

HOUSE BILL 1023

R5

9lr0826

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 313-09**

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 a municipal corporation in Prince George's
16 County or elect to stand trial; requiring the Chief Judge of the District Court, in
17 consultation with the Prince George's County Office of Finance, municipal
18 corporations in Prince George's County, and local police departments, to adopt
19 procedures for the issuance of citations, trial of civil violations, and the
20 collection of civil penalties under laws relating to the enforcement of speed limit
21 laws with certain speed monitoring systems; altering a certain definition;
22 restricting the use of certain revenues generated by this Act; providing for the
23 application of this Act; providing that existing obligations or contracts may not
24 be impaired by this Act; requiring the Prince George's County Council to report
25 to the General Assembly on or before a certain date; and generally relating to
26 imposition of liability, in Prince George's County, on certain persons recorded by
27 speed monitoring systems violating certain laws relating to the operation of
28 motor vehicles in excess of certain speed limits.

29 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Transportation
 2 Section 21–809
 3 Annotated Code of Maryland
 4 (2006 Replacement Volume and 2008 Supplement)

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

7 **Article – Transportation**

8 21–809.

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

10 (2) “Local police department” means:

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

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

14 (iii) **THE PRINCE GEORGE’S COUNTY POLICE**
 15 **DEPARTMENT;**

16 (iv) **THE POLICE DEPARTMENT OF ANY MUNICIPAL**
 17 **CORPORATION IN PRINCE GEORGE’S COUNTY; OR**

18 (v) **A GROUP OF POLICE OFFICERS PROVIDING POLICE**
 19 **SERVICES UNDER CONTRACT WITH THE PRINCE GEORGE’S COUNTY POLICE**
 20 **DEPARTMENT OR THE POLICE DEPARTMENT OF A MUNICIPAL CORPORATION IN**
 21 **PRINCE GEORGE’S COUNTY.**

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

24 (ii) “Owner” does not include:

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

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

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

30 (i) On:

- 1 1. A photograph;
- 2 2. A microphotograph;
- 3 3. An electronic image;
- 4 4. Videotape; or
- 5 5. Any other medium; and

6 (ii) Showing:

- 7 1. The rear of a motor vehicle;
- 8 2. At least two time-stamped images of the motor
9 vehicle that include the same stationary object near the motor vehicle; and
- 10 3. On at least one image or portion of tape, a clear
11 identification of the registration plate number of the motor vehicle.

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

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

17 (b) (1) This section applies to a violation of this subtitle that occurs in
18 Montgomery County **OR PRINCE GEORGE’S COUNTY** recorded by a speed
19 monitoring system that meets the requirements of this subsection and has been
20 placed:

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

- 23 1. With a maximum posted speed limit of 35 miles per
24 hour; and
- 25 2. That has a speed limit that was established using
26 generally accepted traffic engineering practices; [or]

27 (ii) In a school zone established under § 21–803.1 of this
28 subtitle; **OR**

29 **(III) IN PRINCE GEORGE’S COUNTY ON A PRIMARY HIGHWAY**
30 **AS DEFINED IN § 8–101 OF THIS ARTICLE.**

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

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

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

8 (3) A speed monitoring system operator shall fill out and sign a daily
9 set-up log for a speed monitoring system that:

10 (i) States that the speed monitoring system operator
11 successfully performed the manufacturer-specified self-test of the speed monitoring
12 system prior to producing a recorded image;

13 (ii) Shall be kept on file; and

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

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

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

20 1. Shall be kept on file; and

21 2. Shall be admitted as evidence in any court proceeding
22 for a violation of this section.

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

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

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

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

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

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

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

8 (ii) The registration number of the motor vehicle involved in the
9 violation;

10 (iii) The violation charged;

11 (iv) The location where the violation occurred;

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

13 (vi) A copy of the recorded image;

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

16 (viii) A signed statement by a duly authorized agent of the local
17 police department that, based on inspection of recorded images, the motor vehicle was
18 being operated in violation of this subtitle;

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

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

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

27 1. Is an admission of liability;

28 2. May result in the refusal by the Administration to
29 register the motor vehicle; and

30 3. May result in the suspension of the motor vehicle
31 registration.

1 (2) The local police department may mail a warning notice instead of a
2 citation to the owner liable under subsection (c) of this section.

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

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

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

11 (i) Pay the civil penalty, in accordance with instructions on the
12 citation, directly to the Montgomery County Department of Finance, **THE PRINCE**
13 **GEORGE'S COUNTY OFFICE OF FINANCE, OR THE MUNICIPAL CORPORATION IN**
14 **PRINCE GEORGE'S COUNTY, AS APPLICABLE;** or

15 (ii) Elect to stand trial in the District Court for the alleged
16 violation.

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

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

28 (3) Adjudication of liability shall be based on a preponderance of
29 evidence.

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

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

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

4 (iii) Any other issues and evidence that the District Court deems
5 pertinent.

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

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

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

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

20 (iii) Includes any other corroborating evidence.

21 (4) (i) If the District Court finds that the person named in the
22 citation was not operating the vehicle at the time of the violation or receives evidence
23 under paragraph (3) of this subsection identifying the person driving the vehicle at the
24 time of the violation, the clerk of the court shall provide to the local police department
25 a copy of any evidence substantiating who was operating the vehicle at the time of the
26 violation.

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

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

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

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

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

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

4 (1) Is not a moving violation for the purpose of assessing points under
5 § 16–402 of this article;

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

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

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

12 (i) In consultation with the Montgomery County Department of Finance,
13 **THE PRINCE GEORGE’S COUNTY OFFICE OF FINANCE, THE MUNICIPAL**
14 **CORPORATIONS IN PRINCE GEORGE’S COUNTY,** and the local police departments
15 **IN EACH COUNTY,** the Chief Judge of the District Court shall adopt procedures for the
16 issuance of citations, the trial of civil violations, and the collection of civil penalties
17 under this section.

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

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

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

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

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

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

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

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