

SENATE BILL 730

R5

71r2468

By: **Senator Mooney**

Introduced and read first time: February 9, 2007

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Traffic Control Signal Monitoring Systems and Speed**
3 **Monitoring Systems – Defenses**

4 FOR the purpose of adding the defense that the driver was responding to a
5 health-related emergency or that the driver's view of a traffic control signal was
6 obstructed by a truck to the list of defenses that the District Court may consider
7 in defense of a violation of a certain offense recorded by a traffic control signal
8 monitoring system; adding the defense of responding to a health-related
9 emergency to the list of defenses that the District Court may consider in defense
10 of a violation of a certain offense recorded by a speed monitoring system; and
11 generally relating to the defense of violations recorded by traffic control signal
12 monitoring systems and speed monitoring systems.

13 BY repealing and reenacting, without amendments,
14 Article – Transportation
15 Section 21-202(h), 21-202.1(c), and 21-809(b)(1)
16 Annotated Code of Maryland
17 (2006 Replacement Volume and 2006 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Transportation
20 Section 21-202.1(g) and 21-809(f)
21 Annotated Code of Maryland
22 (2006 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Transportation**

4 21–202.

5 (h) (1) Vehicular traffic facing a steady circular red signal alone:

6 (i) Shall stop at the near side of the intersection:

7 1. At a clearly marked stop line;

8 2. If there is no clearly marked stop line, before entering
9 any crosswalk; or

10 3. If there is no crosswalk, before entering the
11 intersection; and

12 (ii) Except as provided in subsections (i), (j), and (k) of this
13 section, shall remain stopped until a signal to proceed is shown.

14 (2) Vehicular traffic facing a steady red arrow signal:

15 (i) May not enter the intersection to make the movement
16 indicated by the arrow;

17 (ii) Unless entering the intersection to make a movement
18 permitted by another signal, shall stop at the near side of the intersection:

19 1. At a clearly marked stop line;

20 2. If there is no clearly marked stop line, before entering
21 any crosswalk; or

22 3. If there is no crosswalk, before entering the
23 intersection; and

24 (iii) Except as provided in subsections (i), (j), and (k) of this
25 section, shall remain stopped until a signal permitting the movement is shown.

26 21–202.1.

1 (c) This section applies to a violation of § 21–202(h) of this subtitle at an
2 intersection monitored by a traffic control signal monitoring system.

3 (g) (1) The District Court may consider in defense of a violation:

4 (i) That the driver of the vehicle passed through the
5 intersection in violation of § 21–202(h) of this subtitle:

6 1. In order to yield the right-of-way to an emergency
7 vehicle; [or]

8 2. As part of a funeral procession in accordance with §
9 21–207 of this subtitle;

10 **3. IN RESPONSE TO A HEALTH-RELATED**
11 **EMERGENCY; OR**

12 **4. BECAUSE A TRUCK WAS OBSTRUCTING THE**
13 **DRIVER'S VIEW OF THE TRAFFIC CONTROL SIGNAL AND THE DRIVER COULD NOT**
14 **SEE THE STEADY RED SIGNAL;**

15 (ii) Subject to paragraph (2) of this subsection, that the motor
16 vehicle or registration plates of the motor vehicle were stolen before the violation
17 occurred and were not under the control or possession of the owner at the time of the
18 violation;

19 (iii) That under § 21–201 of this subtitle, this section is
20 unenforceable against the owner because at the time and place of the alleged violation,
21 the traffic control signal was not in proper position and legible enough to be seen by an
22 ordinarily observant individual;

23 (iv) Subject to paragraph (3) of this subsection, evidence that the
24 person named in the citation was not operating the vehicle at the time of the violation;
25 and

26 (v) Any other issues and evidence that the District Court deems
27 pertinent.

28 (2) In order to demonstrate that the motor vehicle or the registration
29 plates were stolen before the violation occurred and were not under the control or
30 possession of the owner at the time of the violation, the owner must submit proof that

1 a police report about the stolen motor vehicle or registration plates was filed in a
2 timely manner.

3 (3) To satisfy the evidentiary burden under paragraph (1)(iv) of this
4 subsection, the person named in the citation shall provide to the District Court
5 evidence to the satisfaction of the court of who was operating the vehicle at the time of
6 the violation, including, at a minimum, the operator's name and current address.

7 (4) (i) The provisions of this paragraph apply only to a citation that
8 involves a Class E (truck) vehicle with a registered gross weight of 26,001 pounds or
9 more, Class F (tractor) vehicle, Class G (trailer) vehicle operated in combination with a
10 Class F (tractor) vehicle, and Class P (passenger bus) vehicle.

11 (ii) To satisfy the evidentiary burden under paragraph (1)(iv) of
12 this subsection, the person named in a citation described under subparagraph (i) of
13 this paragraph may provide to the District Court a letter, sworn to or affirmed by the
14 person and mailed by certified mail, return receipt requested, that:

15 1. States that the person named in the citation was not
16 operating the vehicle at the time of the violation; and

17 2. Provides the name, address, and driver's license
18 identification number of the person who was operating the vehicle at the time of the
19 violation.

20 (5) (i) If the District Court finds that the person named in the
21 citation was not operating the vehicle at the time of the violation or receives evidence
22 under paragraph (4)(ii)2 of this subsection identifying the person driving the vehicle at
23 the time of the violation, the clerk of the court shall provide to the agency issuing the
24 citation a copy of any evidence substantiating who was operating the vehicle at the
25 time of the violation.

26 (ii) Upon the receipt of substantiating evidence from the District
27 Court under subparagraph (i) of this paragraph, an agency may issue a citation as
28 provided in subsection (e) of this section to the person that the evidence indicates was
29 operating the vehicle at the time of the violation.

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

33 21-809.

1 (b) (1) This section applies to a violation of this subtitle that occurs in
2 Montgomery County recorded by a speed monitoring system that meets the
3 requirements of this subsection and has been placed:

4 (i) On a highway in a residential district as defined in § 21–101
5 of this title:

6 1. With a maximum posted speed limit of 35 miles per
7 hour; and

8 2. That has a speed limit that was established using
9 generally accepted traffic engineering practices; or

10 (ii) In a school zone established under § 21–803.1 of this
11 subtitle.

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

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

17 (ii) Subject to paragraph (3) of this subsection, evidence that the
18 person named in the citation was not operating the vehicle at the time of the violation;
19 [and]

20 (iii) **THAT THE DRIVER OF THE VEHICLE WAS VIOLATING**
21 **THIS SUBTITLE IN RESPONSE TO A HEALTH-RELATED EMERGENCY; AND**

22 (IV) Any other issues and evidence that the District Court deems
23 pertinent.

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

29 (3) To satisfy the evidentiary burden under paragraph (1)(ii) of this
30 subsection, the person named in the citation shall provide to the District Court a

1 letter, sworn to or affirmed by the person and mailed by certified mail, return receipt
2 requested, that:

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

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

8 (iii) Includes any other corroborating evidence.

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

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

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

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