

# SENATE BILL 963

R5

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

Introduced and read first time: February 28, 2008

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County – Safer Roads Act of 2008**

3 FOR the purpose of adding Prince George's County and municipal corporations in  
4 Prince George's County as entities authorized to use certain speed monitoring  
5 systems to enforce highway speed laws under certain standards and procedures;  
6 limiting the use of speed monitoring systems in Prince George's County to  
7 certain highways; establishing a certain maximum fine for a violation of law  
8 enforced by means of a speed monitoring system in Prince George's County;  
9 requiring the Chief Judge of the District Court to consult with a certain Prince  
10 George's County agency in adopting certain procedures; restricting the use of  
11 certain revenues generated by this Act; providing for the application of this Act;  
12 providing that existing obligations or contract rights may not be impaired by  
13 this Act; requiring Prince George's County to report on the effectiveness of  
14 speed monitoring systems to the General Assembly on or before a certain date;  
15 altering a certain definition; requiring certain police departments, during a  
16 certain period, to issue only warning citations to certain motorists and to  
17 conduct a public education and awareness campaign regarding the use of speed  
18 monitoring systems in Prince George's County; requiring the Prince George's  
19 County Police Department to submit a certain annual report to the Prince  
20 George's County Delegation to the General Assembly and to the County  
21 Executive and County Council of Prince George's County; and generally relating  
22 to imposition of liability on certain persons recorded by speed monitoring  
23 systems violating certain laws regarding the operation of motor vehicles in  
24 excess of certain speed limits.

25 BY repealing and reenacting, without amendments,  
26 Article – Courts and Judicial Proceedings  
27 Section 4-401(13), 7-301(a), 7-302(e), and 10-311  
28 Annotated Code of Maryland  
29 (2006 Replacement Volume and 2007 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,  
2 Article – Insurance  
3 Section 11–215(e) and 11–318(e)  
4 Annotated Code of Maryland  
5 (2003 Replacement Volume and 2007 Supplement)

6 BY repealing and reenacting, without amendments,  
7 Article – State Government  
8 Section 10–616(o)  
9 Annotated Code of Maryland  
10 (2004 Replacement Volume and 2007 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article – Transportation  
13 Section 21–809  
14 Annotated Code of Maryland  
15 (2006 Replacement Volume and 2007 Supplement)

16 BY repealing and reenacting, without amendments,  
17 Article – Transportation  
18 Section 26–305(a) and 26–401  
19 Annotated Code of Maryland  
20 (2006 Replacement Volume and 2007 Supplement)

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

23 **Article – Courts and Judicial Proceedings**

24 4–401.

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

28 (13) A proceeding for a civil infraction under § 21–202.1, § 21–704.1, or  
29 § 21–809 of the Transportation Article or § 10–112 of the Criminal Law Article;

30 7–301.

31 (a) The court costs in a traffic case, including parking and impounding cases,  
32 cases under § 21–202.1 or § 21–809 of the Transportation Article in which costs are  
33 imposed, and cases under § 10–112 of the Criminal Law Article in which costs are  
34 imposed are \$22.50. Such costs shall also be applicable to those cases in which the  
35 defendant elects to waive his right to trial and pay the fine or penalty deposit  
36 established by the Chief Judge of the District Court by administrative regulation. In  
37 an uncontested case under § 21–202.1 or § 21–809 of the Transportation Article, an  
38 uncontested case under § 10–112 of the Criminal Law Article, or an uncontested

1 parking or impounding case in which the fines are paid directly to a political  
2 subdivision or municipality, costs are \$2.00, which costs shall be paid to and retained  
3 by the political subdivision or municipality. In an uncontested case in which the fine is  
4 paid directly to an agency of State government authorized by law to regulate parking  
5 of motor vehicles, the costs are \$2.00. The fine and the costs shall be paid to the  
6 agency, which shall receive and account for these funds as in all other cases involving  
7 sums due the State through a State agency.

8 7-302.

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

18 (2) A citation issued as the result of a traffic control signal monitoring  
19 system or speed monitoring system controlled by a political subdivision shall provide  
20 that, in an uncontested case, the penalty shall be paid directly to that political  
21 subdivision. A citation issued as the result of a traffic control signal monitoring system  
22 controlled by a State agency or a speed monitoring system, in a case contested in  
23 District Court, shall provide that the penalty shall be paid directly to the District  
24 Court.

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

29 10-311.

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

34 (b) A recorded image of a motor vehicle produced by a speed monitoring  
35 system in accordance with § 21-809 of the Transportation Article is admissible in a  
36 proceeding concerning a civil citation issued under that section for a violation of Title  
37 21, Subtitle 8 of the Transportation Article without authentication.

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

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**Article – Insurance**

2 11–215.

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

10 11–318.

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

18

**Article – State Government**

19 10–616.

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

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

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

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

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

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

**Article – Transportation**

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21–809.

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

(2) “Local police department” means:

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

**(II) THE PRINCE GEORGE’S COUNTY POLICE DEPARTMENT; AND**

**[(ii)] (III) The police department of any municipal corporation in Montgomery County OR PRINCE GEORGE’S COUNTY.**

(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

5. Any other medium; and

(ii) Showing:

1. The rear of a motor vehicle;

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

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

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

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

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

12                   (i)     [On] **IN MONTGOMERY COUNTY, ON** a highway in a  
13 residential district as defined in § 21–101 of this title:

14                   1.     With a maximum posted speed limit of 35 miles per  
15 hour; and

16                   2.     That has a speed limit that was established using  
17 generally accepted traffic engineering practices; [or]

18                   (ii)    **In PRINCE GEORGE’S COUNTY, ON A HIGHWAY:**

19                   1.     **WITH A MAXIMUM POSTED SPEED LIMIT OF 55**  
20 **MILES PER HOUR; AND**

21                   2.     **THAT HAS A SPEED LIMIT THAT WAS**  
22 **ESTABLISHED USING GENERALLY ACCEPTED TRAFFIC ENGINEERING**  
23 **PRACTICES; OR**

24                   **(III) IN MONTGOMERY COUNTY OR PRINCE GEORGE’S**  
25 **COUNTY, IN** a school zone established under § 21–803.1 of this subtitle.

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

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

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

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

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

6 (ii) Shall be kept on file; and

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

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

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

13 1. Shall be kept on file; and

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

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

21 (2) A civil penalty under this subsection may not exceed:

22 (I) \$40 FOR A VIOLATION THAT OCCURRED IN  
 23 MONTGOMERY COUNTY; OR

24 (II) \$75 FOR A VIOLATION THAT OCCURRED IN PRINCE  
 25 GEORGE'S COUNTY.

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 **OR PRINCE**  
9 **GEORGE'S COUNTY OFFICE OF FINANCE, AS APPROPRIATE;** or

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

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

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

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

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

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

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

33                   (iii) Any other issues and evidence that the District Court deems  
34 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**, and the local police  
11 departments, the Chief Judge of the District Court shall adopt procedures for the  
12 issuance of citations, the trial of civil violations, and the collection of civil penalties  
13 under this section.

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

17 26–305.

18           (a) The Administration may not register or transfer the registration of any  
19 vehicle involved in a parking violation under this subtitle, a violation under any  
20 federal parking regulation that applies to property in this State under the jurisdiction  
21 of the U.S. government, a violation of § 21–202(h) of this article as determined under §  
22 21–202.1 of this article or Title 21, Subtitle 8 of this article as determined under §  
23 21–809 of this article, or a violation of the State litter control law or a local law or  
24 ordinance adopted by Baltimore City relating to the unlawful disposal of litter as  
25 determined under § 10–112 of the Criminal Law Article, if:

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

29                   (i) Pay the fine for the violation by the date specified in the  
30 citation; or

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

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

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

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

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

7 26-401.

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

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

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

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

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

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

27 SECTION 5. AND BE IT FURTHER ENACTED, That, for 90 days immediately  
28 after deployment of the first speed monitoring system in Prince George's County as  
29 authorized by this Act, the Prince George's County Police Department or a municipal  
30 corporation police department in Prince George's County:

31 (1) may issue only a warning citation to a motorist for a violation  
32 enforced by a speed monitoring system; and

33 (2) shall implement or continue, as the case may be, an extensive  
34 public education and awareness campaign about the use of speed monitoring systems  
35 in the county.

1           SECTION 6. AND BE IT FURTHER ENACTED, That the Prince George's  
2 County Police Department, in consultation with the municipal corporation police  
3 departments in Prince George's County, shall submit a written report to the Prince  
4 George's County Delegation to the General Assembly and to the County Executive and  
5 County Council of Prince George's County on or before September 30 each year  
6 covering enforcement activity, driver behavior, financial matters, and other relevant  
7 issues in the immediately preceding fiscal year related to the use of speed monitoring  
8 systems as authorized by this Act.

9           SECTION 7. AND BE IT FURTHER ENACTED, That the Prince George's  
10 County Council shall report to the General Assembly on or before December 31, 2012,  
11 in accordance with § 2-1246 of the State Government Article, on the effectiveness of  
12 speed monitoring systems in Prince George's County.

13           SECTION 8. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2008.