

HOUSE BILL 795

R5

71r1712

By: **Delegates Healey, Gaines, and Ross**
 Introduced and read first time: February 9, 2007
 Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Railroad Grade Crossings – Automated Enforcement Systems**

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 owner of a motor vehicle recorded by an automated railroad grade crossing
2 enforcement system violating certain laws regarding railroad grade crossings.

3 BY repealing and reenacting, with amendments,
4 Article – Courts and Judicial Proceedings
5 Section 4–401(13)
6 Annotated Code of Maryland
7 (2006 Replacement Volume)

8 BY repealing and reenacting, without amendments,
9 Article – Transportation
10 Section 11–167 and 11–168
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2006 Supplement)

13 BY adding to
14 Article – Transportation
15 Section 21–704.1
16 Annotated Code of Maryland
17 (2006 Replacement Volume and 2006 Supplement)

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

20 **Article – Courts and Judicial Proceedings**

21 4–401.

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

25 (13) A proceeding for a civil infraction under § 21–202.1, § **21–704.1**, or
26 § 21–809 of the Transportation Article or § 10–112 of the Criminal Law Article;

27 **Article – Transportation**

28 11–167.

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

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

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

3 11-168.

4 "Traffic control signal" means any traffic control device, whether manually,
5 electrically, or mechanically operated, by which traffic alternately is directed to stop
6 and permitted to proceed.

7 **21-704.1.**

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
9 MEANINGS INDICATED.

10 (2) "AGENCY" MEANS:

11 (I) FOR AN AUTOMATED RAILROAD GRADE CROSSING
12 ENFORCEMENT SYSTEM OPERATED AND MAINTAINED AT A RAILROAD GRADE
13 CROSSING UNDER THE CONTROL OF THE STATE, THE LAW ENFORCEMENT
14 AGENCY OF THE STATE PRIMARILY RESPONSIBLE FOR TRAFFIC CONTROL AT
15 THAT RAILROAD GRADE CROSSING; OR

16 (II) FOR AN AUTOMATED RAILROAD GRADE CROSSING
17 ENFORCEMENT SYSTEM OPERATED AND MAINTAINED AT A RAILROAD GRADE
18 CROSSING UNDER THE CONTROL OF A POLITICAL SUBDIVISION, A LAW
19 ENFORCEMENT AGENCY OF THE POLITICAL SUBDIVISION THAT IS AUTHORIZED
20 TO ISSUE CITATIONS FOR A VIOLATION OF THE MARYLAND VEHICLE LAW OR OF
21 LOCAL TRAFFIC LAWS OR REGULATIONS AT THAT RAILROAD GRADE CROSSING.

22 (3) "AUTOMATED RAILROAD GRADE CROSSING ENFORCEMENT
23 SYSTEM" MEANS A SYSTEM OPERATED BY AN AGENCY THAT RECORDS A
24 DRIVER'S RESPONSE TO A TRAFFIC CONTROL SIGNAL OR TRAFFIC CONTROL
25 DEVICE LOCATED AT A RAILROAD GRADE CROSSING.

26 (4) (I) "OWNER" MEANS THE REGISTERED OWNER OF A MOTOR
27 VEHICLE OR A LESSEE OF A MOTOR VEHICLE UNDER A LEASE OF 6 MONTHS OR
28 MORE.

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

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

6 **(B) A RECORDING BY AN AUTOMATED RAILROAD GRADE CROSSING**
7 **ENFORCEMENT SYSTEM UNDER THIS SECTION INDICATING THAT THE DRIVER**
8 **OF A MOTOR VEHICLE HAS COMMITTED A VIOLATION SHALL INCLUDE:**

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

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

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

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

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

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

15 **(C) THE RECORDING SHALL BE MADE 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.**

21 **(D) (1) UNLESS THE DRIVER OF THE MOTOR VEHICLE RECEIVED A**
22 **CITATION FROM A POLICE OFFICER AT THE TIME OF THE VIOLATION, THE**
23 **OWNER OR, IN ACCORDANCE WITH SUBSECTION (G)(5) OF THIS SECTION, THE**
24 **DRIVER OF A MOTOR VEHICLE IS SUBJECT TO A CIVIL PENALTY IF THE MOTOR**

1 VEHICLE IS RECORDED BY AN AUTOMATED RAILROAD GRADE CROSSING
2 ENFORCEMENT SYSTEM DURING THE COMMISSION OF A VIOLATION.

3 (2) A CIVIL PENALTY UNDER THIS SUBSECTION MAY NOT EXCEED
4 \$100.

5 (3) FOR PURPOSES OF THIS SECTION, THE DISTRICT COURT
6 SHALL PRESCRIBE:

7 (I) A UNIFORM CITATION FORM CONSISTENT WITH
8 SUBSECTION (E)(1) OF THIS SECTION AND § 7-302 OF THE COURTS ARTICLE;
9 AND

10 (II) A CIVIL PENALTY, WHICH SHALL BE INDICATED ON THE
11 CITATION, TO BE PAID BY PERSONS WHO CHOOSE TO PREPAY THE CIVIL
12 PENALTY WITHOUT APPEARING IN DISTRICT COURT.

13 (E) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (2) THROUGH
14 (4) OF THIS SUBSECTION, AN AGENCY SHALL MAIL TO THE OWNER LIABLE
15 UNDER SUBSECTION (D) OF THIS SECTION A CITATION THAT SHALL INCLUDE:

16 (I) THE NAME AND ADDRESS OF THE REGISTERED OWNER
17 OF THE VEHICLE;

18 (II) THE REGISTRATION NUMBER OF THE MOTOR VEHICLE
19 INVOLVED IN THE VIOLATION;

20 (III) THE VIOLATION CHARGED;

21 (IV) THE LOCATION OF THE RAILROAD GRADE CROSSING;

22 (V) THE DATE AND TIME OF THE VIOLATION;

23 (VI) A COPY OF THE RECORDED IMAGE;

24 (VII) THE AMOUNT OF THE CIVIL PENALTY IMPOSED AND THE
25 DATE BY WHICH THE CIVIL PENALTY MUST BE PAID;

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

4 **(IX) A STATEMENT THAT RECORDED IMAGES ARE EVIDENCE**
5 **OF A VIOLATION; AND**

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

8 **1. OF THE MANNER AND TIME IN WHICH LIABILITY**
9 **AS ALLEGED IN THE CITATION MAY BE CONTESTED IN THE DISTRICT COURT;**
10 **AND**

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

15 **(2) THE AGENCY MAY MAIL A WARNING NOTICE IN LIEU OF A**
16 **CITATION TO THE OWNER LIABLE UNDER SUBSECTION (D) OF THIS SECTION.**

17 **(3) EXCEPT AS PROVIDED IN SUBSECTION (G)(5) OF THIS**
18 **SECTION, A CITATION ISSUED UNDER THIS SECTION SHALL BE MAILED NO**
19 **LATER THAN 2 WEEKS AFTER THE ALLEGED VIOLATION.**

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

22 **(I) PAY THE CIVIL PENALTY, IN ACCORDANCE WITH**
23 **INSTRUCTIONS ON THE CITATION, DIRECTLY TO THE POLITICAL SUBDIVISION**
24 **OR TO THE DISTRICT COURT; OR**

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

26 **(F) (1) A CERTIFICATE ALLEGING THAT A VIOLATION OCCURRED,**
27 **SWORN TO OR AFFIRMED BY A DULY AUTHORIZED AGENT OF THE AGENCY,**
28 **BASED ON INSPECTION OF RECORDED IMAGES PRODUCED BY AN AUTOMATED**
29 **RAILROAD GRADE CROSSING ENFORCEMENT SYSTEM SHALL BE EVIDENCE OF**

1 THE FACTS CONTAINED IN THE CERTIFICATE AND SHALL BE ADMISSIBLE IN ANY
2 PROCEEDING CONCERNING THE ALLEGED VIOLATION.

3 (2) ADJUDICATION OF LIABILITY SHALL BE BASED ON A
4 PREPONDERANCE OF EVIDENCE.

5 (G) (1) THE DISTRICT COURT MAY CONSIDER IN DEFENSE OF A
6 VIOLATION:

7 (I) THAT THE DRIVER OF THE VEHICLE PASSED THROUGH
8 THE RAILROAD GRADE CROSSING IN A MANNER THAT WOULD CONSTITUTE A
9 VIOLATION:

10 1. IN ORDER TO YIELD THE RIGHT-OF-WAY TO AN
11 EMERGENCY VEHICLE; OR

12 2. AS PART OF A FUNERAL PROCESSION IN
13 ACCORDANCE WITH § 21-207 OF THIS TITLE;

14 (II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,
15 THAT THE MOTOR VEHICLE OR REGISTRATION PLATES OF THE MOTOR VEHICLE
16 WERE STOLEN BEFORE THE VIOLATION OCCURRED AND WERE NOT UNDER THE
17 CONTROL OR POSSESSION OF THE OWNER AT THE TIME OF THE VIOLATION;

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

23 (IV) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,
24 EVIDENCE THAT THE PERSON NAMED IN THE CITATION WAS NOT OPERATING
25 THE VEHICLE AT THE TIME OF THE VIOLATION; AND

26 (V) ANY OTHER ISSUES AND EVIDENCE THAT THE DISTRICT
27 COURT DEEMS PERTINENT.

28 (2) IN ORDER TO DEMONSTRATE THAT THE MOTOR VEHICLE OR
29 THE REGISTRATION PLATES WERE STOLEN BEFORE THE VIOLATION OCCURRED

1 AND WERE NOT UNDER THE CONTROL OR POSSESSION OF THE OWNER AT THE
2 TIME OF THE VIOLATION, THE OWNER MUST SUBMIT PROOF THAT A POLICE
3 REPORT ABOUT THE STOLEN MOTOR VEHICLE OR REGISTRATION PLATES WAS
4 FILED IN A TIMELY MANNER.

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

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

15 (II) TO SATISFY THE EVIDENTIARY BURDEN UNDER
16 PARAGRAPH (1)(IV) OF THIS SUBSECTION, THE PERSON NAMED IN A CITATION
17 DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY PROVIDE TO
18 THE DISTRICT COURT A LETTER, SWORN TO OR AFFIRMED BY THE PERSON AND
19 MAILED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, THAT:

20 1. STATES THAT THE PERSON NAMED IN THE
21 CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION;
22 AND

23 2. PROVIDES THE NAME, ADDRESS, AND DRIVER'S
24 LICENSE IDENTIFICATION NUMBER OF THE PERSON WHO WAS OPERATING THE
25 VEHICLE AT THE TIME OF THE VIOLATION.

26 (5) (I) IF THE DISTRICT COURT FINDS THAT THE PERSON
27 NAMED IN THE CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF
28 THE VIOLATION OR RECEIVES EVIDENCE UNDER PARAGRAPH (4)(II)2 OF THIS
29 SUBSECTION IDENTIFYING THE PERSON DRIVING THE VEHICLE AT THE TIME OF
30 THE VIOLATION, THE CLERK OF THE COURT SHALL PROVIDE TO THE AGENCY
31 ISSUING THE CITATION A COPY OF ANY EVIDENCE SUBSTANTIATING WHO WAS
32 OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION.

1 **(II) ON THE RECEIPT OF SUBSTANTIATING EVIDENCE FROM**
2 **THE DISTRICT COURT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, AN**
3 **AGENCY MAY ISSUE A CITATION AS PROVIDED IN SUBSECTION (E) OF THIS**
4 **SECTION TO THE PERSON THAT THE EVIDENCE INDICATES WAS OPERATING THE**
5 **VEHICLE AT THE TIME OF THE VIOLATION.**

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

9 **(H) IF THE CIVIL PENALTY IS NOT PAID AND THE VIOLATION IS NOT**
10 **CONTESTED, THE ADMINISTRATION MAY REFUSE TO REGISTER OR REREGISTER**
11 **OR MAY SUSPEND THE REGISTRATION OF THE MOTOR VEHICLE.**

12 **(I) A VIOLATION FOR WHICH A CIVIL PENALTY IS IMPOSED UNDER THIS**
13 **SECTION:**

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

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

20 **(3) MAY NOT BE CONSIDERED IN THE PROVISION OF MOTOR**
21 **VEHICLE INSURANCE COVERAGE.**

22 **(J) IN CONSULTATION WITH LOCAL GOVERNMENTS, THE CHIEF JUDGE**
23 **OF THE DISTRICT COURT SHALL ADOPT PROCEDURES FOR THE ISSUANCE OF**
24 **CITATIONS, THE TRIAL OF VIOLATIONS, AND THE COLLECTION OF CIVIL**
25 **PENALTIES UNDER THIS SECTION.**

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