

HOUSE BILL 1039

R5

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By: **Delegate Kach**

Introduced and read first time: February 9, 2007

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County – Vehicle Laws – Speed Monitoring Systems**

3 FOR the purpose of authorizing the placement of certain speed monitoring systems on
4 certain highways in Baltimore County; making certain provisions of law
5 concerning the enforcement of speed limit laws with certain speed monitoring
6 systems applicable in Baltimore County; authorizing a person who receives a
7 citation under this Act to pay the civil penalty to the Baltimore County Office of
8 Budget and Finance or elect to stand trial; requiring the Baltimore County
9 Office of Budget and Finance, in consultation with local police departments and
10 the Chief Judge of the District Court to adopt procedures for the issuance of
11 citations, trial of civil violations, and the collection of civil penalties under this
12 Act; altering a certain definition; requiring revenues generated from the
13 enforcement of speed limit laws with the use of speed monitoring systems to be
14 used to increase local expenditures for public safety purposes; providing that
15 certain expenditures under this Act are supplemental to certain existing
16 expenditures; and generally relating to the use of speed monitoring systems in
17 Baltimore County.

18 BY repealing and reenacting, with amendments,
19 Article – Transportation
20 Section 21–809
21 Annotated Code of Maryland
22 (2006 Replacement Volume and 2006 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Transportation

21–809.

(a) (1) In this section the following words have the meanings indicated.

(2) “Local police department” means:

(i) **IN MONTGOMERY COUNTY:**

1. The Montgomery County Department of Police; and

[(ii)] 2. The police department of any municipal corporation in Montgomery County; **AND**

(II) IN BALTIMORE COUNTY, THE BALTIMORE COUNTY POLICE DEPARTMENT.

(3) (i) “Owner” means the registered owner of a motor vehicle or a lessee of a motor vehicle under a lease of 6 months or more.

(ii) “Owner” does not include:

1. A motor vehicle rental or leasing company; or

2. A holder of a special registration plate issued under Title 13, Subtitle 9, Part III of this article.

(4) “Recorded image” means an image recorded by a speed monitoring system:

(i) On:

1. A photograph;

2. A microphotograph;

3. An electronic image;

4. Videotape; or

1 5. Any other medium; and

2 (ii) Showing:

3 1. The rear of a motor vehicle;

4 2. At least two time-stamped images of the motor
5 vehicle that include the same stationary object near the motor vehicle; and

6 3. On at least one image or portion of tape, clearly
7 identifying the registration plate number of the motor vehicle.

8 (5) “Speed monitoring system” means a device with one or more motor
9 vehicle sensors producing recorded images of motor vehicles traveling at speeds at
10 least 10 miles per hour above the posted speed limit.

11 (6) “Speed monitoring system operator” means an individual who
12 operates a speed monitoring system.

13 (b) (1) This section applies to a violation of this subtitle that occurs in
14 Montgomery County **OR BALTIMORE COUNTY** recorded by a speed monitoring
15 system that meets the requirements of this subsection and has been placed:

16 (i) **IN MONTGOMERY COUNTY:**

17 1. On a highway in a residential district as defined in §
18 21–101 of this title:

19 [1.] **A.** With a maximum posted speed limit of 35 miles
20 per hour; and

21 [2.] **B.** That has a speed limit that was established
22 using generally accepted traffic engineering practices; or

23 [(ii)] **2.** In a school zone established under § 21–803.1 of this
24 subtitle; **AND**

25 **(ii) IN BALTIMORE COUNTY ON THE INBOUND LANE OF ANY**
26 **HIGHWAY THAT ENTERS BALTIMORE COUNTY FROM ANOTHER JURISDICTION,**
27 **WITHIN ONE-FOURTH OF A MILE FROM THE BORDER WITH THE OTHER**
28 **JURISDICTION.**

1 (2) (i) A speed monitoring system operator shall complete training
2 by a manufacturer of speed monitoring systems in the procedures for setting up and
3 operating the speed monitoring system.

4 (ii) The manufacturer shall issue a signed certificate to the
5 speed monitoring system operator upon completion of the training.

6 (iii) The certificate of training shall be admitted as evidence in
7 any court proceeding for a violation of this section.

8 (3) A speed monitoring system operator shall fill out and sign a daily
9 set-up log for a speed monitoring system that:

10 (i) States that the speed monitoring system operator
11 successfully performed the manufacturer-specified self-test of the speed monitoring
12 system prior to producing a recorded image;

13 (ii) Shall be kept on file; and

14 (iii) Shall be admitted as evidence in any court proceeding for a
15 violation of this section.

16 (4) (i) A speed monitoring system shall undergo an annual
17 calibration check performed by an independent calibration laboratory.

18 (ii) The independent calibration laboratory shall issue a signed
19 certificate of calibration after the annual calibration check, which:

20 1. Shall be kept on file; and

21 2. Shall be admitted as evidence in any court proceeding
22 for a violation of this section.

23 (c) (1) Unless the driver of the motor vehicle received a citation from a
24 police officer at the time of the violation, the owner or, in accordance with subsection
25 (f)(4) of this section, the driver of a motor vehicle is subject to a civil penalty if the
26 motor vehicle is recorded by a speed monitoring system while being operated in
27 violation of this subtitle.

28 (2) A civil penalty under this subsection may not exceed \$40.

29 (3) For purposes of this section, the District Court shall prescribe:

1 (i) A uniform citation form consistent with subsection (d)(1) of
2 this section and § 7–302 of the Courts Article; and

3 (ii) A civil penalty, which shall be indicated on the citation, to be
4 paid by persons who choose to prepay the civil penalty without appearing in District
5 Court.

6 (d) (1) Subject to the provisions of paragraphs (2) through (4) of this
7 subsection, the local police department shall mail to the owner, liable under subsection
8 (c) of this section, a citation that shall include:

9 (i) The name and address of the registered owner of the vehicle;

10 (ii) The registration number of the motor vehicle involved in the
11 violation;

12 (iii) The violation charged;

13 (iv) The location where the violation occurred;

14 (v) The date and time of the violation;

15 (vi) A copy of the recorded image;

16 (vii) The amount of the civil penalty imposed and the date by
17 which the civil penalty should be paid;

18 (viii) A signed statement by a duly authorized agent of the local
19 police department that, based on inspection of recorded images, the motor vehicle was
20 being operated in violation of this subtitle;

21 (ix) A statement that recorded images are evidence of a violation
22 of this subtitle;

23 (x) Information advising the person alleged to be liable under
24 this section of the manner and time in which liability as alleged in the citation may be
25 contested in the District Court; and

26 (xi) Information advising the person alleged to be liable under
27 this section that failure to pay the civil penalty or to contest liability in a timely
28 manner:

29 1. Is an admission of liability;

1 2. May result in the refusal by the Administration to
2 register the motor vehicle; and

3 3. May result in the suspension of the motor vehicle
4 registration.

5 (2) The local police department may mail a warning notice instead of a
6 citation to the owner liable under subsection (c) of this section.

7 (3) Except as provided in subsection (f)(4) of this section, the local
8 police department may not mail a citation to a person who is not an owner.

9 (4) Except as provided in subsection (f)(4) of this section, a citation
10 issued under this section shall be mailed no later than 2 weeks after the alleged
11 violation if the vehicle is registered in this State, and 30 days after the alleged
12 violation if the vehicle is registered in another state.

13 (5) A person who receives a citation under paragraph (1) of this
14 subsection may:

15 (i) Pay the civil penalty, in accordance with instructions on the
16 citation, directly to:

17 **1. IN MONTGOMERY COUNTY,** the Montgomery
18 County Department of Finance; or

19 **2. IN BALTIMORE COUNTY, THE BALTIMORE**
20 **COUNTY OFFICE OF BUDGET AND FINANCE; OR**

21 (ii) Elect to stand trial in the District Court for the alleged
22 violation.

23 (e) (1) A certificate alleging that the violation of this subtitle occurred and
24 the requirements under subsection (b) of this section have been satisfied, sworn to, or
25 affirmed by a duly authorized agent of the local police department, based on inspection
26 of recorded images produced by a speed monitoring system, shall be evidence of the
27 facts contained in the certificate and shall be admissible in a proceeding alleging a
28 violation under this section without the presence or testimony of the speed monitoring
29 system operator who performed the requirements under subsection (b) of this section.

1 (2) If a person who received a citation under subsection (d) of this
2 section desires the speed monitoring system operator to be present and testify at trial,
3 the person shall notify the court and the State in writing no later than 20 days before
4 trial.

5 (3) Adjudication of liability shall be based on a preponderance of
6 evidence.

7 (f) (1) The District Court may consider in defense of a violation:

8 (i) Subject to paragraph (2) of this subsection, that the motor
9 vehicle or the registration plates of the motor vehicle were stolen before the violation
10 occurred and were not under the control or possession of the owner at the time of the
11 violation;

12 (ii) Subject to paragraph (3) of this subsection, evidence that the
13 person named in the citation was not operating the vehicle at the time of the violation;
14 and

15 (iii) Any other issues and evidence that the District Court deems
16 pertinent.

17 (2) In order to demonstrate that the motor vehicle or the registration
18 plates were stolen before the violation occurred and were not under the control or
19 possession of the owner at the time of the violation, the owner shall submit proof that
20 a police report regarding the stolen motor vehicle or registration plates was filed in a
21 timely manner.

22 (3) To satisfy the evidentiary burden under paragraph (1)(ii) of this
23 subsection, the person named in the citation shall provide to the District Court a
24 letter, sworn to or affirmed by the person and mailed by certified mail, return receipt
25 requested, that:

26 (i) States that the person named in the citation was not
27 operating the vehicle at the time of the violation;

28 (ii) Provides the name, address, and, if possible, the driver's
29 license identification number of the person who was operating the vehicle at the time
30 of the violation; and

31 (iii) Includes any other corroborating evidence.

1 (4) (i) If the District Court finds that the person named in the
2 citation was not operating the vehicle at the time of the violation or receives evidence
3 under paragraph (3) of this subsection identifying the person driving the vehicle at the
4 time of the violation, the clerk of the court shall provide to the local police department
5 a copy of any evidence substantiating who was operating the vehicle at the time of the
6 violation.

7 (ii) On receipt of substantiating evidence from the District
8 Court under subparagraph (i) of this paragraph, the local police department may issue
9 a citation as provided in subsection (d) of this section to the person who the evidence
10 indicates was operating the vehicle at the time of the violation.

11 (iii) A citation issued under subparagraph (ii) of this paragraph
12 shall be mailed no later than 2 weeks after receipt of the evidence from the District
13 Court.

14 (g) If a person liable under this section does not pay the civil penalty or
15 contest the violation, the Administration:

16 (1) May refuse to register or reregister the motor vehicle cited for the
17 violation; or

18 (2) May suspend the registration of the motor vehicle cited for the
19 violation.

20 (h) A violation for which a civil penalty is imposed under this section:

21 (1) Is not a moving violation for the purpose of assessing points under
22 § 16–402 of this article;

23 (2) May not be recorded by the Administration on the driving record of
24 the owner or driver of the vehicle;

25 (3) May be treated as a parking violation for purposes of § 26–305 of
26 this article; and

27 (4) May not be considered in the provision of motor vehicle insurance
28 coverage.

29 (i) In consultation with the Montgomery County Department of Finance **OR**
30 **THE BALTIMORE COUNTY OFFICE OF BUDGET AND FINANCE** and the local police
31 departments, the Chief Judge of the District Court shall adopt procedures for the

1 issuance of citations, the trial of civil violations, and the collection of civil penalties
2 under this section.

3 (j) If a contractor operates a speed monitoring system on behalf of
4 Montgomery County **OR BALTIMORE COUNTY**, the contractor's fee may not be
5 contingent on the number of citations issued or paid.

6 SECTION 2. AND BE IT FURTHER ENACTED, That:

7 (a) Baltimore County shall use the revenues generated from the enforcement
8 of speed limit laws as authorized under this Act solely to increase local expenditures
9 for related public safety purposes; and

10 (b) Related public safety expenditures required under this section shall be
11 used to supplement and may not supplant existing local expenditures for the same
12 purpose.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2007.