

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 795

(Delegate Healey, *et al.*)

Environmental Matters

Vehicle Laws - Railroad Grade Crossings - Automated Enforcement Systems

This bill authorizes the use of automated enforcement systems at railroad crossings to identify and issue citations to persons who pass through railroad crossings in violation of the Maryland Vehicle Law.

Fiscal Summary

State Effect: Minimal increase in general fund revenues from contested citations paid to the District Court. Minimal increase in Transportation Trust Fund (TTF) revenues from flag fees due to late payment of automated citations. The District Court, the Motor Vehicle Administration (MVA), and the State Police should be able to comply with the provisions of this bill within existing resources.

Local Effect: Potential significant increase in revenues and expenditures for local governments that choose to install automated enforcement systems at railroad crossings.

Small Business Effect: Potential minimal increase in revenues for contractors to install automated railroad crossing systems.

Analysis

Bill Summary: Unless a police officer issues a citation, this bill authorizes the issuance of citations to drivers for passing through railroad crossings in a way that violates the Maryland Vehicle Law, based on recorded images collected by automated railroad crossing enforcement systems. An “automated railroad crossing enforcement system” is a system operated by a State or local agency that records a driver’s response to a traffic

control signal or device located at a railroad crossing. The system produces recorded images that must include an image of the motor vehicle; the driver; the vehicle's rear license plate; and the date, time, and location of the violation. The recording must be made on two or more photographs, microphotographs, or other media as specified.

The bill applies to the requirement to obey signals or to stop at railroad crossings maintained by State and local governments. The bill establishes a maximum civil penalty of \$100.

A person who receives a citation by mail may pay the specified civil penalty directly to the political subdivision that issued the citation or to the District Court. Fines payable to the District Court are distributed to the general fund. The person may instead 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 issuing State or local agency is prohibited from mailing a citation to a person who is not a vehicle owner.

A certificate alleging that a railroad crossing violation occurred as specified, sworn to or affirmed by a duly authorized agent of the agency, is evidence of the facts and is also admissible at trial. Adjudication of liability is based on a preponderance of the evidence standard.

In defense of an alleged violation, the District Court may consider that the driver passed through railroad gates in violation of the Maryland Vehicle Law to yield the right-of-way to an emergency vehicle or as part of a funeral procession. The District Court may consider the defense that automated enforcement provisions were unenforceable because the traffic control signal or device was not in the proper position and could not be seen by an ordinarily observant individual at the time and place of the alleged offense.

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 provide satisfactory evidence to the District Court indicating who was operating the vehicle at the time of the violation, including, at a minimum, the name and address of the operator. If the citation involves a specified truck, tractor, passenger bus, or tractor-trailer combination vehicle, the person cited must submit a sworn, written statement that the person cited was not operating the vehicle at the time of the violation and provide the name, address, and driver's license number of the operator at the time of the violation. If the District Court finds that the person cited was not operating the vehicle, the clerk of the court must provide the substantiating evidence to the issuing agency.

If the fine is not paid and the violation is not contested, the MVA may refuse to register or transfer the vehicle registration or may suspend the registration. A violation is treated as a parking violation, is not a moving violation for the purpose of assessing points, may not be placed on the driving record of the vehicle owner or driver, and may not be considered in the provision of motor vehicle insurance coverage.

In consultation with local governments, the Chief Judge of the District Court must adopt procedures for citations, civil trials, and the collection of civil penalties.

Current Law:

Railroad Crossings: If a vehicle driver approaches a railroad grade crossing and the following circumstances exist, the driver must stop within 50 feet, but not less than 15 feet from the nearest rail in the crossing and may not proceed unless it is safe to do so:

- a clearly visible electric or mechanical signal device warns of a train;
- a crossing gate is lowered;
- a flagman signals the approach or passage of a train;
- a train within 1,500 feet of the crossing gives an audible signal to traffic and due to speed or proximity, the train is an immediate danger; or
- a train is plainly visible and is approaching or dangerously close to the crossing.

The State Highway Administration (SHA) or any approved local authority may place a stop sign at any particularly dangerous railroad crossing. The driver is required to obey such signage. Except as otherwise provided, every motor vehicle carrying passengers for hire, school vehicle, church-owned bus carrying passengers, and vehicle carrying flammable or explosive materials must stop upon approaching a railroad crossing within 50 feet, but no less than 15 feet from the nearest rail in the crossing. The drivers of these vehicles must also look and listen for any signal of the approach or passing of a train. Commercial motor vehicle operators or movers of specified heavy equipment are subject to additional restrictions when passing through railroad crossings.

Automated Enforcement: 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 indication. In addition, Montgomery County is authorized to operate an automated enforcement system in specified areas to detect drivers who violate speeding laws.

Generally, a traffic control system citation must be mailed no later than two weeks after the alleged violation. Fines in uncontested cases are paid directly to the issuing political subdivision or, if the State issues the citation, to the District Court. If an 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 and disbursed to various transportation-related funds.

Background: Automated traffic enforcement systems are automatic camera systems that photograph vehicles during the commission of a traffic offense, most likely, the running of a red light. In September 2001, a San Diego Superior Court judge ruled that red light cameras do not violate a person's constitutional right to privacy and that the city has the constitutional right to operate red light cameras. Lawsuits from other jurisdictions that have challenged the constitutionality of automated traffic systems since that 2001 ruling have been unsuccessful.

According to the Governors Highway Safety Association, 20 states and the District of Columbia have provisions related to automated enforcement. However, only a few states (California, Illinois, Michigan, and Washington) have authorized the use of automated enforcement systems to record traffic offenses at railroad crossings. The automated enforcement system used in the District of Columbia issues citations for any recorded moving violation, including violations at railroad crossings. In 2004, the Secretary of the U.S. Department of Transportation developed an action plan for improving safety at railroad crossings, including encouraging state and local governments to increase the use of automated enforcement.

Automated camera systems are used extensively in Europe and Australia to enforce most traffic laws.

State Revenues: Minimal increase in general fund revenues from penalties paid to the District Court for contested cases. The District Court advises that there were 100 citations filed for traffic violations at railroad crossings in fiscal 2006. The District Court has advised, for other automated enforcement legislation, that the number of automated tickets issued is about 20 times greater than police-issued tickets for the same infraction. *By way of illustration*, if automated rail crossing enforcement increased the number of tickets issued in a fiscal year by 20 times (2,000 tickets) and one-quarter of those people decided to contest the penalty, the District Court could process an additional

500 trials under this bill. If all of those drivers were found guilty, general fund revenues could increase by \$50,000.

TTF revenues could increase minimally under this bill. Since automated railroad crossing citations would be treated as parking violations under this bill, a driver who does not pay by the deadline 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. The MVA did not provide information on the fiscal impact of this bill. However, *by way of illustration*, if automated rail crossing enforcement increased the number of tickets issued in a fiscal year to 2,000 and one-quarter of those people decided to contest the penalty, about 1,500 drivers would likely prepay the penalty. If half of those drivers paid after the deadline, TTF revenues could increase by \$22,500. To the extent that the drivers fail to pay these citations, there could also be an increase in the volume of vehicle registrations withheld, suspended, and reinstated. The Department of Legislative Services (DLS) anticipates any increase in the number of registrations withheld, suspended, or reinstated to be minimal as a result of this bill.

State Expenditures:

Maryland Department of Transportation and Department of State Police: SHA would have the primary responsibility for installing cameras at railroad crossing gates managed by the State. The State Police would have the primary responsibility for operating the cameras at these railroad crossing gates. SHA advises that there are no plans to install cameras at State-maintained railroad crossing gates. Since revenues would not accrue to SHA and the State Police, the costs for installation could not be recouped. In addition, SHA advises that an automated system would probably need to be linked to the crossing gates, which are usually under the control of railroad companies. Railroad companies would not be required to cooperate with SHA to facilitate the installation of automated systems under this bill, further reducing any incentive to install automated systems at railroad crossings.

Judiciary: The District Court advises that the bill could have a significant fiscal and operational impact on its operations because the number of contested cases could increase under this bill, and court clerks could be requested to provide substantiating evidence to issuing agencies, requiring additional clerical and court resources and possibly additional personnel to manually process the citations that could be issued under this bill.

DLS advises, however, that the automated system in this bill is authorized, not mandated. Local governments would probably have to successfully work with railroad companies to install automated systems at crossing gates controlled by the companies, as well as undertake significant expense to actually install and maintain the systems. Therefore, it

is likely that many local governments would choose not to install the automated systems authorized in this bill. Also, the number of citations currently processed by the District Court on annual basis is small (only 100 for fiscal 2006). Even if this number increased many times under automated enforcement because: (1) the penalty is a civil one; (2) is not a moving violation; and (3) is not recordable for points or for insurance coverage, many people cited would prepay the penalty rather than contesting the violation in the District Court. Also, SHA has no plans to install automated enforcement systems, reducing the number of automated citations that could be processed by the District Court. Accordingly, DLS advises that the District Court should be able to process any increased citations resulting from this bill with existing resources.

Local Effect: For local governments that choose to install automated systems, both revenues and expenditures could increase significantly. The fiscal impact would vary depending on the number of railroad crossings in the jurisdiction that were outfitted with automated systems.

Montgomery County advises that an estimated 10 cameras could be installed at railroad crossing gates. If 25 citations were issued per month at the maximum fine of \$100, Montgomery County could expect to gain \$300,000 in revenue in fiscal 2008. The out-year revenues would vary depending on how many cameras were installed, whether any were added or subtracted, and the impact of driver behavior as more drivers become aware of installed cameras. The revenues would be offset by expenditures of \$145,000 in fiscal 2008. Out-year expenditures would increase about 5% annually. Expenditures would include \$90,000 to contract with an operator to maintain the systems at a price of \$30 per paid citation. Harford County advises that it has three active county-controlled railroad crossings. To install video cameras at each of these crossings would cost a total of \$30,000 in fiscal 2008. The City of Laurel advises that there are no railroad crossings within its jurisdiction.

Additional Information

Prior Introductions: None.

Cross File: Although SB 544 is not designated as a cross file, it is identical, except for the bill's title.

Information Source(s): City of Laurel, Montgomery County, Harford County, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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