

HOUSE BILL 1314

R5
HB 1198/08 – ENV

9lr0592

By: **Howard County Delegation**

Introduced and read first time: February 16, 2009

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Howard County – Vehicle Laws – Speed Monitoring Systems**

3 **Ho. Co. 6–09**

4 FOR the purpose of adding Howard County as a county authorized to use certain
5 speed monitoring systems to enforce highway speed laws under certain
6 standards and procedures; limiting the use of speed monitoring systems in
7 Howard County to certain highways; establishing a certain maximum fine for a
8 violation of law enforced by means of a speed monitoring system in Howard
9 County; requiring the Chief Judge of the District Court to consult with a certain
10 Howard County agency in adopting certain procedures; restricting the use of
11 certain revenues generated by this Act; providing for the application of this Act;
12 providing that existing obligations or contract rights may not be impaired by
13 this Act; requiring Howard County to report on the effectiveness of speed
14 monitoring systems to the General Assembly on or before a certain date;
15 altering a certain definition; prohibiting the Howard County Police Department
16 from utilizing more than a certain number of speed monitoring systems for a
17 certain purpose; requiring the Howard County Police Department, during a
18 certain period, to issue only warning citations to certain motorists and to
19 conduct a public education and awareness campaign regarding the use of speed
20 monitoring systems in Howard County; requiring the Howard County Police
21 Department to submit a certain annual report to the Howard County Delegation
22 to the General Assembly; requiring the Howard County Council to submit a
23 certain report to the General Assembly by a certain date; making this Act
24 contingent on the failure of certain legislation; providing for the termination of
25 this Act; and generally relating to imposition of liability on certain persons
26 recorded by speed monitoring systems violating certain laws regarding the
27 operation of motor vehicles in excess of certain speed limits.

28 BY repealing and reenacting, without amendments,
29 Article – Courts and Judicial Proceedings

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 4–401(13), 7–301(a), 7–302(e), and 10–311
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Insurance
Section 11–215(e) and 11–318(e)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 10–616(o)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

BY repealing and reenacting, without amendments,
Article – Transportation
Section 26–305(a) and 26–401
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Courts and Judicial Proceedings

4–401.

Except as provided in § 4–402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(13) A proceeding for a civil infraction under § 21–202.1, § 21–704.1, or § 21–809 of the Transportation Article or § 10–112 of the Criminal Law Article;

7–301.

(a) The court costs in a traffic case, including parking and impounding cases, cases under § 21–202.1 or § 21–809 of the Transportation Article in which costs are imposed, and cases under § 10–112 of the Criminal Law Article in which costs are imposed are \$22.50. Such costs shall also be applicable to those cases in which the

defendant elects to waive his right to trial and pay the fine or penalty deposit established by the Chief Judge of the District Court by administrative regulation. In an uncontested case under § 21–202.1 or § 21–809 of the Transportation Article, an uncontested case under § 10–112 of the Criminal Law Article, or an uncontested parking or impounding case in which the fines are paid directly to a political subdivision or municipality, costs are \$2.00, which costs shall be paid to and retained by the political subdivision or municipality. In an uncontested case in which the fine is paid directly to an agency of State government authorized by law to regulate parking of motor vehicles, the costs are \$2.00. The fine and the costs shall be paid to the agency, which shall receive and account for these funds as in all other cases involving sums due the State through a State agency.

7–302.

(e) (1) A citation issued pursuant to § 21–202.1 or § 21–809 of the Transportation Article shall provide that the person receiving the citation may elect to stand trial by notifying the issuing agency of the person's intention to stand trial at least 5 days prior to the date of payment as set forth in the citation. On receipt of the notice to stand trial, the agency shall forward to the District Court having venue a copy of the citation and a copy of the notice from the person who received the citation indicating the person's intention to stand trial. On receipt thereof, the District Court shall schedule the case for trial and notify the defendant of the trial date under procedures adopted by the Chief Judge of the District Court.

(2) A citation issued as the result of a traffic control signal monitoring system or speed monitoring system controlled by a political subdivision shall provide that, in an uncontested case, the penalty shall be paid directly to that political subdivision. A citation issued as the result of a traffic control signal monitoring system controlled by a State agency or a speed monitoring system, in a case contested in District Court, shall provide that the penalty shall be paid directly to the District Court.

(3) Civil penalties resulting from citations issued using traffic control signal monitoring systems or speed monitoring systems that are collected by the District Court shall be collected in accordance with subsection (a) of this section and distributed in accordance with § 12–118 of the Transportation Article.

10–311.

(a) A recorded image of a motor vehicle produced by a traffic control signal monitoring system in accordance with § 21–202.1 of the Transportation Article is admissible in a proceeding concerning a civil citation issued under that section for a violation of § 21–202(h) of the Transportation Article without authentication.

(b) A recorded image of a motor vehicle produced by a speed monitoring system in accordance with § 21–809 of the Transportation Article is admissible in a proceeding concerning a civil citation issued under that section for a violation of Title 21, Subtitle 8 of the Transportation Article without authentication.

(c) In any other judicial proceeding, a recorded image produced by a traffic control signal monitoring system or speed monitoring system is admissible as otherwise provided by law.

Article – Insurance

11–215.

(e) For purposes of reclassifying an insured in a classification that entails a higher premium, an insurer under an automobile insurance policy may not consider a probation before judgment disposition of a motor vehicle law offense, a civil penalty imposed pursuant to § 21–202.1 or § 21–809 of the Transportation Article, or a first offense of driving with an alcohol concentration of 0.08 or more under § 16–205.1 of the Transportation Article on record with the Motor Vehicle Administration, as provided in § 16–117(b) of the Transportation Article.

11–318.

(e) For purposes of reclassifying an insured in a classification that entails a higher premium, an insurer under an automobile insurance policy may not consider a probation before judgment disposition of a motor vehicle law offense, a civil penalty imposed pursuant to § 21–202.1 or § 21–809 of the Transportation Article, or a first offense of driving with an alcohol concentration of 0.08 or more under § 16–205.1 of the Transportation Article on record with the Motor Vehicle Administration, as provided in § 16–117(b) of the Transportation Article.

Article – State Government

10–616.

(o) (1) In this subsection, “recorded images” has the meaning stated in § 21–202.1 or § 21–809 of the Transportation Article.

(2) Except as provided in paragraph (3) of this subsection, a custodian of recorded images produced by a traffic control signal monitoring system operated under § 21–202.1 of the Transportation Article or a speed monitoring system operated under § 21–809 of the Transportation Article shall deny inspection of the recorded images.

(3) A custodian shall allow inspection of recorded images:

(i) as required in § 21–202.1 or § 21–809 of the Transportation Article;

(ii) by any person issued a citation under § 21–202.1 or § 21–809 of the Transportation Article, or an attorney of record for the person; or

(iii) by an employee or agent of a law enforcement agency in an investigation or proceeding relating to the imposition of or indemnification from civil liability pursuant to § 21–202.1 or § 21–809 of the Transportation Article.

Article – Transportation

21–809.

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

(2) “Local police department” means:

(i) **THE HOWARD COUNTY POLICE DEPARTMENT;**

(ii) The Montgomery County Department of Police; and

~~[(ii)]~~ (iii) The police department of any municipal corporation in Montgomery County.

(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.

(ii) “Owner” does not include:

1. A motor vehicle rental or leasing company; or

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

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

(i) On:

1. A photograph;

2. A microphotograph;

3. An electronic image;

4. Videotape; or

5. Any other medium; and

(ii) Showing:

1. The rear of a motor vehicle;

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

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

(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.

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

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

(i) **[On] IN MONTGOMERY COUNTY, ON** a highway in a residential district as defined in § 21–101 of this title:

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

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

(ii) **In HOWARD COUNTY, ON A HIGHWAY:**

1. WITH A MAXIMUM POSTED SPEED LIMIT OF 45 MILES PER HOUR; AND

2. THAT HAS A SPEED LIMIT THAT WAS ESTABLISHED USING GENERALLY ACCEPTED TRAFFIC ENGINEERING PRACTICES; OR

(III) IN HOWARD COUNTY OR MONTGOMERY COUNTY IN a school zone established under § 21–803.1 of this subtitle.

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

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

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

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

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

(ii) Shall be kept on file; and

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

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

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

1. Shall be kept on file; and

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

(c) (1) Unless the driver of the motor vehicle received a citation from a police officer at the time of the violation, the owner or, in accordance with subsection (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.

(2) A civil penalty under this subsection may not exceed [\$40]:

(I) **\$40 FOR A VIOLATION THAT OCCURRED IN HOWARD COUNTY; OR**

(II) **\$40 FOR A VIOLATION THAT OCCURRED IN MONTGOMERY COUNTY.**

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

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

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

(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:

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

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

(iii) The violation charged;

(iv) The location where the violation occurred;

(v) The date and time of the violation;

(vi) A copy of the recorded image;

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

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

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

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

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

1. Is an admission of liability;

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

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

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

(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.

(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.

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

(i) Pay the civil penalty, in accordance with instructions on the citation, directly to the **HOWARD COUNTY OFFICE OF FINANCE OR** Montgomery County Department of Finance, **AS APPROPRIATE**; or

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

(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.

(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.

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

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

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

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

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

(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 possession of the owner at the time of the violation, the owner shall submit proof that a police report regarding the stolen motor vehicle or registration plates was filed in a timely manner.

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

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

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

(iii) Includes any other corroborating evidence.

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

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

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

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

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

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

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

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

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

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

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

(i) In consultation with the **HOWARD COUNTY OFFICE OF FINANCE, THE** Montgomery County Department of [Finance] **FINANCE**, and the local police departments, the Chief Judge of the District Court shall adopt procedures for the issuance of citations, the trial of civil violations, and the collection of civil penalties under this section.

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

26–305.

(a) The Administration may not register or transfer the registration of any vehicle involved in a parking violation under this subtitle, a violation under any federal parking regulation that applies to property in this State under the jurisdiction of the U.S. government, a violation of § 21–202(h) of this article as determined under § 21–202.1 of this article or Title 21, Subtitle 8 of this article as determined under § 21–809 of this article, or a violation of the State litter control law or a local law or ordinance adopted by Baltimore City relating to the unlawful disposal of litter as determined under § 10–112 of the Criminal Law Article, if:

(1) It is notified by a political subdivision or authorized State agency that the person cited for the violation under this subtitle, § 21–202.1 or § 21–809 of this article, or § 10–112 of the Criminal Law Article has failed to either:

(i) Pay the fine for the violation by the date specified in the citation; or

(ii) File a notice of his intention to stand trial for the violation;

1 (2) It is notified by the District Court that a person who has elected to
2 stand trial for the violation under this subtitle, under § 21–202.1 or § 21–809 of this
3 article, or under § 10–112 of the Criminal Law Article has failed to appear for trial; or

4 (3) It is notified by a U.S. District Court that a person cited for a
5 violation under a federal parking regulation:

6 (i) Has failed to pay the fine for the violation by the date
7 specified in the federal citation; or

8 (ii) Either has failed to file a notice of his intention to stand trial
9 for the violation, or, if electing to stand trial, has failed to appear for trial.

10 26–401.

11 If a person is taken before a District Court commissioner or is given a traffic
12 citation or a civil citation under § 21–202.1 or § 21–809 of this article containing a
13 notice to appear in court, the commissioner or court shall be one that sits within the
14 county in which the offense allegedly was committed.

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

16 (1) beginning in fiscal year 2010 and each fiscal year thereafter,
17 Howard County shall use the revenues generated from the enforcement of speed limit
18 laws as authorized under this Act solely to increase local expenditures for related
19 public safety purposes, including pedestrian safety programs; and

20 (2) related public safety expenditures required under this section shall
21 be used to supplement and may not supplant existing local expenditures for the same
22 purpose.

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

27 SECTION 4. AND BE IT FURTHER ENACTED, That a presently existing
28 obligation or contract right may not be impaired in any way by this Act.

29 SECTION 5. AND BE IT FURTHER ENACTED, That, at any given time, the
30 Howard County Police Department may not utilize more than 10 speed monitoring
31 systems, whether fixed or mobile, to be used on designated highways and in school
32 zones in accordance with the provisions of this Act.

33 SECTION 6. AND BE IT FURTHER ENACTED, That, for 90 days immediately
34 after deployment of the first speed monitoring system in Howard County as authorized
35 by this Act, the Howard County Police Department:

1 (1) may issue only a warning citation to a motorist for a violation
2 enforced by a speed monitoring system; and

3 (2) shall implement or continue, as the case may be, an extensive
4 public education and awareness campaign about the use of speed monitoring systems
5 in the county.

6 SECTION 7. AND BE IT FURTHER ENACTED, That the Howard County
7 Police Department shall submit a written report to the Howard County Delegation to
8 the General Assembly on or before September 30 each year covering enforcement
9 activity, driver behavior, financial matters, and other relevant issues in the
10 immediately preceding fiscal year related to the use of speed monitoring systems as
11 authorized by this Act.

12 SECTION 8. AND BE IT FURTHER ENACTED, That the Howard County
13 Council shall report to the General Assembly on or before December 31, 2013, in
14 accordance with § 2-1246 of the State Government Article, on the effectiveness of
15 speed monitoring systems in Howard County.

16 SECTION 9. AND BE IT FURTHER ENACTED, That this Act is contingent on
17 the failure of S.B. 277/H.B. 313 during the 2009 Session of the General Assembly. If
18 S.B. 277/H.B. 313 is enacted, this Act shall be null and void without the necessity of
19 further action by the General Assembly.

20 SECTION 10. AND BE IT FURTHER ENACTED, That, subject to Section 9 of
21 this Act, this Act shall take effect October 1, 2009. It shall remain effective for a period
22 of 5 years and, at the end of September 30, 2014, with no further action required by
23 the General Assembly, this Act shall be abrogated and of no further force and effect.