

SENATE BILL 388

R5

9lr1370
CF HB 396

By: **Senator McFadden (By Request – Baltimore City Administration)**

Introduced and read first time: February 2, 2009

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City – Vehicle Laws – Speed Monitoring Systems**

3 FOR the purpose of authorizing the placement of certain speed monitoring systems on
4 certain highways in Baltimore City; making certain provisions of law relating to
5 the enforcement of speed limit laws with certain speed monitoring systems
6 applicable in Baltimore City; requiring certain local police departments in
7 Baltimore City to mail citations to the owners of vehicles that are recorded by
8 speed monitoring systems in Baltimore City in violation of certain laws relating
9 to the operation of motor vehicles in excess of certain speed limits; authorizing
10 local police departments to send warnings instead of citations; authorizing a
11 person who receives a citation for violating a speed limit and whose vehicle was
12 recorded by a speed monitoring system while being operated in violation of the
13 speed limit to pay a civil penalty to the Baltimore City Department of Finance
14 or elect to stand trial; requiring the Chief Judge of the District Court, in
15 consultation with the Baltimore City Department of Finance and local police
16 departments, to adopt procedures for the issuance of citations, trial of civil
17 violations, and the collection of civil penalties under laws relating to the
18 enforcement of speed limit laws with certain speed monitoring systems; altering
19 a certain definition; and generally relating to the imposition of liability, in
20 Baltimore City, on certain persons recorded by speed monitoring systems
21 violating certain laws relating to the operation of motor vehicles in excess of
22 certain speed limits.

23 BY repealing and reenacting, with amendments,
24 Article – Transportation
25 Section 21–809
26 Annotated Code of Maryland
27 (2006 Replacement Volume and 2008 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Transportation**

2 21–809.

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

4 (2) “Local police department” means:

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

6 (ii) The police department of any municipal corporation in
7 Montgomery County; **AND**8 **(III) THE BALTIMORE CITY POLICE DEPARTMENT.**9 (3) (i) “Owner” means the registered owner of a motor vehicle or a
10 lessee of a motor vehicle under a lease of 6 months or more.

11 (ii) “Owner” does not include:

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

13 2. A holder of a special registration plate issued under
14 Title 13, Subtitle 9, Part III of this article.15 (4) “Recorded image” means an image recorded by a speed monitoring
16 system:

17 (i) On:

18 1. A photograph;

19 2. A microphotograph;

20 3. An electronic image;

21 4. Videotape; or

22 5. Any other medium; and

23 (ii) Showing:

24 1. The rear of a motor vehicle;

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

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

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

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

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

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

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

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

17 (ii) In a school zone established under § 21–803.1 of this
18 subtitle.

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

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

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

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

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

31 (ii) Shall be kept on file; and

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

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

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

5 1. Shall be kept on file; and

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

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

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

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

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

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

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

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

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

26 (iii) The violation charged;

27 (iv) The location where the violation occurred;

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

29 (vi) A copy of the recorded image;

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

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

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

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

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

- 12 1. Is an admission of liability;
- 13 2. May result in the refusal by the Administration to
14 register the motor vehicle; and
- 15 3. May result in the suspension of the motor vehicle
16 registration.

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

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

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

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

27 (i) Pay the civil penalty, in accordance with instructions on the
28 citation, directly to the **BALTIMORE CITY DEPARTMENT OF FINANCE OR THE**
29 **Montgomery County Department of Finance, AS APPLICABLE;** or

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

32 (e) (1) A certificate alleging that the violation of this subtitle occurred and
33 the requirements under subsection (b) of this section have been satisfied, sworn to, or

1 affirmed by a duly authorized agent of the local police department, based on inspection
2 of recorded images produced by a speed monitoring system, shall be evidence of the
3 facts contained in the certificate and shall be admissible in a proceeding alleging a
4 violation under this section without the presence or testimony of the speed monitoring
5 system operator who performed the requirements under subsection (b) of this section.

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

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

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

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

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

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

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

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

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

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

36 (iii) Includes any other corroborating evidence.

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

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

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

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

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

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

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

21 (1) Is not a moving violation for the purpose of assessing points under
22 § 16–402 of this article;

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

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

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

29 (i) In consultation with the **BALTIMORE CITY DEPARTMENT OF**
30 **FINANCE**, THE Montgomery County Department of [Finance] **FINANCE**, and the
31 local police departments, the Chief Judge of the District Court shall adopt procedures
32 for the issuance of citations, the trial of civil violations, and the collection of civil
33 penalties under this section.

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

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2009.