

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
Revised

House Bill 443

(Montgomery County Delegation)

Environmental Matters

Judicial Proceedings

Montgomery County - Vehicle Laws - Speed Monitoring Systems
MC 513-05

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

The bill has prospective application. The Montgomery County Council must report to the General Assembly by December 31, 2009 on the effectiveness of speed monitoring systems in Montgomery County.

Fiscal Summary

State Effect: Special fund revenues could increase significantly from additional fines paid to the District Court. Transportation Trust Fund (TTF) revenues could increase minimally from Motor Vehicle Administration (MVA) fees. A significant number of additional citations could increase personnel and other administrative expenditures for the MVA.

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 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 County 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 include two time-stamped images of the vehicle with a stationary object, must show the rear of 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; or (2) in an established school zone. The bill establishes a maximum civil penalty of \$40. 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 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 County 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 department of Montgomery County, is evidence of the facts 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 State 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 requested, that the person cited was not operating the vehicle at the time of the violation and that divulges the name, address, and, if possible, the driver’s license number of the person who was driving. The person who was driving may then receive a citation.

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, 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. The contractor's fee for a speed enforcement system may not be contingent on the number of citations issued.

The bill requires Montgomery County to use revenues from automated speed enforcement to increase local expenditures for public safety, beginning in fiscal 2006 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 County Council must report to the General Assembly on the effectiveness of speed monitoring systems by December 31, 2009.

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 County 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.

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, 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, in fiscal 2004, 26,011 speeding tickets were issued and 7,170 trials were held in Montgomery County for speeds exceeding 10 miles per hour. The number of violations that occurred in the traffic corridors defined by the bill is unknown. However, the District Court advises that for local red light enforcement programs, the number of automated tickets issued is about 20 times greater than the number of police-issued tickets for the same infraction. By way of illustration, if automated speed enforcement increased the number of people who received tickets in the defined traffic corridors by 20 times and one-tenth of those people decided to contest the penalty, the District Court could process about 15,000 trials under the bill. If all of those drivers were found guilty and received the maximum penalty, special fund revenues could increase by \$600,000.

Transportation Trust Fund (TTF) revenues could increase minimally under this bill. Under this bill, speeding violations through automated enforcement are treated as parking violations. An individual who does not pay the speeding fine by the deadline or contest the fine is subject to having a flag placed on his/her driving record. Removal of the flag requires payment of the fine as well as a \$30 flag removal fee.

For the one year period ending July 18, 2004, the MVA advises that there were 9,834 unpaid red light automated enforcement violations attributed to Montgomery County. However, given that the maximum penalty is \$40, it is expected that most people will pay the citations before incurring additional penalties from the MVA.

State Expenditures: 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 there is a much greater likelihood that violators will choose to pay the fine rather than appear in court 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 \$40. Accordingly, DLS advises that the District Court could process contested violations with existing resources.

The District Court advises that an additional \$1.2 million in fiscal 2006 and \$1.2 million in fiscal 2007 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 one county, a new computerized civil citation data processing system is not required by the provisions of this bill.

The State Highway Administration (SHA) advises that if speed enforcement systems are used on State highways in residential areas, SHA may need to confirm that the speed limit of 35 miles per hour was established with generally accepted engineering principles. However, SHA should be able to handle any confirmation requests within existing resources.

To the extent that Montgomery County issues more speeding citations that people fail to pay, the MVA could expect an increase in the volume of vehicle registrations withheld, suspended, and reinstated. The MVA workload standard is that for every 10,000 registration suspensions and/or reinstatements that may occur as a result of the bill, one additional administrative position is required. 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 that \$60,000 in Transportation Trust Fund (TTF) expenditures for fiscal 2006 only would be needed for computer modifications to flag Montgomery 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.

Local Fiscal Effect: To the extent that Montgomery County implements speed monitoring systems, revenues would increase significantly and expenditures would also increase.

Under this bill, Montgomery County anticipates fiscal 2006 revenue of \$6.3 million. Uncontested citations would be \$40. Each mobile unit operating would likely capture 50 events per hour, per day, but the number of hourly events would likely be reduced to 33 by the ninth month of operation. Montgomery County expects 70% of captured events to be mailed as citations.

Expenditures for the same period are expected to be \$4.6 million. The program would be staffed by a program manager, two administrative aides, a financial analyst, and one technician. Montgomery County advises that if the speed camera enforcement program is successful, revenues will decline in future years as the number of citations is reduced. Personnel costs are subject to cost-of-living adjustments and union negotiations, but could increase 3.5% annually in the out-years.

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 SB 861 of 2004, which passed the Senate and was referred to the Environmental Matters Committee, where it was heard but no further action was taken. Another similar bill, HB 385 of 2003, 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: None.

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

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