

HOUSE BILL 1020

R5
HB 1017/08 – ENV

9lr0653
CF SB 855

By: **Prince George's County Delegation**
Introduced and read first time: February 13, 2009
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County - Vehicle Laws - Speed Monitoring Systems**

3 **PG 309-09**

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

28 BY repealing and reenacting, with amendments,
29 Article – Transportation

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 21-809
2 Annotated Code of Maryland
3 (2006 Replacement Volume and 2008 Supplement)

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

6 **Article – Transportation**

7 21-809.

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

9 (2) “Local police department” means:

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

11 (ii) The police department of any municipal corporation in
12 Montgomery County;

13 **(III) THE PRINCE GEORGE’S COUNTY POLICE**
14 **DEPARTMENT; OR**

15 **(IV) THE POLICE DEPARTMENT OF ANY MUNICIPAL**
16 **CORPORATION IN PRINCE GEORGE’S COUNTY.**

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

19 (ii) “Owner” does not include:

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

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

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

25 (i) On:

26 1. A photograph;

27 2. A microphotograph;

28 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;

32 (ii) The registration number of the motor vehicle involved in the
33 violation;

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

1 (i) Pay the civil penalty, in accordance with instructions on the
2 citation, directly to the Montgomery County Department of Finance **OR THE PRINCE**
3 **GEORGE'S COUNTY OFFICE OF FINANCE, AS APPLICABLE;** or

4 (ii) Elect to stand trial in the District Court for the alleged
5 violation.

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

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

17 (3) Adjudication of liability shall be based on a preponderance of
18 evidence.

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

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

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

27 (iii) Any other issues and evidence that the District Court deems
28 pertinent.

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

34 (3) To satisfy the evidentiary burden under paragraph (1)(ii) of this
35 subsection, the person named in the citation shall provide to the District Court a

1 letter, sworn to or affirmed by the person and mailed by certified mail, return receipt
2 requested, that:

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

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

8 (iii) Includes any other corroborating evidence.

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

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

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

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

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

26 (2) May suspend the registration of the motor vehicle cited for the
27 violation.

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

29 (1) Is not a moving violation for the purpose of assessing points under
30 § 16-402 of this article;

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

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

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

3 (i) In consultation with the Montgomery County Department of Finance,
4 **THE PRINCE GEORGE'S COUNTY OFFICE OF FINANCE**, and the local police
5 departments **IN EACH COUNTY**, the Chief Judge of the District Court shall adopt
6 procedures for the issuance of citations, the trial of civil violations, and the collection
7 of civil penalties under this section.

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

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

12 (1) Beginning in fiscal year 2010 and each fiscal year thereafter,
13 Prince George's County shall use the revenues generated from the enforcement of
14 speed limit laws as authorized under this Act solely to increase local expenditures for
15 related public safety purposes, including pedestrian safety programs; and

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

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

23 SECTION 4. AND BE IT FURTHER ENACTED, That an obligation or contract
24 right existing on the effective date of this Act may not be impaired in any way by this
25 Act.

26 SECTION 5. AND BE IT FURTHER ENACTED, That the Prince George's
27 County Council shall report to the General Assembly on or before December 31, 2013,
28 in accordance with § 2-1246 of the State Government Article, on the effectiveness of
29 speed monitoring systems in Prince George's County.

30 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2009.