

HOUSE BILL 877

R5

9lr2694
CF SB 784

By: **Delegates Kramer, Ali, Anderson, Boteler, Bromwell, Cane, Cardin, Carr, DeBoy, Dwyer, Eckardt, Frank, Gaines, Glenn, Haddaway, Harrison, Kullen, McConkey, Miller, Montgomery, Niemann, O'Donnell, Olszewski, Riley, Schuler, Smigiel, Sossi, Stifler, Stukes, Vaughn, and Weir**

Introduced and read first time: February 12, 2009

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Motorcycle at a Red Signal – Affirmative Defense**

3 FOR the purpose of providing an affirmative defense for the operator of a motorcycle
4 to the charge of entering or crossing an intersection against a red traffic signal
5 in violation of certain provisions of law; establishing certain elements to the
6 affirmative defense; and generally relating to a motorcycle crossing an
7 intersection at a red signal.

8 BY repealing and reenacting, without amendments,
9 Article – Transportation
10 Section 11–168 and 21–202(h)
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2008 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Transportation
15 Section 21–201
16 Annotated Code of Maryland
17 (2006 Replacement Volume and 2008 Supplement)

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

20 **Article – Transportation**

21 11–168.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 "Traffic control signal" means any traffic control device, whether manually,
2 electrically, or mechanically operated, by which traffic alternately is directed to stop
3 and permitted to proceed.

4 21-201.

5 (a) (1) Subject to the exceptions granted in this title to the driver of an
6 emergency vehicle, the driver of any vehicle, unless otherwise directed by a police
7 officer, shall obey the instructions of any traffic control device applicable to the vehicle
8 and placed in accordance with the Maryland Vehicle Law.

9 (2) The driver of a vehicle approaching an intersection controlled by a
10 traffic control device may not drive across private property or leave the roadway for
11 the purpose of avoiding the instructions of a traffic control device.

12 (b) (1) If a provision of the Maryland Vehicle Law or of an ordinance or
13 regulation of a local authority requires a traffic control device, the provision is
14 unenforceable against an alleged violator if, at the time and place of the alleged
15 violation, the traffic control device is not in proper position and legible enough to be
16 seen by an ordinarily observant individual.

17 (2) Unless a provision of the Maryland Vehicle Law or of an ordinance
18 or regulation of a local authority states that a traffic control device is required, the
19 provision is effective and enforceable even if no traffic control device is in place.

20 (c) Unless the contrary is established by competent evidence, if a traffic
21 control device is placed in a position approximately meeting the requirements of the
22 Maryland Vehicle Law, the device is presumed to have been placed by the official act
23 or direction of lawful authority.

24 (d) Unless the contrary is established by competent evidence, if a traffic
25 control device is placed in accordance with the Maryland Vehicle Law and purports to
26 meet the lawful requirements governing these devices, the device is presumed to meet
27 the requirements of the Maryland Vehicle Law.

28 **(E) IT IS AN AFFIRMATIVE DEFENSE TO A CHARGE OF VIOLATING**
29 **SUBSECTION (A) OF THIS SECTION OR § 21-202(H) OF THIS SUBTITLE WHILE**
30 **OPERATING A MOTORCYCLE AT AN INTERSECTION CONTROLLED BY A TRAFFIC**
31 **CONTROL SIGNAL THAT:**

32 **(1) THE OPERATOR OF THE MOTORCYCLE BROUGHT THE**
33 **MOTORCYCLE TO A COMPLETE STOP AT THE INTERSECTION AS INSTRUCTED BY**
34 **THE TRAFFIC CONTROL SIGNAL;**

35 **(2) AT THE TIME OF THE ALLEGED VIOLATION:**

1 (I) **THE TRAFFIC CONTROL SIGNAL WAS OPERATED BY A**
2 **VISIBLE VEHICLE SENSOR THAT CONTROLS THE CHANGING OF THE TRAFFIC**
3 **CONTROL SIGNAL WHEN A VEHICLE IS DETECTED BY THE SENSOR;**

4 (II) **NO OTHER VEHICLE THAT WAS ENTITLED TO HAVE THE**
5 **RIGHT-OF-WAY WAS SITTING AT, TRAVELING THROUGH, OR IMMEDIATELY**
6 **APPROACHING THE INTERSECTION; AND**

7 (III) **NO PEDESTRIANS WERE ATTEMPTING TO CROSS AT OR**
8 **NEAR THE INTERSECTION; AND**

9 (3) **THE MOTORCYCLE REMAINED STOPPED WHILE FACING A**
10 **STEADY RED SIGNAL FOR 120 SECONDS OR ONE COMPLETE CYCLE OF THE**
11 **TRAFFIC CONTROL SIGNALS CONTROLLING CROSS TRAFFIC AT THE**
12 **INTERSECTION BEFORE THE OPERATOR OF THE MOTORCYCLE PROCEEDED TO**
13 **ENTER OR CROSS THE INTERSECTION.**

14 21–202.

15 (h) (1) Vehicular traffic facing a steady circular red signal alone:

16 (i) Shall stop at the near side of the intersection:

- 17 1. At a clearly marked stop line;
- 18 2. If there is no clearly marked stop line, before entering
19 any crosswalk; or
- 20 3. If there is no crosswalk, before entering the
21 intersection; and

22 (ii) Except as provided in subsections (i), (j), and (k) of this
23 section, shall remain stopped until a signal to proceed is shown.

24 (2) Vehicular traffic facing a steady red arrow signal:

25 (i) May not enter the intersection to make the movement
26 indicated by the arrow;

27 (ii) Unless entering the intersection to make a movement
28 permitted by another signal, shall stop at the near side of the intersection:

- 29 1. At a clearly marked stop line;
- 30 2. If there is no clearly marked stop line, before entering
31 any crosswalk; or

