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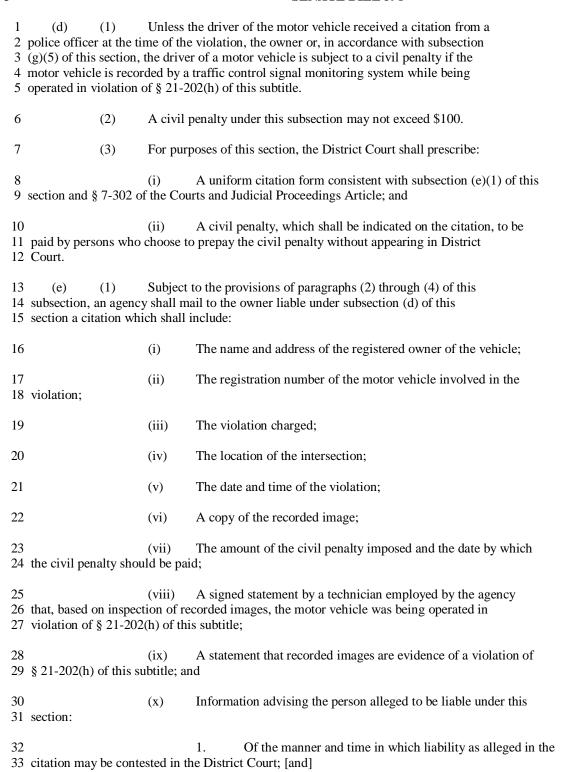
By: Senators Mooney, Astle, Brinkley, Della, Hafer, Harris, Pipkin, and Stoltzfus

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

	A BILL ENTITLED							
1	AN ACT concerning							
2	Vehicle Laws - Traffic Control Signal Monitoring Systems - Defense Evidence							
4 5 6 7 8 9 10 11 12 13 14 15 16 17	which there is a defense that the vehicle of the person to whom the citation was issued was not being driven at the time of the offense by the person charged; requiring the citation issued to a person for a certain violation recorded by a traffic control signal monitoring system to contain a form to be used by a person claiming a defense that the vehicle of the person issued the citation was not being driven at the time of the offense by the person charged; requiring certain items to be listed on the form; requiring the District Court to dismiss a certain citation on receipt of a form certifying that the person claims as a defense to the charge contained in the citation that the person's vehicle was not being driven by the person; providing that a person whose citation is dismissed under this Act is not required to appear in court concerning the citation; and generally relating							
18 19 20 21 22	Section 21-202.1 Annotated Code of Maryland							
23 24	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:							
25	Article - Transportation							
26	21-202.1.							
27	(a) (1) In this section the following words have the meanings indicated.							
28	(2) "Agency" means:							

	intersection under th responsible for traffi		of the Sta	offic control signal operated and maintained at an te, the law enforcement agency primarily ersection; or	
6	the political subdivis	sion that is	of a politi authorize	offic control signal operated and maintained at an cal subdivision, a law enforcement agency of ed to issue citations for a violation of the c laws or regulations.	
8 9	(3) lessee of a motor vel	(i) nicle under		" means the registered owner of a motor vehicle or a of 6 months or more.	
	company or a holde Subtitle 9 of this art			does not include a motor vehicle rental or leasing ration plate issued under Part III of Title 13,	
13 14	(4) monitoring system:	"Record	led image	s" means images recorded by a traffic control signal	
15		(i)	On:		
16			1.	Two or more photographs;	
17			2.	Two or more microphotographs;	
18			3.	Two or more electronic images;	
19			4.	Videotape; or	
20			5.	Any other medium; and	
	or portion of tape, c vehicle.	(ii) learly ider		g the rear of a motor vehicle and, on at least one image ne registration plate number of the motor	
26		sensors w	orking in	ignal monitoring system" means a device with one or conjunction with a traffic control signal to cles entering an intersection against a red	
30 31 32	28 (b) The agency primarily responsible for traffic control at an intersection monitored by a traffic control signal monitoring system shall ensure that the length of time that a traffic control signal displays a yellow light before changing to a red signal indication is set in accordance with regulations adopted by the State Highway Administration consistent with standards or guidelines established by the Federal Highway Administration.				
34 35				iolation of § 21-202(h) of this subtitle at an rol signal monitoring system.	



	liability in a timely man suspension of the motor		Warning that failure to pay the civil penalty or to contest mission of liability and may result in refusal or tistration; AND
4 5			ORM TO BE USED BY A PERSON CLAIMING A DEFENSE OF THIS SECTION, WHICH SHALL INCLUDE:
		1. RSON NAM	A STATEMENT THAT AT THE TIME OF THE ALLEGED IED IN THE CITATION WAS NOT OPERATING THE MOTOR
			A STATEMENT THAT BY SIGNING THE FORM, THE PERSON TRMS UNDER PENALTY OF PERJURY THAT THE FACTS E TRUE.
12 13	2 (2) T 3 owner liable under subs		may mail a warning notice in lieu of a citation to the of this section.
			ovided in subsection (g)(5) of this section, a citation nailed no later than 2 weeks after the alleged
17 18	(4) A 3 under subsection (a)(3)		nay not mail a citation to a person who is not an owner ection.
19 20) (5) A) subsection may:	A person wh	o receives a citation under paragraph (1) of this
21 22	`		the civil penalty, in accordance with instructions on the bdivision or to the District Court; [or]
23	3 (i	ii) Ele	ct to stand trial for the alleged violation; OR
24 25			TURN TO THE DISTRICT COURT THE COMPLETED FORM 1)(XI) OF THIS SUBSECTION.
28 29	occurred, sworn to or a sinspection of recorded in	iffirmed by a images proceed facts contains	alleging that the violation of § 21-202(h) of this article a duly authorized agent of the agency, based on luced by a traffic control signal monitoring system tined therein and shall be admissible in any der this section.
31 32	(2) A	Adjudicatior	of liability shall be based on a preponderance of
33	3 (g) (1) T	The District	Court may consider in defense of a violation:
34 35	(i violation of § 21-202(h		at the driver of the vehicle passed through the intersection in otitle:

1 2	1. In order to yield the right-of-way to an emergency vehicle; or
3 4	2. As part of a funeral procession in accordance with § 21-207 of this subtitle;
7	(ii) Subject to paragraph (2) of this subsection, 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;
11	(iii) That under § 21-201 of this subtitle, this section is unenforceable against the owner because at the time and place of the alleged violation, the traffic control signal was not in proper position and legible enough to be seen by an ordinarily observant individual;
	(iv) Subject to paragraph (3) of this subsection, evidence that the person named in the citation was not operating the vehicle at the time of the violation; and
16 17	(v) Any other issues and evidence that the District Court deems pertinent.
20 21	(2) In order to demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a police report about the stolen motor vehicle or registration plates was filed in a timely manner.
23 24	(3) To satisfy the evidentiary burden under paragraph (1)(iv) of this subsection, the person named in the citation shall provide to the District Court:
	(I) [evidence] EVIDENCE to the satisfaction of the court of who was operating the vehicle at the time of the violation, including, at a minimum, the operator's name and current address; OR
30	(II) THE COMPLETED FORM DESCRIBED IN SUBSECTION (E)(1)(XI) OF THIS SECTION THAT INCLUDES A SWORN STATEMENT THAT THE PERSON NAMED IN THE CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION.
34	(4) (i) The provisions of this paragraph apply only to a citation that involves a Class E (truck) vehicle with a registered gross weight of 26,001 pounds or more, Class F (tractor) vehicle, Class G (trailer) vehicle operated in combination with a Class F (tractor) vehicle, and Class P (passenger bus) vehicle.
38	(ii) To satisfy the evidentiary burden under paragraph (1)(iv) of this subsection, the person named in a citation described under subparagraph (i) of this paragraph may provide to the District Court a letter, sworn to or affirmed by the person and mailed by certified mail, return receipt requested, that:

2	operating the vehicle at the time of the violation; and
	2. Provides the name, address, and driver's license identification number of the person who was operating the vehicle at the time of the violation.
8 9 10	(5) (i) 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 evidence under paragraph (4)(ii)2 of this subsection identifying the person driving the vehicle at the time of the violation, the clerk of the court shall provide to the agency issuing the citation a copy of any evidence substantiating who was operating the vehicle at the time of the violation.
14	(ii) Upon the receipt of substantiating evidence from the District Court under subparagraph (i) of this paragraph, an agency may issue a citation as provided in subsection (e) of this section to the person that the evidence indicates was operating the vehicle at the time of the violation.
	(iii) A citation issued under subparagraph (ii) of this paragraph shall be mailed no later than 2 weeks after receipt of the evidence from the District Court.
	(6) (I) UPON THE RECEIPT OF A PROPERLY COMPLETED FORM AS DESCRIBED IN SUBSECTION (E)(1)(XI) OF THIS SECTION, THE DISTRICT COURT SHALL DISMISS THE CITATION ISSUED TO THE PERSON.
	(II) A PERSON WHO RETURNS THE COMPLETED FORM IN ACCORDANCE WITH SUBSECTION (E)(5)(III) OF THIS SECTION IS NOT REQUIRED TO APPEAR IN PERSON BEFORE THE DISTRICT COURT REGARDING THE CITATION.
	(h) If the civil penalty is not paid and the violation is not contested, the Administration may refuse to register or reregister or may suspend the registration of the motor vehicle.
28	(i) A violation for which a civil penalty is imposed under this section:
	(1) Is not a moving violation for the purpose of assessing points under § 16-402 of this article and may not be recorded by the Administration on the driving record of the owner or driver of the vehicle;
32 33	(2) May be treated as a parking violation for purposes of § 26-305 of this article; and
34 35	(3) May not be considered in the provision of motor vehicle insurance coverage.
	(j) In consultation with local governments, the chief judge of the District Court shall adopt procedures for the issuance of citations, the trial of civil violations, and the collection of civil penalties under this section.

- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 2 October 1, 2004.