the vehicle subject to a speeding violation. A citation must contain notice of the right to have a speed monitoring system operator present to testify at a trial. The individual who requests the presence of the operator must notify the local jurisdiction in writing no later than 20 days before trial. A citation must be mailed no later than two weeks after the alleged violation if the vehicle is registered in Maryland, or no later than 30 days after the alleged violation if the vehicle is registered in another state. An agency is prohibited from mailing a citation to a person who is not a vehicle owner.

Any fines or penalties collected by the District Court are remitted to the Comptroller and distributed to various transportation-related funds. A recorded image of a motor vehicle produced by a speed monitoring system is admissible at trial without authentication. A certificate alleging that the speeding violation occurred, sworn to or affirmed by a police officer or designated municipal official, is evidence of the facts contained therein and is also admissible at trial. Adjudication of liability is to be based on a preponderance of the evidence standard. The District Court may consider the defense that the motor vehicle or registration plates were stolen, but a timely police report about the theft must be submitted. The District Court may also consider that the person named in the citation was not operating the vehicle at the time of the violation. If the fine is not paid and the violation is not contested, the MVA may refuse to register or reregister, or may suspend the registration of the motor vehicle. If a contractor operates a speed monitoring system on behalf of a local jurisdiction or a State agency, the contractor's fee may not be contingent on the number of citations issued.

The bill requires local jurisdictions to use revenues generated from automated speed enforcement to increase local expenditures for public safety, beginning in fiscal 2004 and every subsequent fiscal year. Related public safety expenditures must be used to supplement and may not supplant existing local expenditures for the same purpose. The provisions of this bill relating to the HSF and distribution of HSF monies terminate on September 30, 2010.

Current Law: State law does not authorize the operation of speed monitoring systems. The State and political subdivisions are authorized to operate traffic control signal monitoring systems on any roads or highways in the State. A “traffic control signal monitoring system” is a device with one or more motor vehicle sensors working in conjunction with a traffic control signal to produce recorded images of motor vehicles entering an intersection against a red signal indicator. Law enforcement agencies are authorized to mail a citation to the owner of a motor vehicle that is recorded running a solid red light by such a system. The recorded image must show the rear of the vehicle and clearly identify the registration plate number. The law provides for a civil penalty, not to exceed \$100. Such violations may be treated as parking violations, but are not moving violations, may not be placed onto the driving record of the owner or driver of the vehicle, and may not be considered in the provision of vehicle insurance.

Fines in uncontested cases are paid directly to the issuing political subdivision, or, if the State issues the citation, to the District Court. If the individual wishes to challenge a citation, the case is referred to the District Court having venue. Any fines or penalties collected by the District Court are remitted to the Comptroller for distribution to various transportation-related funds.

Background: Photo radar enforcement systems that detect speeders function almost the same as red light cameras. Usually, the photo radar system is located in a mobile unit. The system has a radar detector and a camera. A speeding vehicle triggers the camera and a photograph is taken of the vehicle. The photos have the date, time, and speed recorded.

In the case of red light camera systems that record red traffic signal violations, jurisdictions typically engage the services of a vendor that specializes in the installation, maintenance, operation, and administration of camera systems and pay the vendor a fee based on the number of citations issued. If a law enforcement officer is not present at the time a camera captures evidence of a violation, law enforcement personnel typically will review and certify citations that are generated by the systems prior to notices of violation being sent to vehicle owners. If new speed monitoring systems were implemented in a similar fashion, jurisdictions would be expected to contract for the necessary equipment and services.

According to the National Conference of State Legislatures and the Insurance Institute for Highway Safety, a few states authorize automated enforcement for speeding violations. Colorado authorizes photo radar for speeders, but also provides that violators may insist on being personally served their citations by law enforcement officers, instead of through the mail. Oregon authorizes photo radar enforcement for speeders in certain jurisdictions. In Utah, photo radar enforcement is limited to school zones and other areas with a speed limit of 30 miles per hour or less, when a police officer is present, and signs are posted for motorists. The radar photograph must accompany a citation.

The District of Columbia has an automated enforcement program for speeding violations. In Washington, DC, police operate five camera-equipped vehicles that move around the city. The equipment is designed to focus on specific vehicles moving in traffic. Since the inception of the program in August 2001, the city has generated \$20.6 million in revenue from over 275,000 motorists who have paid the speeding citations. Original revenue estimates were \$11 million annually. Over 400,000 drivers have received citations since the program began. At first, the District of Columbia paid its system vendor on a per-ticket basis, but has since switched to a flat fee payment. In October 2002, the District of Columbia decided to expand its program by adding five more mobile units, one stationary camera, and by attaching speed detection cameras to the 39 red-light cameras that operate in the district.

Massachusetts, Mississippi, New York, and Virginia are considering legislation in 2003 to allow automated speed enforcement systems. The Mississippi bills tend to focus on authorization for local jurisdictions. A New York bill would establish a demonstration program in cities of 1 million or more and would exist for three years. Also, automated speed enforcement systems are used extensively throughout Europe and in Australia.

State Fiscal Effect: State special fund revenues in fiscal 2004 would increase to the extent that participating local governments remit funds to the HSF after covering the costs and maintenance of their speed monitoring systems and after retaining the authorized proportion of 33% of collected uncontested penalties for homeland security purposes as provided by the bill. Special fund revenues to DSP could increase because 10% of remaining funds after distribution to the Volunteer Company Assistance Fund, as provided by the bill, must go to DSP on a quarterly basis for homeland security purposes.

Because an uncontested penalty would be paid directly to the issuing political subdivision, the effect on the TTF is expected to be minimal. At this time, DSP and the State Highway Administration report no plans to operate speed monitoring systems. TTF revenues would increase from penalties paid to the District Court for contested cases. General fund revenues would increase from any earnings from investment of HSF monies by the State Treasurer. The bill also provides that any remaining monies in the HSF at the end of each fiscal year must revert to the general fund. If enough monies accrue to

the HSF, after mandated disbursements, to warrant distribution to all county governments and Baltimore City, it is likely that some minimal revenues would revert to the general fund, since the cap on monies that could be distributed to Baltimore City would mean that a little less than 100% of all available funds would be distributed. By way of illustration, if \$1 million remained in the HSF after mandated disbursements and those funds were distributed in the same proportion as required under State Police Aid, except that Baltimore City is limited to what Prince George's County would receive, then a total of \$767,049 would be distributed on a quarterly basis to local governments and Baltimore City and \$232,951 would revert to the State general fund.

The District Court advises that because more people contest speeding violations than red light violations, the impact could be substantial to the operations of District Court. However, the Department of Legislative Services advises that because a speeding citation issued by a speed monitoring system: (1) is not considered a moving violation for the purpose of assessing points against a driver's license; (2) may not be considered in the provision of insurance coverage; and (3) carries a maximum fine of \$100, there is a greater likelihood that violators will choose to pay the fine rather than appear in court.

To the extent that jurisdictions issue more speeding citations that people fail to pay, the MVA would expect an increase in the volume of vehicle registrations withheld, suspended, and reinstated. The MVA also reports that for every 10,000 registration suspensions and/or reinstatements that may occur as a result of the bill, it would require one additional administrative position. Current MVA policy is to withhold a registration until unpaid tickets are satisfied and to suspend the registration if a vehicle has a minimum of \$1,000 in fines.

Local Fiscal Effect: To the extent that local governments implement speed monitoring systems, both expenditures and revenues would increase. Although the magnitude of the increases is difficult to predict, if current experience with red light camera systems in Prince George's, Montgomery, and Howard counties is an indicator, revenues from speed monitoring systems would be expected to be significantly higher than associated expenditures. For example, Montgomery County projects fiscal 2004 net revenues of \$7.37 million from the operation of its red light cameras, and has estimated that if it issues 11,700 citations per month (140,400 per year) with speed monitoring systems, it will net \$10.9 million in annual revenues.

However, the bill provides that local governments that decide to implement speed camera systems may retain enough of the collected civil penalties to cover the cost of implementing and maintaining the system, as well as 33% of collected civil penalties for homeland security purposes. By way of illustration, if a local government attained \$10 million from collected uncontested speed camera citations and the system costs \$2 million to implement and maintain, then it is likely that the local government would keep

\$2 million to cover system costs and retain \$3.3 million for homeland security purposes. That local government would be expected to remit the remaining \$4.7 million to the HSF.

For those local governments that implement speed camera systems, it is likely that they would acquire new revenues to supplement homeland security efforts. The extent to which local governments without speed camera systems would receive funding from the HSF would depend on the remaining revenues in the HSF after mandated distributions. The likelihood of any distributions cannot be reliably predicted at this time.

Approximately 363,000 speeding tickets were issued statewide in fiscal 2002 according to District Court records. The revenue generated by these tickets is unknown.

Small Business Effect: The Maryland Automobile Insurance Fund advises that if speeding cameras replace a significant number of police-issued tickets, insurance carriers would have reduced information regarding the level of risk for those drivers. The level of risk is one of the factors used in setting insurance premiums.

Additional Information

Prior Introductions: This bill is a reintroduction of SB 565 from the 2002 session. SB 565 was referred to the Judicial Proceedings Committee, where it received an unfavorable report. Another similar bill in the 2002 session, HB 140, was referred to Commerce and Government Matters, where it received an unfavorable report. Another similar bill, SB 510 from the 2001 session, was referred to Judicial Proceedings, where it received an unfavorable report.

Cross File: SB 455 (Senator Forehand) – Judicial Proceedings.

Information Source(s): Montgomery County, Judiciary (Administrative Office of the Courts), Maryland Automobile Insurance Fund, Baltimore City, Maryland Insurance Administration, Department of Transportation, National Conference of State Legislatures, Insurance Institute for Highway Safety, Department of Legislative Services

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