

**Department of Legislative Services**  
**Maryland General Assembly**  
**2004 Session**

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 861

(Senator Forehand, *et al.*)

Judicial Proceedings

Environmental Matters

**Montgomery County and Prince George's County - Vehicle Laws - Speed  
Monitoring Systems - Radar Cameras**

This bill authorizes the use of speed monitoring systems in Montgomery and Prince George's counties to identify and issue citations to persons who are recorded exceeding a posted speed limit.

The bill has prospective application and terminates on September 30, 2009.

**Fiscal Summary**

**State Effect:** Special fund revenues could increase significantly from additional fines paid to the District Court. General fund expenditures for the District Court increase by \$199,000 in FY 2005 for personnel to process contested speed camera citations. A significant number of additional citations could increase administrative expenditures for the Motor Vehicle Administration (MVA). Out-years include inflation and annualization.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
SF Revenue	-	-	-	-	-
GF Expenditure	199,000	273,000	289,700	307,700	327,100
SF Expenditure	-	-	-	-	-
Net Effect	(\$199,000)	(\$273,000)	(\$289,700)	(\$307,700)	(\$327,100)

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

**Local Effect:** The full effect on local finances depends on the extent to which these systems are deployed, but based on local experience with red light camera programs, revenues would exceed the expenditures for speed monitoring systems by a significant amount.

**Small Business Effect:** Potential minimal.

## Analysis

**Bill Summary:** Unless a police officer issues a citation, this bill authorizes Montgomery and Prince George's counties to issue citations to drivers for speeding based on recorded images collected by automated speed monitoring systems. A "speed monitoring system" is a device with one or more motor vehicle sensors producing recorded images of motor vehicles traveling at least 10 miles per hour above the posted speed limit. The recorded image must show the rear of the motor vehicle, a stationary object near the motor vehicle, and clearly identify the registration plate number of the motor vehicle on at least one image or portion of tape.

The bill applies to speeding violations that occur: (1) on a highway in a residential district, with a maximum posted speed limit of 35 miles per hour as established using generally accepted traffic engineering practices; or (2) in an established school zone. The bill establishes a maximum civil penalty of \$100. The bill specifies 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.

A person who receives a citation by mail may pay the specified civil penalty directly to the Montgomery County Department of Finance, or the Prince George's County Revenue Office, or elect to stand trial in District Court. A warning notice may be issued instead of a citation. Generally, a citation must be mailed no later than two weeks after the alleged violation. Except as otherwise provided, the local police departments of Montgomery and Prince George's counties are 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 on the applicable roadways as specified, sworn to or affirmed by a police officer of the local police departments of Montgomery or Prince George's counties or a designated municipal official, is evidence of the facts contained therein and is also admissible at trial. If a person who received a citation wants the speed monitoring system operator to testify at trial, the person must notify the court and the local police department in writing no later than 20 days before trial. Adjudication of liability is 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. However, the person cited must submit a sworn written statement, sent to the District Court by certified mail with return receipt, that the

person cited was not operating the vehicle at the time of the violation and that divulges the name, address, and driver's license identification number, if possible, of the person who was driving. The person who was driving is then subject to the penalty. If the fine is not paid and the violation is not contested, the MVA may refuse to register or transfer the registration, or may suspend the registration of the motor vehicle. A violation may be treated as a parking violation, is not a moving violation for the purpose of assessing points, 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 motor vehicle insurance.

In consultation with the Montgomery County Department of Finance, the Prince George's County Revenue Authority Office, and the local police departments, the Chief Judge of the District Court must adopt procedures for the citations, civil trials, and the collection of civil penalties. If a contractor operates a speed monitoring system on behalf of Montgomery or Prince George's counties, the contractor's fee may not be contingent on the number of citations issued.

The bill requires Montgomery and Prince George's counties to use revenues from automated speed enforcement to increase local expenditures for public safety, beginning in fiscal 2005 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 Montgomery and Prince George's county councils must report to the General Assembly on the effectiveness of speed monitoring systems by December 31, 2008.

**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, Montgomery and Prince George's counties would be expected to contract for the necessary services, although the vendors would not be paid based on the number of citations.

According to the National Conference of State Legislatures, 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. New York authorizes cities with a population in excess of 1 million to operate automated enforcement demonstration projects with a maximum of 50 intersections. 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 extensive automated enforcement program for speeding and other moving violations.

During 2003, legislatures in 19 states considered more than 50 bills on automated traffic enforcement. In many jurisdictions, the constitutionality of automated enforcement has been challenged. To date, all court challenges have been unsuccessful. Automated speed enforcement systems are used extensively throughout Europe and in Australia.

**State Revenues:** Although an uncontested penalty would be paid directly to the Montgomery County Department of Finance or the Prince George's County Revenue Authority, the effect on State revenues could still be significant. Any increase in revenues would result from penalties paid to the District Court for contested cases and would be distributed to various transportation-related funds.

According to District Court records, 44,532 speeding tickets were issued in Montgomery County in fiscal 2003 and 13,223 trials were held. In Prince George's County during the

same period, 24,304 speeding tickets were issued and 8,428 trials were held. By way of illustration, if a portion of the drivers who contested the speeding tickets were excluded for traveling less than five miles per hour above the speed limit, and assuming that all the remaining drivers received the maximum civil penalty from the District Court, general fund revenues could increase by at least \$1.9 million in fiscal 2005. Revenues would probably be higher than this estimate because it is likely that more people would be cited for speeding under an automated system.

**State Expenditures:** General fund expenditures for the District Court could increase by \$199,039 in fiscal 2005, accounting for the October 1, 2004 effective date, for six clerks with related supply costs only, to process the additional citations required by this bill. The citations would be processed manually. Expenditures for future years reflect: (1) full salaries with 4.6% annual increases and 3% annual turnover; and (2) a 1% increase in expenditures for supplies.

The District Court advises that an additional \$1.2 million in fiscal 2005 and \$1.2 million in fiscal 2006 should be provided to implement an automated civil citation data processing system (total cost \$2.4 million). The Department of Legislative Services (DLS) disagrees with this assessment. Because the bill authorizes automated speed enforcement systems in only two counties, and the bill is of limited duration, a new computerized civil citation data processing system is not required by the provisions of this bill.

The District Court advises that because more people contest speeding violations than red light violations, the bill could have a substantial operational impact on the District Court. However, DLS advises that because a 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 Montgomery and Prince George's counties 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 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.

The MVA advises \$60,000 in Transportation Trust Fund (TTF) expenditures for fiscal 2005 only would be needed for computer modifications to flag Montgomery and Prince George's county vehicle registrations. DLS advises that if other legislation is passed requiring computer programming changes, economies of scale could be realized. This

would reduce computer programming costs associated with this bill and other legislation affecting the MVA system. DLS further advises that the increased computer expenditure is an estimate and that the MVA may be able to handle the changes within existing resources. The MVA also advises that it could cost \$10,000 in TTF expenditures for fiscal 2005 only, to reprint forms. However, DLS advises that the MVA must revise its forms annually to include law changes, thus forms reprinting is simply a cost of doing business and can be handled within the existing resources of the MVA.

**Local Fiscal Effect:** To the extent that Montgomery and Prince George's counties implement speed monitoring systems, revenues would increase significantly and expenditures would also increase.

Under this bill, Montgomery County anticipates fiscal 2005 revenue of \$32 million from the speed monitoring systems, increasing in the out-years to about \$40 million annually. This projection is based on each mobile unit issuing a maximum of 200 citations per day. Montgomery County advises that fiscal 2005 expenditures would increase by \$20,799,000 for 26 additional positions and related costs and vendor fees from the installation of eight fixed and 12 mobile units.

Prince George's County advises that a speed camera program would have a positive fiscal impact. However, implementation of the program would require a number of cost considerations, including, but not limited to, purchasing or contracting for speed monitoring services, training, and routine maintenance. Any revenue would be contingent on the scope of the program. Prince George's County does not have a specific estimate of the scope of a speed monitoring program.

DLS advises that by way of illustration based on 2003 data, and allowing for those people who would be excluded for not meeting the threshold of five miles per hour over the speed limit and subtracting those people who contested speeding tickets, an estimated 16,900 citations would not be contested. A minimum of \$1.7 million in gross revenues could accrue to Prince George's County under this bill. Revenues are likely to be significantly higher than this estimate, however, depending on the number of systems deployed by Prince George's County and due to the significantly higher number of citations that would likely be issued under an automated system.

**Small Business Effect:** The Maryland Automobile Insurance Fund advises that if speeding cameras replace a significant number of police-issued tickets, insurance carriers writing policies in Montgomery County 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 similar to HB 385 of 2003, which was referred to the Environmental Matters Committee and received an unfavorable report. Other bills, SB 455/HB 694 of 2003 would have authorized all local jurisdictions and the State to deploy automated speed enforcement systems. HB 694 was passed by the House and referred to the Senate Rules Committee, where no further action was taken. SB 455 was passed by the General Assembly, but vetoed by the Governor due to administrative, due process, fiscal, and privacy concerns.

**Cross File:** HB 1388 (Delegate Bronrott, *et al.*) – Rules and Executive Nominations.

**Information Source(s):** Montgomery County, Prince George's County, Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, National Conference of State Legislatures, Department of Legislative Services

**Fiscal Note History:** First Reader - March 23, 2004  
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