

HOUSE BILL 1034

R5

8lr0693

By: **Prince George's County Delegation**

Introduced and read first time: February 7, 2008

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County - Vehicle Laws - Speed Monitoring Systems**

3 **PG 312-08**

4 FOR the purpose of authorizing the placement of certain speed monitoring systems on
5 certain highways in Prince George's County; making certain provisions of law
6 relating to the enforcement of speed limit laws with certain speed monitoring
7 systems applicable in Prince George's County; requiring certain local police
8 departments in Prince George's County to mail citations to the owners of
9 vehicles that are recorded by speed monitoring systems in the county in
10 violation of certain laws relating to the operation of motor vehicles in excess of
11 certain speed limits; authorizing local police departments to send warnings
12 instead of citations; authorizing a person who receives a citation for violating a
13 speed limit and whose vehicle was recorded by a speed monitoring system while
14 being operated in violation of the speed limit to pay a civil penalty to the Prince
15 George's County Office of Finance or a municipal corporation in Prince George's
16 County or elect to stand trial; requiring the Chief Judge of the District Court, in
17 consultation with the Prince George's County Office of Finance, municipal
18 corporations in Prince George's County, and local police departments, to adopt
19 procedures for the issuance of citations, trial of civil violations, and the
20 collection of civil penalties under laws relating to the enforcement of speed limit
21 laws with certain speed monitoring systems; altering a certain definition;
22 restricting the use of certain revenues generated by this Act; providing for the
23 application of this Act; providing that existing obligations or contracts may not
24 be impaired by this Act; requiring the Prince George's County Council to report
25 to the General Assembly on or before a certain date; and generally relating to
26 imposition of liability, in Prince George's County, on certain persons recorded by
27 speed monitoring systems violating certain laws relating to the operation of
28 motor vehicles in excess of certain speed limits.

29 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Transportation
2 Section 21–809
3 Annotated Code of Maryland
4 (2006 Replacement Volume and 2007 Supplement)

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

7 **Article – Transportation**

8 21–809.

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

10 (2) “Local police department” means:

11 (i) The Montgomery County Department of Police; [and]

12 (ii) The police department of any municipal corporation in
13 Montgomery County;

14 (iii) **THE PRINCE GEORGE’S COUNTY POLICE**
15 **DEPARTMENT;**

16 (iv) **THE POLICE DEPARTMENT OF ANY MUNICIPAL**
17 **CORPORATION IN PRINCE GEORGE’S COUNTY; OR**

18 (v) **A GROUP OF POLICE OFFICERS PROVIDING POLICE**
19 **SERVICES UNDER CONTRACT WITH THE PRINCE GEORGE’S COUNTY POLICE**
20 **DEPARTMENT OR THE POLICE DEPARTMENT OF A MUNICIPAL CORPORATION IN**
21 **PRINCE GEORGE’S COUNTY.**

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

24 (ii) “Owner” does not include:

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

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

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

30 (i) On:

- 1 1. A photograph;
- 2 2. A microphotograph;
- 3 3. An electronic image;
- 4 4. Videotape; or
- 5 5. Any other medium; and

6 (ii) Showing:

- 7 1. The rear of a motor vehicle;
- 8 2. At least two time-stamped images of the motor
9 vehicle that include the same stationary object near the motor vehicle; and
- 10 3. On at least one image or portion of tape, clearly
11 identifying the registration plate number of the motor vehicle.

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

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

17 (b) (1) This section applies to a violation of this subtitle that occurs in
18 Montgomery County **OR PRINCE GEORGE’S COUNTY** recorded by a speed
19 monitoring system that meets the requirements of this subsection and has been
20 placed:

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

- 23 1. With a maximum posted speed limit of 35 miles per
24 hour; and
- 25 2. That has a speed limit that was established using
26 generally accepted traffic engineering practices; or

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

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

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

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

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

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

10 (ii) Shall be kept on file; and

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

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

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

17 1. Shall be kept on file; and

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

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

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

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

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

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

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

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

5 (ii) The registration number of the motor vehicle involved in the
6 violation;

7 (iii) The violation charged;

8 (iv) The location where the violation occurred;

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

10 (vi) A copy of the recorded image;

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

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

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

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

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

24 1. Is an admission of liability;

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

27 3. May result in the suspension of the motor vehicle
28 registration.

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

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

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

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

7 (i) Pay the civil penalty, in accordance with instructions on the
8 citation, directly to the Montgomery County Department of Finance, **THE PRINCE**
9 **GEORGE'S COUNTY OFFICE OF FINANCE, OR THE MUNICIPAL CORPORATION IN**
10 **PRINCE GEORGE'S COUNTY, AS APPLICABLE;** or

11 (ii) Elect to stand trial in the District Court for the alleged
12 violation.

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

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

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

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

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

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

34 (iii) Any other issues and evidence that the District Court deems
35 pertinent.

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

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

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

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

15 (iii) Includes any other corroborating evidence.

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

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

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

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

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

33 (2) May suspend the registration of the motor vehicle cited for the
34 violation.

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

1 (1) Is not a moving violation for the purpose of assessing points under
2 § 16-402 of this article;

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

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

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

9 (i) In consultation with the Montgomery County Department of Finance,
10 **THE PRINCE GEORGE'S COUNTY OFFICE OF FINANCE, THE MUNICIPAL**
11 **CORPORATIONS IN PRINCE GEORGE'S COUNTY,** and the local police departments
12 **IN EACH COUNTY,** the Chief Judge of the District Court shall adopt procedures for the
13 issuance of citations, the trial of civil violations, and the collection of civil penalties
14 under this section.

15 (j) If a contractor operates a speed monitoring system on behalf of
16 Montgomery County **OR PRINCE GEORGE'S COUNTY,** the contractor's fee may not be
17 contingent on the number of citations issued or paid.

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

19 (1) Beginning in fiscal year 2009 and each fiscal year thereafter,
20 Prince George's County shall use the revenues generated from the enforcement of
21 speed limit laws as authorized under this Act solely to increase local expenditures for
22 related public safety purposes, including pedestrian safety programs; and

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

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
27 construed to apply only prospectively and may not be applied or interpreted to have
28 any effect on or application to any contract awarded before the effective date of this
29 Act.

30 SECTION 4. AND BE IT FURTHER ENACTED, That an obligation or contract
31 right existing on the effective date of this Act may not be impaired in any way by this
32 Act.

33 SECTION 5. AND BE IT FURTHER ENACTED, That the Prince George's
34 County Council shall report to the General Assembly on or before December 31, 2012,
35 in accordance with § 2-1246 of the State Government Article, on the effectiveness of
36 speed monitoring systems in Prince George's County.

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