

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 598

(Senator Mooney, *et al.*)

Judicial Proceedings

Vehicle Laws - Traffic Control Signal Monitoring Systems - Defense Evidence

This bill establishes a defense to the violation of entering an intersection on a red signal or red arrow, as recorded by a traffic control signal monitoring system. Upon receiving a properly completed form, the District Court is required to dismiss the violation. The person who provides a completed form establishing this defense is not required to appear in person before the District Court regarding the violation.

Fiscal Summary

State Effect: Potential significant reduction in special fund revenues from fines in contested cases that are no longer paid to the District Court. Potential minimal general fund expenditure increase to include defense forms as part of the uniform red light citation and to process additional contested cases.

Local Effect: Potential significant reduction in revenues as the number of contested cases would increase significantly due to the bill's provisions, as only fines from prepaid citations are remitted to local governments. Potential minimal increase in expenditures to include the defense forms as part of the uniform red light citation.

Small Business Effect: None.

Analysis

Bill Summary: The bill specifies that when an agency mails a citation to the owner of a motor vehicle for entering an intersection on a steady red signal or red arrow, as recorded by an automated traffic control signal monitoring system, the agency must include a form

to be used by a person claiming a defense that the person was not operating the motor vehicle at the time of the violation. The form must include a statement that at the time of the alleged violation, the person was not operating the motor vehicle, and a statement that specifies that by signing the form, the person claiming the defense affirms under penalty of perjury that the facts indicated in the form are true.

A person who receives a citation from an automated traffic enforcement system may return the completed defense form to the District Court. To satisfy the evidentiary burden for the defense of not operating the motor vehicle at the time of the operation, the person must provide to the District Court the completed form that includes a sworn statement that the person named in the citation was not operating the vehicle at the time of the violation.

Upon receipt of a properly completed form, the District Court is required to dismiss the citation. A person who returns the completed form is not required to appear in person before the District Court regarding the citation.

Current Law: 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 indication. The agency primarily responsible for traffic control at an intersection monitored by a traffic control signal monitoring system must ensure that the length of the yellow warning light is set in accordance with regulations adopted by the State Highway Administration, consistent with federal regulations.

A driver who enters an intersection on a steady red arrow or steady red signal, and is recorded by a traffic control signal monitoring system, is subject to a civil penalty not to exceed \$100, unless the driver receives a citation from a police officer at the time of the violation. The person cited may elect to stand trial in the District Court. A warning notice may be issued instead of a citation. A citation must be mailed no later than two weeks after the alleged violation. A violation recorded only by a traffic control monitoring system is not a moving violation and may not be considered for purposes of motor vehicle insurance coverage. However, if the civil penalty is not paid and the violation is not contested, the Motor Vehicle Administration may refuse to register or reregister the vehicle, or may suspend the registration of the motor vehicle. The issuing agency is prohibited from mailing a citation to a person who is not a vehicle owner.

A recorded image of a motor vehicle produced by a traffic control signal monitoring system is admissible at trial without authentication. A certificate alleging that the traffic

control signal violation occurred, sworn to or affirmed by an authorized agent of the issuing law enforcement agency, 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 that the vehicle driver passed through an intersection against a steady red signal to provide the right-of-way to an emergency vehicle, or that the driver was part of a funeral procession. 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, but the person must divulge the name of the person who was driving. If the District Court finds that the person named in the citation was not operating the vehicle at the time of the violation, the clerk of the court must provide to the agency issuing the citation a copy of any evidence substantiating who was operating the vehicle at the time of the violation. Upon receipt of the evidence from the District Court, the agency may issue a citation to the person that the evidence indicates was operating the vehicle at the time of the violation. A citation must be mailed no later than two weeks after receipt of evidence from the District Court.

A person is prohibited from willfully and falsely making an oath or affirmation: (1) if the false swearing is perjury at common law; (2) in an affidavit required by law; or (3) in an affidavit made to induce a court or officer to pass an account or claim. A violation of these provisions is the misdemeanor of perjury, which has a penalty of imprisonment not exceeding 10 years.

Background: Traffic control signal monitoring systems, also known as red light cameras, are automatic camera systems that photograph vehicles that run red lights. States have considered authorizing or expanding automated enforcement programs, but some states have limited or banned automated enforcement. According to the National Conference of State Legislatures, Colorado law authorizes the use of automated traffic enforcement, but violators may insist on being personally served, instead of through the mail. Nevada prohibits camera equipment for traffic enforcement unless the equipment is held by a law enforcement officer or installed in a law enforcement vehicle or facility. According to the American Automobile Association, the District of Columbia and the states of California, Colorado, Georgia, Illinois, Maryland, North Carolina, Utah, and Washington specifically authorize the use of automated traffic enforcement systems. Of these jurisdictions, only Illinois and Utah do not provide for some form of “owner not operator” defense. New Jersey and Wisconsin have laws prohibiting the use of photo radar as a means of traffic enforcement.

Generally, where states authorize local governments to install red light cameras, local governments incur the cost for setting up the systems and collect the revenue generated from those citations for use at the local level.

State Revenues: Special fund revenues could decrease significantly under the provisions of this bill. The District Court collects revenues from automated enforcement citations that are contested only. These revenues are then distributed to various transportation-related funds. Because the bill requires the District Court to dismiss a citation from an automated traffic system upon presentation of a form, including a sworn statement that the person driving the motor vehicle was not the owner, the District Court would not be able to receive revenues in those cases. The District Court processed 5,728 contested citations in fiscal 2003. The revenue generated from these citations is unknown.

State Expenditures: General fund expenditures could increase minimally to accommodate the additional workload from an anticipated increase in the number of contested cases under this bill. The District Court would also incur additional expenses to redesign the uniform red light citation to include the form required by the bill.

Local Fiscal Effect: Potential significant reduction in revenues to local jurisdictions. Local jurisdictions receive revenues only from uncontested citations issued under automated traffic enforcement systems. Because of the lack of enforcement mechanisms under the bill, it is expected that many people who receive a citation from an automated traffic system would contest it and send in an affidavit. The amount of revenues that local governments could retain under this bill could decline significantly.

Montgomery County advises that of the \$10.3 million in revenues it expects from automated traffic enforcement in fiscal 2004, it would lose \$9 million under the bill's provisions and that it would probably eliminate the automated traffic enforcement eventually. Once eliminated, the county would also realize \$3,783,000 in savings from eliminating three positions and operating expenses that are part of the county's automated enforcement program. However, Garrett County advises that the bill is not expected to have a fiscal impact.

Local governments could incur additional minimal expenditures to design uniform red light citations in conjunction with the District Court.

The Department of Legislative Services also requested estimates of the fiscal impact of SB 598 from Prince George's, Baltimore, Anne Arundel, and Dorchester Counties, but those local governments did not provide the requested estimates.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Prince George's County, Garrett County, Dorchester County, Baltimore County, Anne Arundel County, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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