

HOUSE BILL 396

R5

9lr1379
CF SB 388

By: **Delegate Anderson (By Request – Baltimore City Administration) and Delegates McIntosh, Kirk, Robinson, and Rosenberg**

Introduced and read first time: February 2, 2009

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 2009

CHAPTER _____

1 AN ACT concerning

2 **Baltimore City – Vehicle Laws – Speed Monitoring Systems**

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 violating certain laws relating to the operation of motor vehicles in excess of
2 certain speed limits.

3 BY repealing and reenacting, with amendments,
4 Article – Transportation
5 Section 21–809
6 Annotated Code of Maryland
7 (2006 Replacement Volume and 2008 Supplement)

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

10 **Article – Transportation**

11 21–809.

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

13 (2) “Local police department” means:

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

15 (ii) The police department of any municipal corporation in
16 Montgomery County; **AND**

17 **(III) THE BALTIMORE CITY POLICE DEPARTMENT.**

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

20 (ii) “Owner” does not include:

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

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

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

26 (i) On:

27 1. A photograph;

28 2. A microphotograph;

29 3. An electronic image;

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 \$40.

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

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

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

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

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

- 1 (ii) The registration number of the motor vehicle involved in the
2 violation;
- 3 (iii) The violation charged;
- 4 (iv) The location where the violation occurred;
- 5 (v) The date and time of the violation;
- 6 (vi) A copy of the recorded image;
- 7 (vii) The amount of the civil penalty imposed and the date by
8 which the civil penalty should be paid;
- 9 (viii) A signed statement by a duly authorized agent of the local
10 police department that, based on inspection of recorded images, the motor vehicle was
11 being operated in violation of this subtitle;
- 12 (ix) A statement that recorded images are evidence of a violation
13 of this subtitle;
- 14 (x) Information advising the person alleged to be liable under
15 this section of the manner and time in which liability as alleged in the citation may be
16 contested in the District Court; and
- 17 (xi) Information advising the person alleged to be liable under
18 this section that failure to pay the civil penalty or to contest liability in a timely
19 manner:
- 20 1. Is an admission of liability;
- 21 2. May result in the refusal by the Administration to
22 register the motor vehicle; and
- 23 3. May result in the suspension of the motor vehicle
24 registration.
- 25 (2) The local police department may mail a warning notice instead of a
26 citation to the owner liable under subsection (c) of this section.
- 27 (3) Except as provided in subsection (f)(4) of this section, the local
28 police department may not mail a citation to a person who is not an owner.
- 29 (4) Except as provided in subsection (f)(4) of this section, a citation
30 issued under this section shall be mailed no later than 2 weeks after the alleged
31 violation if the vehicle is registered in this State, and 30 days after the alleged
32 violation if the vehicle is registered in another state.

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

3 (i) Pay the civil penalty, in accordance with instructions on the
4 citation, directly to the **BALTIMORE CITY DEPARTMENT OF FINANCE OR THE**
5 **Montgomery County Department of Finance, AS APPLICABLE;** or

6 (ii) Elect to stand trial in the District Court for the alleged
7 violation.

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

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

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

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

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

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

29 (iii) Any other issues and evidence that the District Court deems
30 pertinent.

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

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

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

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

10 (iii) Includes any other corroborating evidence.

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

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

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

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

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

28 (2) May suspend the registration of the motor vehicle cited for the
29 violation.

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

31 (1) Is not a moving violation for the purpose of assessing points under
32 § 16-402 of this article;

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

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

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

5 (i) In consultation with the **BALTIMORE CITY DEPARTMENT OF**
6 **FINANCE, THE** Montgomery County Department of [Finance] **FINANCE**, and the
7 local police departments, the Chief Judge of the District Court shall adopt procedures
8 for the issuance of citations, the trial of civil violations, and the collection of civil
9 penalties under this section.

10 (j) ~~If a contractor operates a speed monitoring system on behalf of~~
11 ~~BALTIMORE CITY OR~~ Montgomery County, the **A** contractor's fee may not be
12 contingent on the number of citations issued or paid **IF THE CONTRACTOR:**

13 **(1) OPERATES THE SPEED MONITORING SYSTEM ON BEHALF OF**
14 **THE LOCAL JURISDICTION;**

15 **(2) DETERMINES THE PLACEMENT OF THE CAMERAS; OR**

16 **(3) HAS THE FINAL AUTHORITY TO DETERMINE WHETHER A**
17 **CITATION IS ISSUED.**

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

19 (1) Beginning in fiscal year 2010 and each fiscal year thereafter,
20 Baltimore City shall use the revenues generated from the enforcement of speed limit
21 laws as authorized under this Act solely to increase local expenditures for related
22 public safety purposes, including pedestrian safety programs; and

23 (2) Related public safety expenditures required under item (1) of this
24 section shall be used to supplement and may not supplant existing local expenditures
25 for the 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 Baltimore City**
34 **Council shall report to the General Assembly on or before December 31, 2013, in**

1 accordance with § 2-1246 of the State Government Article, on the effectiveness of
2 speed monitoring systems in Baltimore City.

3 SECTION ~~2~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.