

HOUSE BILL 837

R5

9lr0941

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 – Speed Monitoring Systems – Use by Designated**
3 **Agencies in Municipal Corporations**

4 **MC 929–09**

5 FOR the purpose of altering a certain definition, thereby authorizing a municipal
6 corporation in Montgomery County that does not maintain a police department
7 to establish or designate a person to enforce certain speed restrictions by using
8 certain speed monitoring systems in a certain manner; making certain
9 conforming changes; and generally relating to the use of speed monitoring
10 systems in Montgomery County.

11 BY repealing and reenacting, with amendments,
12 Article – Transportation
13 Section 21–809
14 Annotated Code of Maryland
15 (2006 Replacement Volume and 2008 Supplement)

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

18 **Article – Transportation**

19 21–809.

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

21 (2) [“Local police department”] **“AGENCY”** means:

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (iii) **FOR A MUNICIPAL CORPORATION IN MONTGOMERY**
4 **COUNTY THAT DOES NOT MAINTAIN A POLICE DEPARTMENT, A PERSON**
5 **ESTABLISHED OR DESIGNATED BY THE MUNICIPAL CORPORATION TO ENFORCE**
6 **THIS SUBTITLE USING SPEED MONITORING SYSTEMS IN ACCORDANCE WITH**
7 **THIS SECTION.**

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

10 (ii) “Owner” does not include:

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

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

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

16 (i) On:

17 1. A photograph;

18 2. A microphotograph;

19 3. An electronic image;

20 4. Videotape; or

21 5. Any other medium; and

22 (ii) Showing:

23 1. The rear of a motor vehicle;

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

26 3. On at least one image or portion of tape, a clear
27 identification of the registration plate number of the motor vehicle.

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

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

3 (b) (1) This section applies to a violation of this subtitle that occurs in
4 Montgomery County recorded by a speed monitoring system that meets the
5 requirements of this subsection and has been placed:

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

8 1. With a maximum posted speed limit of 35 miles per
9 hour; and

10 2. That has a speed limit that was established using
11 generally accepted traffic engineering practices; or

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

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

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

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

21 (3) A speed monitoring system operator shall fill out and sign a daily
22 set–up log for a speed monitoring system that:

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

26 (ii) Shall be kept on file; and

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

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

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

- 1 1. Shall be kept on file; and
- 2 2. Shall be admitted as evidence in any court proceeding
- 3 for a violation of this section.

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

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

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

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

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

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

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

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

22 (iii) The violation charged;

23 (iv) The location where the violation occurred;

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

25 (vi) A copy of the recorded image;

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

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

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

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

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

9 1. Is an admission of liability;

10 2. May result in the refusal by the Administration to
11 register the motor vehicle; and

12 3. May result in the suspension of the motor vehicle
13 registration.

14 (2) The [local police department] **AGENCY** may mail a warning notice
15 instead of a citation to the owner liable under subsection (c) of this section.

16 (3) Except as provided in subsection (f)(4) of this section, the [local
17 police department] **AGENCY** may not mail a citation to a person who is not an owner.

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

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

24 (i) Pay the civil penalty, in accordance with instructions on the
25 citation, directly to the Montgomery County Department of Finance; or

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

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

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

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

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

8 (i) Subject to paragraph (2) of this subsection, that the motor
9 vehicle or the 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 (ii) Subject to paragraph (3) of this subsection, evidence that the
13 person named in the citation was not operating the vehicle at the time of the violation;
14 and

15 (iii) Any other issues and evidence that the District Court deems
16 pertinent.

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

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

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

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

31 (iii) Includes any other corroborating evidence.

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

1 department] **AGENCY** a copy of any evidence substantiating who was operating the
2 vehicle at the time of the violation.

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

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

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

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

14 (2) May suspend the registration of the motor vehicle cited for the
15 violation.

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

17 (1) Is not a moving violation for the purpose of assessing points under
18 § 16–402 of this article;

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

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

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

25 (i) In consultation with the Montgomery County Department of Finance and
26 the [local police departments] **AGENCIES**, the Chief Judge of the District Court shall
27 adopt procedures for the issuance of citations, the trial of civil violations, and the
28 collection of civil penalties under this section.

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

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