

HOUSE BILL 509

L2, R5

71r1719

By: **Prince George's County Delegation**

Introduced and read first time: February 6, 2007

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County – Railroad Grade Crossings – Automated**
3 **Enforcement Systems**

4 **PG 320–07**

5 FOR the purpose of providing for the use of automated railroad grade crossing
6 enforcement systems at railroad grade crossings in Prince George's County to
7 determine compliance with certain vehicle laws; requiring a certain recording of
8 a violation of certain laws regarding railroad crossings to contain certain
9 information; authorizing certain law enforcement agencies in Prince George's
10 County to mail a citation within a certain period of time to the owner of a motor
11 vehicle that is recorded in Prince George's County by an automated railroad
12 grade crossing enforcement system to be in violation of certain laws regarding
13 railroad grade crossings; establishing the content of a citation; authorizing the
14 sending of a warning in lieu of a citation; authorizing the establishment and
15 imposition of civil penalties; requiring the District Court to prescribe a certain
16 citation form and a civil penalty to be indicated on the citation for certain
17 purposes; requiring the Chief Judge of the District Court to adopt certain
18 procedures; limiting the amount of the civil penalties; providing that the owner
19 of the vehicle is responsible for paying the civil penalty under certain
20 circumstances; providing that persons receiving citations may elect to stand
21 trial in the District Court; establishing defenses that may be considered;
22 imposing certain additional penalties and authorizing certain other actions
23 when an owner fails to pay the civil penalty, contest liability, or appear for trial;
24 prohibiting imposition of liability under this Act from being considered a moving
25 violation for certain purposes, being recorded on the driving record of the owner,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 or being considered by an insurer for certain purposes; providing for the
 2 admissibility and use of certain evidence; expanding the jurisdiction of the
 3 District Court; defining certain terms; and generally relating to imposition of
 4 liability on the owner of a motor vehicle recorded in Prince George's County by
 5 an automated railroad grade crossing enforcement system violating certain laws
 6 regarding railroad grade crossings.

7 BY repealing and reenacting, with amendments,
 8 Article – Courts and Judicial Proceedings
 9 Section 4–401(13)
 10 Annotated Code of Maryland
 11 (2006 Replacement Volume)

12 BY repealing and reenacting, without amendments,
 13 Article – Transportation
 14 Section 11–167 and 11–168
 15 Annotated Code of Maryland
 16 (2006 Replacement Volume and 2006 Supplement)

17 BY adding to
 18 Article – Transportation
 19 Section 21–704.1
 20 Annotated Code of Maryland
 21 (2006 Replacement Volume and 2006 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article – Courts and Judicial Proceedings**

25 4–401.

26 Except as provided in § 4–402 of this subtitle, and subject to the venue
 27 provisions of Title 6 of this article, the District Court has exclusive original civil
 28 jurisdiction in:

29 (13) A proceeding for a civil infraction under § 21–202.1, § **21–704.1**, or
 30 § 21–809 of the Transportation Article or § 10–112 of the Criminal Law Article;

31 **Article – Transportation**

32 11–167.

1 “Traffic control device” means any sign, signal, marking, or device that:

2 (1) Is not inconsistent with the Maryland Vehicle Law; and

3 (2) Is placed by authority of an authorized public body or official to
4 regulate, warn, or guide traffic.

5 11-168.

6 “Traffic control signal” means any traffic control device, whether manually,
7 electrically, or mechanically operated, by which traffic alternately is directed to stop
8 and permitted to proceed.

9 **21-704.1.**

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
11 MEANINGS INDICATED.

12 (2) “AGENCY” MEANS:

13 (I) FOR AN AUTOMATED RAILROAD GRADE CROSSING
14 ENFORCEMENT SYSTEM OPERATED AND MAINTAINED AT A RAILROAD GRADE
15 CROSSING IN PRINCE GEORGE’S COUNTY THAT IS UNDER THE CONTROL OF THE
16 STATE, THE LAW ENFORCEMENT AGENCY OF THE STATE PRIMARILY
17 RESPONSIBLE FOR TRAFFIC CONTROL AT THAT RAILROAD GRADE CROSSING; OR

18 (II) FOR AN AUTOMATED RAILROAD GRADE CROSSING
19 ENFORCEMENT SYSTEM OPERATED AND MAINTAINED AT A RAILROAD GRADE
20 CROSSING UNDER THE CONTROL OF PRINCE GEORGE’S COUNTY OR A
21 MUNICIPAL CORPORATION IN PRINCE GEORGE’S COUNTY, A LAW
22 ENFORCEMENT AGENCY OF PRINCE GEORGE’S COUNTY OR THE MUNICIPAL
23 CORPORATION THAT IS AUTHORIZED TO ISSUE CITATIONS FOR A VIOLATION OF
24 THE MARYLAND VEHICLE LAW OR OF LOCAL TRAFFIC LAWS OR REGULATIONS
25 AT THAT RAILROAD GRADE CROSSING.

26 (3) “AUTOMATED RAILROAD GRADE CROSSING ENFORCEMENT
27 SYSTEM” MEANS A SYSTEM OPERATED BY AN AGENCY THAT RECORDS A
28 DRIVER’S RESPONSE TO A TRAFFIC CONTROL SIGNAL OR TRAFFIC CONTROL
29 DEVICE LOCATED AT A RAILROAD GRADE CROSSING.

1 (4) (I) **“OWNER” MEANS THE REGISTERED OWNER OF A MOTOR**
2 **VEHICLE OR A LESSEE OF A MOTOR VEHICLE UNDER A LEASE OF 6 MONTHS OR**
3 **MORE.**

4 (II) **“OWNER” DOES NOT INCLUDE A MOTOR VEHICLE**
5 **RENTAL OR LEASING COMPANY OR A HOLDER OF A SPECIAL REGISTRATION**
6 **PLATE ISSUED UNDER PART III OF TITLE 13, SUBTITLE 9 OF THIS ARTICLE.**

7 (5) **“VIOLATION” MEANS ANY VIOLATION OF §§ 21-701 THROUGH**
8 **21-704 OF THIS SUBTITLE.**

9 **(B) THIS SECTION APPLIES ONLY IN PRINCE GEORGE’S COUNTY.**

10 **(C) A RECORDING BY AN AUTOMATED RAILROAD GRADE CROSSING**
11 **ENFORCEMENT SYSTEM UNDER THIS SECTION INDICATING THAT THE DRIVER**
12 **OF A MOTOR VEHICLE HAS COMMITTED A VIOLATION SHALL INCLUDE:**

13 (1) **AN IMAGE OF THE MOTOR VEHICLE;**

14 (2) **AN IMAGE OF THE DRIVER OF THE MOTOR VEHICLE;**

15 (3) **AN IMAGE OF THE MOTOR VEHICLE’S REAR LICENSE PLATE;**

16 (4) **THE TIME OF THE VIOLATION;**

17 (5) **THE DATE OF THE VIOLATION; AND**

18 (6) **THE LOCATION OF THE VIOLATION.**

19 **(D) THE RECORDING SHALL BE MADE ON:**

20 (1) **TWO OR MORE PHOTOGRAPHS;**

21 (2) **TWO OR MORE MICROPHOTOGRAPHS;**

22 (3) **TWO OR MORE ELECTRONIC IMAGES;**

23 (4) **VIDEOTAPE; OR**

1 **(5) ANY OTHER MEDIUM.**

2 **(E) (1) UNLESS THE DRIVER OF THE MOTOR VEHICLE RECEIVED A**
3 **CITATION FROM A POLICE OFFICER AT THE TIME OF THE VIOLATION, THE**
4 **OWNER OR, IN ACCORDANCE WITH SUBSECTION (H)(5) OF THIS SECTION, THE**
5 **DRIVER OF A MOTOR VEHICLE IS SUBJECT TO A CIVIL PENALTY IF THE MOTOR**
6 **VEHICLE IS RECORDED BY AN AUTOMATED RAILROAD GRADE CROSSING**
7 **ENFORCEMENT SYSTEM DURING THE COMMISSION OF A VIOLATION.**

8 **(2) A CIVIL PENALTY UNDER THIS SUBSECTION MAY NOT EXCEED**
9 **\$100.**

10 **(3) FOR PURPOSES OF THIS SECTION, THE DISTRICT COURT**
11 **SHALL PRESCRIBE:**

12 **(I) A UNIFORM CITATION FORM CONSISTENT WITH**
13 **SUBSECTION (F)(1) OF THIS SECTION AND § 7-302 OF THE COURTS ARTICLE;**
14 **AND**

15 **(II) A CIVIL PENALTY, WHICH SHALL BE INDICATED ON THE**
16 **CITATION, TO BE PAID BY PERSONS WHO CHOOSE TO PREPAY THE CIVIL**
17 **PENALTY WITHOUT APPEARING IN DISTRICT COURT.**

18 **(F) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (2) THROUGH**
19 **(4) OF THIS SUBSECTION, AN AGENCY SHALL MAIL TO THE OWNER LIABLE**
20 **UNDER SUBSECTION (E) OF THIS SECTION A CITATION THAT SHALL INCLUDE:**

21 **(I) THE NAME AND ADDRESS OF THE REGISTERED OWNER**
22 **OF THE VEHICLE;**

23 **(II) THE REGISTRATION NUMBER OF THE MOTOR VEHICLE**
24 **INVOLVED IN THE VIOLATION;**

25 **(III) THE VIOLATION CHARGED;**

26 **(IV) THE LOCATION OF THE RAILROAD GRADE CROSSING;**

27 **(V) THE DATE AND TIME OF THE VIOLATION;**

1 **(VI) A COPY OF THE RECORDED IMAGE;**

2 **(VII) THE AMOUNT OF THE CIVIL PENALTY IMPOSED AND THE**
3 **DATE BY WHICH THE CIVIL PENALTY MUST BE PAID;**

4 **(VIII) A SIGNED STATEMENT BY A TECHNICIAN EMPLOYED BY**
5 **THE AGENCY THAT, BASED ON INSPECTION OF RECORDED IMAGES, THE MOTOR**
6 **VEHICLE WAS BEING OPERATED DURING THE COMMISSION OF A VIOLATION;**

7 **(IX) A STATEMENT THAT RECORDED IMAGES ARE EVIDENCE**
8 **OF A VIOLATION; AND**

9 **(X) INFORMATION ADVISING THE PERSON ALLEGED TO BE**
10 **LIABLE UNDER THIS SECTION:**

11 **1. OF THE MANNER AND TIME IN WHICH LIABILITY**
12 **AS ALLEGED IN THE CITATION MAY BE CONTESTED IN THE DISTRICT COURT;**
13 **AND**

14 **2. WARNING THAT FAILURE TO PAY THE CIVIL**
15 **PENALTY OR TO CONTEST LIABILITY IN A TIMELY MANNER IS AN ADMISSION OF**
16 **LIABILITY AND MAY RESULT IN REFUSAL OR SUSPENSION OF THE MOTOR**
17 **VEHICLE REGISTRATION.**

18 **(2) THE AGENCY MAY MAIL A WARNING NOTICE IN LIEU OF A**
19 **CITATION TO THE OWNER LIABLE UNDER SUBSECTION (E) OF THIS SECTION.**

20 **(3) EXCEPT AS PROVIDED IN SUBSECTION (H)(5) OF THIS**
21 **SECTION, A CITATION ISSUED UNDER THIS SECTION SHALL BE MAILED NO**
22 **LATER THAN 2 WEEKS AFTER THE ALLEGED VIOLATION.**

23 **(4) A PERSON WHO RECEIVES A CITATION UNDER PARAGRAPH (1)**
24 **OF THIS SUBSECTION MAY:**

25 **(I) PAY THE CIVIL PENALTY, IN ACCORDANCE WITH**
26 **INSTRUCTIONS ON THE CITATION, DIRECTLY TO PRINCE GEORGE'S COUNTY OR**
27 **TO THE DISTRICT COURT; OR**

28 **(II) ELECT TO STAND TRIAL FOR THE ALLEGED VIOLATION.**

1 **(G) (1) A CERTIFICATE ALLEGING THAT A VIOLATION OCCURRED,**
2 **SWORN TO OR AFFIRMED BY A DULY AUTHORIZED AGENT OF THE AGENCY,**
3 **BASED ON INSPECTION OF RECORDED IMAGES PRODUCED BY AN AUTOMATED**
4 **RAILROAD GRADE CROSSING ENFORCEMENT SYSTEM SHALL BE EVIDENCE OF**
5 **THE FACTS CONTAINED IN THE CERTIFICATE AND SHALL BE ADMISSIBLE IN ANY**
6 **PROCEEDING CONCERNING THE ALLEGED VIOLATION.**

7 **(2) ADJUDICATION OF LIABILITY SHALL BE BASED ON A**
8 **PREPONDERANCE OF EVIDENCE.**

9 **(H) (1) THE DISTRICT COURT MAY CONSIDER IN DEFENSE OF A**
10 **VIOLATION:**

11 **(I) THAT THE DRIVER OF THE VEHICLE PASSED THROUGH**
12 **THE RAILROAD GRADE CROSSING IN A MANNER THAT WOULD CONSTITUTE A**
13 **VIOLATION:**

14 **1. IN ORDER TO YIELD THE RIGHT-OF-WAY TO AN**
15 **EMERGENCY VEHICLE; OR**

16 **2. AS PART OF A FUNERAL PROCESSION IN**
17 **ACCORDANCE WITH § 21-207 OF THIS TITLE;**

18 **(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**
19 **THAT THE MOTOR VEHICLE OR REGISTRATION PLATES OF THE MOTOR VEHICLE**
20 **WERE STOLEN BEFORE THE VIOLATION OCCURRED AND WERE NOT UNDER THE**
21 **CONTROL OR POSSESSION OF THE OWNER AT THE TIME OF THE VIOLATION;**

22 **(III) THAT UNDER § 21-201 OF THIS TITLE, THIS SECTION IS**
23 **UNENFORCEABLE AGAINST THE OWNER BECAUSE AT THE TIME AND PLACE OF**
24 **THE ALLEGED VIOLATION, THE TRAFFIC CONTROL SIGNAL OR TRAFFIC**
25 **CONTROL DEVICE WAS NOT IN PROPER POSITION AND WAS UNABLE TO BE SEEN**
26 **BY AN ORDINARILY OBSERVANT INDIVIDUAL;**

27 **(IV) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,**
28 **EVIDENCE THAT THE PERSON NAMED IN THE CITATION WAS NOT OPERATING**
29 **THE VEHICLE AT THE TIME OF THE VIOLATION; AND**

1 **(V) ANY OTHER ISSUES AND EVIDENCE THAT THE DISTRICT**
2 **COURT DEEMS PERTINENT.**

3 **(2) IN ORDER TO DEMONSTRATE THAT THE MOTOR VEHICLE OR**
4 **THE REGISTRATION PLATES WERE STOLEN BEFORE THE VIOLATION OCCURRED**
5 **AND WERE NOT UNDER THE CONTROL OR POSSESSION OF THE OWNER AT THE**
6 **TIME OF THE VIOLATION, THE OWNER MUST SUBMIT PROOF THAT A POLICE**
7 **REPORT ABOUT THE STOLEN MOTOR VEHICLE OR REGISTRATION PLATES WAS**
8 **FILED IN A TIMELY MANNER.**

9 **(3) TO SATISFY THE EVIDENTIARY BURDEN UNDER PARAGRAPH**
10 **(1)(IV) OF THIS SUBSECTION, THE PERSON NAMED IN THE CITATION SHALL**
11 **PROVIDE TO THE DISTRICT COURT EVIDENCE TO THE SATISFACTION OF THE**
12 **COURT OF WHO WAS OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION,**
13 **INCLUDING, AT A MINIMUM, THE OPERATOR'S NAME AND CURRENT ADDRESS.**

14 **(4) (I) THE PROVISIONS OF THIS PARAGRAPH APPLY ONLY TO**
15 **A CITATION THAT INVOLVES A CLASS E (TRUCK) VEHICLE WITH A REGISTERED**
16 **GROSS WEIGHT OF 26,001 POUNDS OR MORE, CLASS F (TRACTOR) VEHICLE,**
17 **CLASS G (TRAILER) VEHICLE OPERATED IN COMBINATION WITH A CLASS F**
18 **(TRACTOR) VEHICLE, AND CLASS P (PASSENGER BUS) VEHICLE.**

19 **(II) TO SATISFY THE EVIDENTIARY BURDEN UNDER**
20 **PARAGRAPH (1)(IV) OF THIS SUBSECTION, THE PERSON NAMED IN A CITATION**
21 **DESCRIBED UNDER SUBPARAGRAPH (J) OF THIS PARAGRAPH MAY PROVIDE TO**
22 **THE DISTRICT COURT A LETTER, SWORN TO OR AFFIRMED BY THE PERSON AND**
23 **MAILED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, THAT:**

24 **1. STATES THAT THE PERSON NAMED IN THE**
25 **CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION;**
26 **AND**

27 **2. PROVIDES THE NAME, ADDRESS, AND DRIVER'S**
28 **LICENSE IDENTIFICATION NUMBER OF THE PERSON WHO WAS OPERATING THE**
29 **VEHICLE AT THE TIME OF THE VIOLATION.**

30 **(5) (I) IF THE DISTRICT COURT FINDS THAT THE PERSON**
31 **NAMED IN THE CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF**
32 **THE VIOLATION OR RECEIVES EVIDENCE UNDER PARAGRAPH (4)(II)2 OF THIS**

1 SUBSECTION IDENTIFYING THE PERSON DRIVING THE VEHICLE AT THE TIME OF
2 THE VIOLATION, THE CLERK OF THE COURT SHALL PROVIDE TO THE AGENCY
3 ISSUING THE CITATION A COPY OF ANY EVIDENCE SUBSTANTIATING WHO WAS
4 OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION.

5 (II) ON THE RECEIPT OF SUBSTANTIATING EVIDENCE FROM
6 THE DISTRICT COURT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, AN
7 AGENCY MAY ISSUE A CITATION AS PROVIDED IN SUBSECTION (F) OF THIS
8 SECTION TO THE PERSON THAT THE EVIDENCE INDICATES WAS OPERATING THE
9 VEHICLE AT THE TIME OF THE VIOLATION.

10 (III) A CITATION ISSUED UNDER SUBPARAGRAPH (II) OF
11 THIS PARAGRAPH SHALL BE MAILED NO LATER THAN 2 WEEKS AFTER RECEIPT
12 OF THE EVIDENCE FROM THE DISTRICT COURT.

13 (I) IF THE CIVIL PENALTY IS NOT PAID AND THE VIOLATION IS NOT
14 CONTESTED, THE ADMINISTRATION MAY REFUSE TO REGISTER OR REREGISTER
15 OR MAY SUSPEND THE REGISTRATION OF THE MOTOR VEHICLE.

16 (J) A VIOLATION FOR WHICH A CIVIL PENALTY IS IMPOSED UNDER THIS
17 SECTION:

18 (1) IS NOT A MOVING VIOLATION FOR THE PURPOSE OF
19 ASSESSING POINTS UNDER § 16-402 OF THIS ARTICLE AND MAY NOT BE
20 RECORDED BY THE ADMINISTRATION ON THE DRIVING RECORD OF THE OWNER
21 OR DRIVER OF THE VEHICLE;

22 (2) MAY BE TREATED AS A PARKING VIOLATION FOR PURPOSES
23 OF § 26-305 OF THIS ARTICLE; AND

24 (3) MAY NOT BE CONSIDERED IN THE PROVISION OF MOTOR
25 VEHICLE INSURANCE COVERAGE.

26 (K) IN CONSULTATION WITH LOCAL LAW ENFORCEMENT AGENCIES IN
27 PRINCE GEORGE'S COUNTY, THE CHIEF JUDGE OF THE DISTRICT COURT
28 SHALL ADOPT PROCEDURES FOR THE ISSUANCE OF CITATIONS, THE TRIAL OF
29 VIOLATIONS, AND THE COLLECTION OF CIVIL PENALTIES UNDER THIS SECTION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2007.