

HOUSE BILL 174

R5

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By: **Delegate Aumann**

Introduced and read first time: January 21, 2008

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of adding Baltimore County as a county authorized to use certain
4 speed monitoring systems to enforce highway speed laws under certain
5 standards, procedures, and requirements; requiring the Chief Judge of the
6 District Court to consult with certain local agencies in adopting certain
7 procedures; restricting the use of certain revenues generated by this Act;
8 providing for the application of this Act; providing that existing obligations or
9 contract rights may not be impaired by this Act; requiring Baltimore County to
10 report on the effectiveness of speed monitoring systems to the General
11 Assembly on or before a certain date; altering a certain definition; and generally
12 relating to imposition of liability on certain persons recorded by speed
13 monitoring systems violating certain laws regarding the operation of motor
14 vehicles in excess of certain speed limits.

15 BY repealing and reenacting, without amendments,
16 Article – Courts and Judicial Proceedings
17 Section 4–401(13), 7–301(a), 7–302(e), and 10–311
18 Annotated Code of Maryland
19 (2006 Replacement Volume and 2007 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Insurance
22 Section 11–215(e) and 11–318(e)
23 Annotated Code of Maryland
24 (2003 Replacement Volume and 2007 Supplement)

25 BY repealing and reenacting, without amendments,
26 Article – State Government
27 Section 10–616(o)
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2004 Replacement Volume and 2007 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article – Transportation

4 Section 21–809

5 Annotated Code of Maryland

6 (2006 Replacement Volume and 2007 Supplement)

7 BY repealing and reenacting, without amendments,

8 Article – Transportation

9 Section 26–305(a) and 26–401

10 Annotated Code of Maryland

11 (2006 Replacement Volume and 2007 Supplement)

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

14 **Article – Courts and Judicial Proceedings**

15 4–401.

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

19 (13) A proceeding for a civil infraction under § 21–202.1, § 21–704.1, or
20 § 21–809 of the Transportation Article or § 10–112 of the Criminal Law Article;

21 7–301.

22 (a) The court costs in a traffic case, including parking and impounding cases,
23 cases under § 21–202.1 or § 21–809 of the Transportation Article in which costs are
24 imposed, and cases under § 10–112 of the Criminal Law Article in which costs are
25 imposed are \$22.50. Such costs shall also be applicable to those cases in which the
26 defendant elects to waive his right to trial and pay the fine or penalty deposit
27 established by the Chief Judge of the District Court by administrative regulation. In
28 an uncontested case under § 21–202.1 or § 21–809 of the Transportation Article, an
29 uncontested case under § 10–112 of the Criminal Law Article, or an uncontested
30 parking or impounding case in which the fines are paid directly to a political
31 subdivision or municipality, costs are \$2.00, which costs shall be paid to and retained
32 by the political subdivision or municipality. In an uncontested case in which the fine is
33 paid directly to an agency of State government authorized by law to regulate parking
34 of motor vehicles, the costs are \$2.00. The fine and the costs shall be paid to the
35 agency, which shall receive and account for these funds as in all other cases involving
36 sums due the State through a State agency.

37 7–302.

1 (e) (1) A citation issued pursuant to § 21–202.1 or § 21–809 of the
2 Transportation Article shall provide that the person receiving the citation may elect to
3 stand trial by notifying the issuing agency of the person’s intention to stand trial at
4 least 5 days prior to the date of payment as set forth in the citation. On receipt of the
5 notice to stand trial, the agency shall forward to the District Court having venue a
6 copy of the citation and a copy of the notice from the person who received the citation
7 indicating the person’s intention to stand trial. On receipt thereof, the District Court
8 shall schedule the case for trial and notify the defendant of the trial date under
9 procedures adopted by the Chief Judge of the District Court.

10 (2) A citation issued as the result of a traffic control signal monitoring
11 system or speed monitoring system controlled by a political subdivision shall provide
12 that, in an uncontested case, the penalty shall be paid directly to that political
13 subdivision. A citation issued as the result of a traffic control signal monitoring system
14 controlled by a State agency or a speed monitoring system, in a case contested in
15 District Court, shall provide that the penalty shall be paid directly to the District
16 Court.

17 (3) Civil penalties resulting from citations issued using traffic control
18 signal monitoring systems or speed monitoring systems that are collected by the
19 District Court shall be collected in accordance with subsection (a) of this section and
20 distributed in accordance with § 12–118 of the Transportation Article.

21 10–311.

22 (a) A recorded image of a motor vehicle produced by a traffic control signal
23 monitoring system in accordance with § 21–202.1 of the Transportation Article is
24 admissible in a proceeding concerning a civil citation issued under that section for a
25 violation of § 21–202(h) of the Transportation Article without authentication.

26 (b) A recorded image of a motor vehicle produced by a speed monitoring
27 system in accordance with § 21–809 of the Transportation Article is admissible in a
28 proceeding concerning a civil citation issued under that section for a violation of Title
29 21, Subtitle 8 of the Transportation Article without authentication.

30 (c) In any other judicial proceeding, a recorded image produced by a traffic
31 control signal monitoring system or speed monitoring system is admissible as
32 otherwise provided by law.

33 Article – Insurance

34 11–215.

35 (e) For purposes of reclassifying an insured in a classification that entails a
36 higher premium, an insurer under an automobile insurance policy may not consider a
37 probation before judgment disposition of a motor vehicle law offense, a civil penalty
38 imposed pursuant to § 21–202.1 or § 21–809 of the Transportation Article, or a first
39 offense of driving with an alcohol concentration of 0.08 or more under § 16–205.1 of the

1 Transportation Article on record with the Motor Vehicle Administration, as provided
2 in § 16–117(b) of the Transportation Article.

3 11–318.

4 (e) For purposes of reclassifying an insured in a classification that entails a
5 higher premium, an insurer under an automobile insurance policy may not consider a
6 probation before judgment disposition of a motor vehicle law offense, a civil penalty
7 imposed pursuant to § 21–202.1 or § 21–809 of the Transportation Article, or a first
8 offense of driving with an alcohol concentration of 0.08 or more under § 16–205.1 of the
9 Transportation Article on record with the Motor Vehicle Administration, as provided
10 in § 16–117(b) of the Transportation Article.

11 **Article – State Government**

12 10–616.

13 (o) (1) In this subsection, “recorded images” has the meaning stated in §
14 21–202.1 or § 21–809 of the Transportation Article.

15 (2) Except as provided in paragraph (3) of this subsection, a custodian
16 of recorded images produced by a traffic control signal monitoring system operated
17 under § 21–202.1 of the Transportation Article or a speed monitoring system operated
18 under § 21–809 of the Transportation Article shall deny inspection of the recorded
19 images.

20 (3) A custodian shall allow inspection of recorded images:

21 (i) as required in § 21–202.1 or § 21–809 of the Transportation
22 Article;

23 (ii) by any person issued a citation under § 21–202.1 or § 21–809
24 of the Transportation Article, or an attorney of record for the person; or

25 (iii) by an employee or agent of a law enforcement agency in an
26 investigation or proceeding relating to the imposition of or indemnification from civil
27 liability pursuant to § 21–202.1 or § 21–809 of the Transportation Article.

28 **Article – Transportation**

29 21–809.

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

31 (2) “Local police department” means:

32 (i) **THE BALTIMORE COUNTY POLICE DEPARTMENT;**

1 (II) The Montgomery County Department of Police; and

2 [(ii)] (III) The police department of any municipal corporation in
3 **BALTIMORE COUNTY OR** Montgomery County.

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

6 (ii) “Owner” does not include:

7 1. A motor vehicle rental or leasing company; or

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

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

12 (i) On:

13 1. A photograph;

14 2. A microphotograph;

15 3. An electronic image;

16 4. Videotape; or

17 5. Any other medium; and

18 (ii) Showing:

19 1. The rear of a motor vehicle;

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

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

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

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

1 (b) (1) This section applies to a violation of this subtitle that occurs in
2 **BALTIMORE COUNTY OR** Montgomery County recorded by a speed monitoring
3 system that meets the 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 (2) (i) A speed monitoring system operator shall complete training
13 by a manufacturer of speed monitoring systems in the procedures for setting up and
14 operating the speed monitoring system.

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

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

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

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

24 (ii) Shall be kept on file; and

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

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

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

31 1. Shall be kept on file; and

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

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

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

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

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

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

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

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

19 (ii) The registration number of the motor vehicle involved in the
20 violation;

21 (iii) The violation charged;

22 (iv) The location where the violation occurred;

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

24 (vi) A copy of the recorded image;

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

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

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

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

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

7 1. Is an admission of liability;

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

10 3. May result in the suspension of the motor vehicle
11 registration.

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

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

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

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

22 (i) Pay the civil penalty, in accordance with instructions on the
23 citation, directly to the **BALTIMORE COUNTY OFFICE OF BUDGET AND FINANCE**
24 **OR THE** Montgomery County Department of Finance, **AS APPROPRIATE**; or

25 (ii) Elect to stand trial in the District Court for the alleged
26 violation.

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

34 (2) If a person who received a citation under subsection (d) of this
35 section desires the speed monitoring system operator to be present and testify at trial,

1 the person shall notify the court and the State in writing no later than 20 days before
2 trial.

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

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

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

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

13 (iii) Any other issues and evidence that the District Court deems
14 pertinent.

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

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

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

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

29 (iii) Includes any other corroborating evidence.

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

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

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

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

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

12 (2) May suspend the registration of the motor vehicle cited for the
13 violation.

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

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

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

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

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

23 (i) In consultation with the **BALTIMORE COUNTY OFFICE OF BUDGET**
24 **AND FINANCE, THE** Montgomery County Department of [Finance and] **FINANCE,**
25 **AND** the local police departments, the Chief Judge of the District Court shall adopt
26 procedures for the issuance of citations, the trial of civil violations, and the collection
27 of civil penalties under this section.

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

31 26–305.

32 (a) The Administration may not register or transfer the registration of any
33 vehicle involved in a parking violation under this subtitle, a violation under any
34 federal parking regulation that applies to property in this State under the jurisdiction

1 of the U.S. government, a violation of § 21–202(h) of this article as determined under §
2 21–202.1 of this article or Title 21, Subtitle 8 of this article as determined under §
3 21–809 of this article, or a violation of the State litter control law or a local law or
4 ordinance adopted by Baltimore City relating to the unlawful disposal of litter as
5 determined under § 10–112 of the Criminal Law Article, if:

6 (1) It is notified by a political subdivision or authorized State agency
7 that the person cited for the violation under this subtitle, § 21–202.1 or § 21–809 of
8 this article, or § 10–112 of the Criminal Law Article has failed to either:

9 (i) Pay the fine for the violation by the date specified in the
10 citation; or

11 (ii) File a notice of his intention to stand trial for the violation;

12 (2) It is notified by the District Court that a person who has elected to
13 stand trial for the violation under this subtitle, under § 21–202.1 or § 21–809 of this
14 article, or under § 10–112 of the Criminal Law Article has failed to appear for trial; or

15 (3) It is notified by a U.S. District Court that a person cited for a
16 violation under a federal parking regulation:

17 (i) Has failed to pay the fine for the violation by the date
18 specified in the federal citation; or

19 (ii) Either has failed to file a notice of his intention to stand trial
20 for the violation, or, if electing to stand trial, has failed to appear for trial.

21 26–401.

22 If a person is taken before a District Court commissioner or is given a traffic
23 citation or a civil citation under § 21–202.1 or § 21–809 of this article containing a
24 notice to appear in court, the commissioner or court shall be one that sits within the
25 county in which the offense allegedly was committed.

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

27 (1) Beginning in fiscal year 2009 and each fiscal year thereafter,
28 Baltimore County shall use the revenues generated from the enforcement of speed
29 limit laws as authorized under this Act solely to increase local expenditures for related
30 public safety purposes, including pedestrian safety programs; and

31 (2) Related public safety expenditures required under this section
32 shall be used to supplement and may not supplant existing local expenditures for the
33 same purpose.

34 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
35 construed to apply only prospectively and may not be applied or interpreted to have

1 any effect on or application to any contract awarded before the effective date of this
2 Act.

3 SECTION 4. AND BE IT FURTHER ENACTED, That a presently existing
4 obligation or contract right may not be impaired in any way by this Act.

5 SECTION 5. AND BE IT FURTHER ENACTED, That the Baltimore County
6 Council shall report to the General Assembly on or before December 31, 2012, in
7 accordance with § 2-1246 of the State Government Article, on the effectiveness of
8 speed monitoring systems in Baltimore County.

9 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2008.