

HOUSE BILL 822

L2, R5

9lr0571

By: **Montgomery County Delegation**

Introduced and read first time: February 11, 2009

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County - Railroad Grade Crossings - Automated Enforcement**
3 **Systems**

4 **MC 907-09**

5 FOR the purpose of making certain provisions of law relating to automated railroad
6 grade crossing enforcement systems at railroad grade crossings applicable to
7 Montgomery County; authorizing certain law enforcement agencies in
8 Montgomery County to mail a citation within a certain period of time to the
9 owner of a motor vehicle that is recorded in Montgomery County by an
10 automated railroad grade crossing enforcement system while in violation of
11 certain laws regarding railroad grade crossings; requiring the Chief Judge of
12 the District Court, in consultation with local law enforcement agencies in
13 Montgomery County, to adopt procedures for certain purposes; expanding the
14 jurisdiction of the District Court; altering a certain definition; and generally
15 relating to imposition of liability on the owner of a motor vehicle recorded in
16 Montgomery County by an automated railroad grade crossing enforcement
17 system violating certain laws regarding railroad grade crossings.

18 BY repealing and reenacting, without amendments,
19 Article – Courts and Judicial Proceedings
20 Section 4-401(13)
21 Annotated Code of Maryland
22 (2006 Replacement Volume and 2008 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article – Transportation
25 Section 11-167 and 11-168
26 Annotated Code of Maryland
27 (2006 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Transportation
3 Section 21–704.1
4 Annotated Code of Maryland
5 (2006 Replacement Volume and 2008 Supplement)

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

8 **Article – Courts and Judicial Proceedings**

9 4–401.

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

13 (13) A proceeding for a civil infraction under § 21–202.1, § 21–704.1, or
14 § 21–809 of the Transportation Article or § 10–112 of the Criminal Law Article;

15 **Article – Transportation**

16 11–167.

17 “Traffic control device” means any sign, signal, marking, or device that:

18 (1) Is not inconsistent with the Maryland Vehicle Law; and

19 (2) Is placed by authority of an authorized public body or official to
20 regulate, warn, or guide traffic.

21 11–168.

22 “Traffic control signal” means any traffic control device, whether manually,
23 electrically, or mechanically operated, by which traffic alternately is directed to stop
24 and permitted to proceed.

25 21–704.1.

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

27 (2) “Agency” means:

28 (i) For an automated railroad grade crossing enforcement
29 system operated and maintained at a railroad grade crossing in **MONTGOMERY**
30 **COUNTY OR** Prince George’s County that is under the control of the State, the law

1 enforcement agency of the State primarily responsible for traffic control at that
2 railroad grade crossing; [or]

3 (ii) For an automated railroad grade crossing enforcement
4 system operated and maintained at a railroad grade crossing under the control of
5 Prince George's County or a municipal corporation in Prince George's County, a law
6 enforcement agency of Prince George's County or the municipal corporation that is
7 authorized to issue citations for a violation of the Maryland Vehicle Law or of local
8 traffic laws or regulations at that railroad grade crossing; **OR**

9 (iii) **FOR AN AUTOMATED RAILROAD GRADE CROSSING**
10 **ENFORCEMENT SYSTEM OPERATED AND MAINTAINED AT A RAILROAD GRADE**
11 **CROSSING UNDER THE CONTROL OF MONTGOMERY COUNTY OR A MUNICIPAL**
12 **CORPORATION IN MONTGOMERY COUNTY, A LAW ENFORCEMENT AGENCY OF**
13 **MONTGOMERY COUNTY OR THE MUNICIPAL CORPORATION THAT IS**
14 **AUTHORIZED TO ISSUE CITATIONS FOR A VIOLATION OF THE MARYLAND**
15 **VEHICLE LAW OR OF LOCAL TRAFFIC LAWS OR REGULATIONS AT THAT**
16 **RAILROAD GRADE CROSSING.**

17 (3) "Automated railroad grade crossing enforcement system" means a
18 system operated by an agency that records a driver's response to a traffic control
19 signal or traffic control device located at a railroad grade crossing.

20 (4) (i) "Owner" means the registered owner of a motor vehicle or a
21 lessee of a motor vehicle under a lease of 6 months or more.

22 (ii) "Owner" does not include a motor vehicle rental or leasing
23 company or a holder of a special registration plate issued under Part III of Title 13,
24 Subtitle 9 of this article.

25 (5) "Violation" means any violation of §§ 21-701 through 21-704 of
26 this subtitle.

27 (b) This section applies only in **MONTGOMERY COUNTY AND** Prince
28 George's County.

29 (c) A recording by an automated railroad grade crossing enforcement system
30 under this section indicating that the driver of a motor vehicle has committed a
31 violation shall include:

32 (1) An image of the motor vehicle;

33 (2) An image of the driver of the motor vehicle;

34 (3) An image of the motor vehicle's rear license plate;

35 (4) The time of the violation;

1 (5) The date of the violation; and

2 (6) The location of the violation.

3 (d) The recording shall be made on:

4 (1) Two or more photographs;

5 (2) Two or more microphotographs;

6 (3) Two or more electronic images;

7 (4) Videotape; or

8 (5) Any other medium.

9 (e) (1) Unless the driver of the motor vehicle received a citation from a
10 police officer at the time of the violation, the owner or, in accordance with subsection
11 (h)(5) of this section, the driver of a motor vehicle is subject to a civil penalty if the
12 motor vehicle is recorded by an automated railroad grade crossing enforcement system
13 during the commission of a violation.

14 (2) A civil penalty under this subsection may not exceed \$100.

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

16 (i) A uniform citation form consistent with subsection (f)(1) of
17 this section and § 7–302 of the Courts Article; and

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

21 (f) (1) Subject to the provisions of paragraphs (2) through (4) of this
22 subsection, an agency shall mail to the owner liable under subsection (e) of this section
23 a citation that shall include:

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

25 (ii) The registration number of the motor vehicle involved in the
26 violation;

27 (iii) The violation charged;

28 (iv) The location of the railroad grade crossing;

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

- 1 (vi) A copy of the recorded image;
- 2 (vii) The amount of the civil penalty imposed and the date by
3 which the civil penalty must be paid;
- 4 (viii) A signed statement by a technician employed by the agency
5 that, based on inspection of recorded images, the motor vehicle was being operated
6 during the commission of a violation;
- 7 (ix) A statement that recorded images are evidence of a
8 violation; and
- 9 (x) Information advising the person alleged to be liable under
10 this section:
- 11 1. Of the manner and time in which liability as alleged
12 in the citation may be contested in the District Court; and
- 13 2. Warning that failure to pay the civil penalty or to
14 contest liability in a timely manner is an admission of liability and may result in
15 refusal or suspension of the motor vehicle registration.
- 16 (2) The agency may mail a warning notice in lieu of a citation to the
17 owner liable under subsection (e) of this section.
- 18 (3) Except as provided in subsection (h)(5) of this section, a citation
19 issued under this section shall be mailed no later than 2 weeks after the alleged
20 violation.
- 21 (4) A person who receives a citation under paragraph (1) of this
22 subsection may:
- 23 (i) Pay the civil penalty, in accordance with instructions on the
24 citation, directly to **MONTGOMERY COUNTY OR Prince George's [County] COUNTY,**
25 or to the District Court; or
- 26 (ii) Elect to stand trial for the alleged violation.
- 27 (g) (1) A certificate alleging that a violation occurred, sworn to or affirmed
28 by a duly authorized agent of the agency, based on inspection of recorded images
29 produced by an automated railroad grade crossing enforcement system shall be
30 evidence of the facts contained in the certificate and shall be admissible in any
31 proceeding concerning the alleged violation.
- 32 (2) Adjudication of liability shall be based on a preponderance of
33 evidence.

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

2 (i) That the driver of the vehicle passed through the railroad
3 grade crossing in a manner that would constitute a violation:

4 1. In order to yield the right-of-way to an emergency
5 vehicle; or

6 2. As part of a funeral procession in accordance with §
7 21-207 of this title;

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

12 (iii) That under § 21-201 of this title, this section is
13 unenforceable against the owner because at the time and place of the alleged violation,
14 the traffic control signal or traffic control device was not in proper position and was
15 unable to be seen by an ordinarily observant individual;

16 (iv) Subject to paragraph (3) of this subsection, evidence that the
17 person named in the citation was not operating the vehicle at the time of the violation;
18 and

19 (v) Any other issues and evidence that the District Court deems
20 pertinent.

21 (2) In order to demonstrate that the motor vehicle or the registration
22 plates were stolen before the violation occurred and were not under the control or
23 possession of the owner at the time of the violation, the owner must submit proof that
24 a police report about the stolen motor vehicle or registration plates was filed in a
25 timely manner.

26 (3) To satisfy the evidentiary burden under paragraph (1)(iv) of this
27 subsection, the person named in the citation shall provide to the District Court
28 evidence to the satisfaction of the court of who was operating the vehicle at the time of
29 the violation, including, at a minimum, the operator's name and current address.

30 (4) (i) The provisions of this paragraph apply only to a citation that
31 involves a Class E (truck) vehicle with a registered gross weight of 26,001 pounds or
32 more, Class F (tractor) vehicle, Class G (trailer) vehicle operated in combination with a
33 Class F (tractor) vehicle, and Class P (passenger bus) vehicle.

34 (ii) To satisfy the evidentiary burden under paragraph (1)(iv) of
35 this subsection, the person named in a citation described under subparagraph (i) of
36 this paragraph may provide to the District Court a letter, sworn to or affirmed by the
37 person and mailed by certified mail, return receipt requested, that:

1 1. States that the person named in the citation was not
2 operating the vehicle at the time of the violation; and

3 2. Provides the name, address, and driver's license
4 identification number of the person who was operating the vehicle at the time of the
5 violation.

6 (5) (i) If the District Court finds that the person named in the
7 citation was not operating the vehicle at the time of the violation or receives evidence
8 under paragraph (4)(ii)2 of this subsection identifying the person driving the vehicle at
9 the time of the violation, the clerk of the court shall provide to the agency issuing the
10 citation a copy of any evidence substantiating who was operating the vehicle at the
11 time of the violation.

12 (ii) On the receipt of substantiating evidence from the District
13 Court under subparagraph (i) of this paragraph, an agency may issue a citation as
14 provided in subsection (f) of this section to the person that the evidence indicates was
15 operating the vehicle at the time of the violation.

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

19 (i) If the civil penalty is not paid and the violation is not contested, the
20 Administration may refuse to register or reregister or may suspend the registration of
21 the motor vehicle.

22 (j) A violation for which a civil penalty is imposed under this section:

23 (1) Is not a moving violation for the purpose of assessing points under
24 § 16-402 of this article and may not be recorded by the Administration on the driving
25 record of the owner or driver of the vehicle;

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

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

30 (k) In consultation with local law enforcement agencies in **MONTGOMERY**
31 **COUNTY AND** Prince George's County, the Chief Judge of the District Court shall
32 adopt procedures for the issuance of citations, the trial of violations, and the collection
33 of civil penalties under this section.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2009.