9lr0826

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

Committee Report: Favorable with amendments House action: Adopted Read second time: March 27, 2009

CHAPTER _____

1 AN ACT concerning

 $\mathbf{2}$

Prince George's County – Vehicle Laws – Speed Monitoring Systems

3

PG 313-09

FOR the purpose of authorizing the placement of certain speed monitoring systems on 4 certain highways in Prince George's County; making certain provisions of law 5 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 violation of certain laws relating to the operation of motor vehicles in excess of 10 certain speed limits; authorizing local police departments to send warnings 11 12 instead of citations; authorizing a person who receives a citation for violating a speed limit and whose vehicle was recorded by a speed monitoring system while 13 14 being operated in violation of the speed limit to pay a civil penalty to the Prince 15George's County Office of Finance or a municipal corporation in Prince George's County or elect to stand trial; requiring the Chief Judge of the District Court, in 16 consultation with the Prince George's County Office of Finance, municipal 1718 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 collection of civil penalties under laws relating to the enforcement of speed limit 2021laws with certain speed monitoring systems; expanding the circumstances 22under which certain contractors are prohibited from receiving certain 23contingent fees; altering a certain definition; restricting the use of certain revenues generated by this Act; providing for the application of this Act; 24providing that existing obligations or contracts may not be impaired by this Act; 25

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.



	2 HOUSE BILL 1023
$egin{array}{c} 1 \\ 2 \\ 3 \\ 4 \\ 5 \end{array}$	requiring the Prince George's County Council to report to the General Assembly on or before a certain date; and generally relating to imposition of liability, in Prince George's County, on certain persons recorded by speed monitoring systems violating certain laws relating to the operation of motor vehicles in excess of certain speed limits.
6 7 8 9 10	BY repealing and reenacting, with amendments, Article – Transportation Section 21–809 Annotated Code of Maryland (2006 Replacement Volume and 2008 Supplement)
$\begin{array}{c} 11 \\ 12 \end{array}$	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
13	Article – Transportation
14	21-809.
15	(a) (1) In this section the following words have the meanings indicated.
16	(2) "Local police department" means:
17	(i) The Montgomery County Department of Police; [and]
18 19	(ii) The police department of any municipal corporation in Montgomery County;
$\begin{array}{c} 20\\ 21 \end{array}$	(III) THE PRINCE GEORGE'S COUNTY POLICE DEPARTMENT; <u>OR</u>
22 23	(IV) THE POLICE DEPARTMENT OF ANY MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY ; OR
24 25 26 27	(v) A group of police officers providing police services under contract with the Prince George's County Police Department or the police department of a municipal corporation in Prince George's County.
28 29	(3) (i) "Owner" means the registered owner of a motor vehicle or a lessee of a motor vehicle under a lease of 6 months or more.
30	(ii) "Owner" does not include:
31	1. A motor vehicle rental or leasing company; or

$egin{array}{c} 1 \ 2 \end{array}$	2. A holder of a special registration plate issued under Title 13, Subtitle 9, Part III of this article.
$3 \\ 4$	(4) "Recorded image" means an image recorded by a speed monitoring system:
5	(i) On:
6	1. A photograph;
7	2. A microphotograph;
8	3. An electronic image;
9	4. Videotape; or
10	5. Any other medium; and
11	(ii) Showing:
12	1. The rear of a motor vehicle;
$\begin{array}{c} 13\\14\end{array}$	2. At least two time-stamped images of the motor vehicle that include the same stationary object near the motor vehicle; and
$\begin{array}{c} 15\\ 16\end{array}$	3. On at least one image or portion of tape, a clear identification of the registration plate number of the motor vehicle.
17 18 19	(5) "Speed monitoring system" means a device with one or more motor vehicle sensors producing recorded images of motor vehicles traveling at speeds at least 10 miles per hour above the posted speed limit.
$\begin{array}{c} 20\\ 21 \end{array}$	(6) "Speed monitoring system operator" means an individual who operates a speed monitoring system.
$22 \\ 23 \\ 24 \\ 25$	(b) (1) This section applies to a violation of this subtitle that occurs in Montgomery County OR PRINCE GEORGE'S COUNTY recorded by a speed monitoring system that meets the requirements of this subsection and has been placed:
$\begin{array}{c} 26 \\ 27 \end{array}$	(i) On a highway in a residential district as defined in § 21–101 of this title:
$\begin{array}{c} 28\\ 29 \end{array}$	1. With a maximum posted speed limit of 35 miles per hour; and

	4		HOUSE BILL 1023
$\frac{1}{2}$	generally accepted t		2. That has a speed limit that was established using engineering practices; [or]
$\frac{3}{4}$	(subtitle ; OR	ii)	In a school zone established under § 21-803.1 of this
5 6	(AS DEFINED IN § 8-		IN PRINCE GEORGE'S COUNTY ON A PRIMARY HIGHWAY OF THIS ARTICLE.
7 8 9		of spe	A speed monitoring system operator shall complete training eed monitoring systems in the procedures for setting up and toring system.
10 11	•		The manufacturer shall issue a signed certificate to the operator upon completion of the training.
$\begin{array}{c} 12\\ 13 \end{array}$	· · · · · · · · · · · · · · · · · · ·		The certificate of training shall be admitted as evidence in a violation of this section.
$\begin{array}{c} 14 \\ 15 \end{array}$		-	ed monitoring system operator shall fill out and sign a daily nitoring system that:
16 17 18	· · · · · · · · · · · · · · · · · · ·	ned th	States that the speed monitoring system operator ne manufacturer-specified self-test of the speed monitoring g a recorded image;
19	(ii)	Shall be kept on file; and
$\begin{array}{c} 20\\ 21 \end{array}$	violation of this sect		Shall be admitted as evidence in any court proceeding for a
22 23	. , ,		A speed monitoring system shall undergo an annual ed by an independent calibration laboratory.
$\begin{array}{c} 24 \\ 25 \end{array}$,		The independent calibration laboratory shall issue a signed fter the annual calibration check, which:
26			1. Shall be kept on file; and
27 28	for a violation of this		2. Shall be admitted as evidence in any court proceeding ion.
29 30 31	police officer at the	time o	s the driver of the motor vehicle received a citation from a of the violation, the owner or, in accordance with subsection driver of a motor vehicle is subject to a civil penalty if the

(f)(4) of this section, the driver of a motor vehicle is subject to a civil penalty if the
 motor vehicle is recorded by a speed monitoring system while being operated in
 violation of this subtitle.

1	(2)	A civi	l penalty under this subsection may not exceed \$40.	
2	(3)	For p	urposes of this section, the District Court shall prescribe:	
$3 \\ 4$	this section and §	(i) 7–302 o	A uniform citation form consistent with subsection $(d)(1)$ of of the Courts Article; and	
5 6 7	paid by persons w Court.	(ii) ho cho	A civil penalty, which shall be indicated on the citation, to be ose to prepay the civil penalty without appearing in District	
8 9 10	(d) (1) Subject to the provisions of paragraphs (2) through (4) of this subsection, the local police department shall mail to the owner, liable under subsection (c) of this section, a citation that shall include:			
11		(i)	The name and address of the registered owner of the vehicle;	
12 13	violation;	(ii)	The registration number of the motor vehicle involved in the	
14		(iii)	The violation charged;	
15		(iv)	The location where the violation occurred;	
16		(v)	The date and time of the violation;	
17		(vi)	A copy of the recorded image;	
18 19	which the civil per	(vii) nalty sh	The amount of the civil penalty imposed and the date by nould be paid;	
20 21 22	police department being operated in	that, k	A signed statement by a duly authorized agent of the local based on inspection of recorded images, the motor vehicle was on of this subtitle;	
$\begin{array}{c} 23\\ 24 \end{array}$	of this subtitle;	(ix)	A statement that recorded images are evidence of a violation	
25 26 27	this section of the contested in the D		Information advising the person alleged to be liable under or and time in which liability as alleged in the citation may be Court; and	
28 29 30	this section that manner:	(xi) failure	Information advising the person alleged to be liable under to pay the civil penalty or to contest liability in a timely	
31			1. Is an admission of liability;	

$rac{1}{2}$	2. May result in the refusal by the Administration to register the motor vehicle; and
$3 \\ 4$	3. May result in the suspension of the motor vehicle registration.
5 6	(2) The local police department may mail a warning notice instead of a citation to the owner liable under subsection (c) of this section.
7 8	(3) Except as provided in subsection $(f)(4)$ of this section, the local police department may not mail a citation to a person who is not an owner.
9 10 11 12	(4) Except as provided in subsection $(f)(4)$ of this section, a citation issued under this section shall be mailed no later than 2 weeks after the alleged violation if the vehicle is registered in this State, and 30 days after the alleged violation if the vehicle is registered in another state.
$\begin{array}{c} 13\\14\end{array}$	(5) A person who receives a citation under paragraph (1) of this subsection may:
15 16 17 18	(i) Pay the civil penalty, in accordance with instructions on the citation, directly to the Montgomery County Department of Finance, THE PRINCE GEORGE'S COUNTY OFFICE OF FINANCE, OR THE MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY, AS APPLICABLE; or
19 20	(ii) Elect to stand trial in the District Court for the alleged violation.
21 22 23 24 25 26 27	(e) (1) A certificate alleging that the violation of this subtitle occurred and the requirements under subsection (b) of this section have been satisfied, sworn to, or affirmed by a duly authorized agent of the local police department, based on inspection of recorded images produced by a speed monitoring system, shall be evidence of the facts contained in the certificate and shall be admissible in a proceeding alleging a violation under this section without the presence or testimony of the speed monitoring system operator who performed the requirements under subsection (b) of this section.
28 29 30 31	(2) If a person who received a citation under subsection (d) of this section desires the speed monitoring system operator to be present and testify at trial, the person shall notify the court and the State in writing no later than 20 days before trial.
32 33	(3) Adjudication of liability shall be based on a preponderance of evidence.

6

1 Subject to paragraph (2) of this subsection, that the motor (i) $\mathbf{2}$ vehicle or the registration plates of the motor vehicle were stolen before the violation 3 occurred and were not under the control or possession of the owner at the time of the 4 violation: $\mathbf{5}$ Subject to paragraph (3) of this subsection, evidence that the (ii) 6 person named in the citation was not operating the vehicle at the time of the violation; 7 and 8 (iii) Any other issues and evidence that the District Court deems 9 pertinent. 10 (2)In order to demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or 11 12 possession of the owner at the time of the violation, the owner shall submit proof that 13a police report regarding the stolen motor vehicle or registration plates was filed in a 14 timely manner. 15To satisfy the evidentiary burden under paragraph (1)(ii) of this (3)subsection, the person named in the citation shall provide to the District Court a 16 17letter, sworn to or affirmed by the person and mailed by certified mail, return receipt 18 requested, that: 19 (i) States that the person named in the citation was not 20operating the vehicle at the time of the violation; 21Provides the name, address, and, if possible, the driver's (ii) 22license identification number of the person who was operating the vehicle at the time 23of the violation; and 24(iii) Includes any other corroborating evidence. 25(4)(i) If the District Court finds that the person named in the 26 citation was not operating the vehicle at the time of the violation or receives evidence 27under paragraph (3) of this subsection identifying the person driving the vehicle at the 28time of the violation, the clerk of the court shall provide to the local police department 29 a copy of any evidence substantiating who was operating the vehicle at the time of the 30 violation. 31(ii) On receipt of substantiating evidence from the District 32Court under subparagraph (i) of this paragraph, the local police department may issue 33 a citation as provided in subsection (d) of this section to the person who the evidence 34indicates was operating the vehicle at the time of the violation.

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

$rac{1}{2}$	0	If a person liable under this section does not pay the civil penalty or iolation, the Administration:
$\frac{3}{4}$	violation; or	(1) May refuse to register or reregister the motor vehicle cited for the
5 6	violation.	(2) May suspend the registration of the motor vehicle cited for the
7	(h) .	A violation for which a civil penalty is imposed under this section:
8 9	§ 16–402 of t	(1) Is not a moving violation for the purpose of assessing points under his article;
10 11		(2) May not be recorded by the Administration on the driving record of driver of the vehicle;
$\begin{array}{c} 12\\ 13 \end{array}$	this article; a	(3) May be treated as a parking violation for purposes of § 26–305 of and
$\begin{array}{c} 14 \\ 15 \end{array}$	coverage.	(4) May not be considered in the provision of motor vehicle insurance
16 17 18 19 20 21	THE PRINC CORPORATION IN EACH COM	In consultation with the Montgomery County Department of Finance, CE GEORGE'S COUNTY OFFICE OF FINANCE, THE MUNICIPAL ONS IN PRINCE GEORGE'S COUNTY, and the local police departments UNTY, the Chief Judge of the District Court shall adopt procedures for the ditations, the trial of civil violations, and the collection of civil penalties ction.
22 23 24	Montgomery	If a contractor operates a speed monitoring system on behalf of County OR PRINCE GEORGE'S COUNTY, the <u>A</u> contractor's fee may not t on the number of citations issued or paid <u>IF THE CONTRACTOR</u> :
25 26		(1) OPERATES THE SPEED MONITORING SYSTEM ON BEHALF OF JURISDICTION;
27		(2) DETERMINES THE PLACEMENT OF THE CAMERAS; OR
28 29	CITATION IS	(3) HAS THE FINAL AUTHORITY TO DETERMINE WHETHER A SISSUED.
30	SECTI	ON 2. AND BE IT FURTHER ENACTED, That:
$31 \\ 32$		(1) Beginning in fiscal year 2010 and each fiscal year thereafter, ge's County shall use the revenues generated from the enforcement of

8

1 speed limit laws as authorized under this Act solely to increase local expenditures for 2 related public safety purposes, including pedestrian safety programs; and

3 (2) Related public safety expenditures required under this section 4 shall be used to supplement and may not supplant existing local expenditures for the 5 same purpose.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be 7 construed to apply only prospectively and may not be applied or interpreted to have 8 any effect on or application to any contract awarded before the effective date of this 9 Act.

10 SECTION 4. AND BE IT FURTHER ENACTED, That an obligation or contract 11 right existing on the effective date of this Act may not be impaired in any way by this 12 Act.

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

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effectOctober 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.