

CHAPTER 423

(House Bill 822)

AN ACT concerning

Montgomery County – Railroad Grade Crossings – Automated Enforcement Systems

MC 907–09

FOR the purpose of making certain provisions of law relating to automated railroad grade crossing enforcement systems at railroad grade crossings applicable to Montgomery County; authorizing certain law enforcement agencies in Montgomery County to mail a citation within a certain period of time to the owner of a motor vehicle that is recorded in Montgomery County by an automated railroad grade crossing enforcement system while in violation of certain laws regarding railroad grade crossings; requiring the Chief Judge of the District Court, in consultation with local law enforcement agencies in Montgomery County, to adopt procedures for certain purposes; expanding the jurisdiction of the District Court; altering a certain definition; and generally relating to imposition of liability on the owner of a motor vehicle recorded in Montgomery County by an automated railroad grade crossing enforcement system violating certain laws regarding railroad grade crossings.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 4–401(13)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 11–167 and 11–168
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 21–704.1
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;

Article – Transportation

11–167.

“Traffic control device” means any sign, signal, marking, or device that:

- (1) Is not inconsistent with the Maryland Vehicle Law; and
- (2) Is placed by authority of an authorized public body or official to regulate, warn, or guide traffic.

11–168.

“Traffic control signal” means any traffic control device, whether manually, electrically, or mechanically operated, by which traffic alternately is directed to stop and permitted to proceed.

21–704.1.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Agency” means:
 - (i) For an automated railroad grade crossing enforcement system operated and maintained at a railroad grade crossing in **MONTGOMERY COUNTY OR** Prince George’s County that is under the control of the State, the law enforcement agency of the State primarily responsible for traffic control at that railroad grade crossing; [or]
 - (ii) For an automated railroad grade crossing enforcement system operated and maintained at a railroad grade crossing under the control of Prince George’s County or a municipal corporation in Prince George’s County, a law enforcement agency of Prince George’s County or the municipal corporation that is

authorized to issue citations for a violation of the Maryland Vehicle Law or of local traffic laws or regulations at that railroad grade crossing; **OR**

(III) FOR AN AUTOMATED RAILROAD GRADE CROSSING ENFORCEMENT SYSTEM OPERATED AND MAINTAINED AT A RAILROAD GRADE CROSSING UNDER THE CONTROL OF MONTGOMERY COUNTY OR A MUNICIPAL CORPORATION IN MONTGOMERY COUNTY, A LAW ENFORCEMENT AGENCY OF MONTGOMERY COUNTY OR THE MUNICIPAL CORPORATION THAT IS AUTHORIZED TO ISSUE CITATIONS FOR A VIOLATION OF THE MARYLAND VEHICLE LAW OR OF LOCAL TRAFFIC LAWS OR REGULATIONS AT THAT RAILROAD GRADE CROSSING.

(3) “Automated railroad grade crossing enforcement system” means a system operated by an agency that records a driver’s response to a traffic control signal or traffic control device located at a railroad grade crossing.

(4) (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 a motor vehicle rental or leasing company or a holder of a special registration plate issued under Part III of Title 13, Subtitle 9 of this article.

(5) “Violation” means any violation of §§ 21–701 through 21–704 of this subtitle.

(b) This section applies only in **MONTGOMERY COUNTY AND** Prince George’s County.

(c) A recording by an automated railroad grade crossing enforcement system under this section indicating that the driver of a motor vehicle has committed a violation shall include:

- (1) An image of the motor vehicle;
- (2) An image of the driver of the motor vehicle;
- (3) An image of the motor vehicle’s rear license plate;
- (4) The time of the violation;
- (5) The date of the violation; and
- (6) The location of the violation.

(d) The recording shall be made on:

- (1) Two or more photographs;
- (2) Two or more microphotographs;
- (3) Two or more electronic images;
- (4) Videotape; or
- (5) Any other medium.

(e) (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 (h)(5) of this section, the driver of a motor vehicle is subject to a civil penalty if the motor vehicle is recorded by an automated railroad grade crossing enforcement system during the commission of a violation.

(2) A civil penalty under this subsection may not exceed \$100.

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

(i) A uniform citation form consistent with subsection (f)(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.

(f) (1) Subject to the provisions of paragraphs (2) through (4) of this subsection, an agency shall mail to the owner liable under subsection (e) 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 of the railroad grade crossing;
- (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 must be paid;

(viii) A signed statement by a technician employed by the agency that, based on inspection of recorded images, the motor vehicle was being operated during the commission of a violation;

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

(x) Information advising the person alleged to be liable under this section:

1. Of the manner and time in which liability as alleged in the citation may be contested in the District Court; and

2. Warning that failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability and may result in refusal or suspension of the motor vehicle registration.

(2) The agency may mail a warning notice in lieu of a citation to the owner liable under subsection (e) of this section.

(3) Except as provided in subsection (h)(5) of this section, a citation issued under this section shall be mailed no later than 2 weeks after the alleged violation.

(4) 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 **MONTGOMERY COUNTY OR Prince George's [County] COUNTY**, or to the District Court; or

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

(g) (1) A certificate alleging that a violation occurred, sworn to or affirmed by a duly authorized agent of the agency, based on inspection of recorded images produced by an automated railroad grade crossing enforcement system shall be evidence of the facts contained in the certificate and shall be admissible in any proceeding concerning the alleged violation.

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

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

(i) That the driver of the vehicle passed through the railroad grade crossing in a manner that would constitute a violation:

1. In order to yield the right-of-way to an emergency vehicle; or

2. As part of a funeral procession in accordance with § 21-207 of this title;

(ii) Subject to paragraph (2) of this subsection, that the motor vehicle or 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;

(iii) That under § 21-201 of this title, this section is unenforceable against the owner because at the time and place of the alleged violation, the traffic control signal or traffic control device was not in proper position and was unable to be seen by an ordinarily observant individual;

(iv) 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

(v) 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 must submit proof that a police report about the stolen motor vehicle or registration plates was filed in a timely manner.

(3) To satisfy the evidentiary burden under paragraph (1)(iv) of this subsection, the person named in the citation shall provide to the District Court evidence to the satisfaction of the court of who was operating the vehicle at the time of the violation, including, at a minimum, the operator's name and current address.

(4) (i) The provisions of this paragraph apply only to a citation that involves a Class E (truck) vehicle with a registered gross weight of 26,001 pounds or more, Class F (tractor) vehicle, Class G (trailer) vehicle operated in combination with a Class F (tractor) vehicle, and Class P (passenger bus) vehicle.

(ii) To satisfy the evidentiary burden under paragraph (1)(iv) of this subsection, the person named in a citation described under subparagraph (i) of

this paragraph may provide to the District Court a letter, sworn to or affirmed by the person and mailed by certified mail, return receipt requested, that:

1. States that the person named in the citation was not operating the vehicle at the time of the violation; and

2. Provides the name, address, and driver's license identification number of the person who was operating the vehicle at the time of the violation.

(5) (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 (4)(ii)2 of this subsection identifying the person driving the vehicle at the time of the violation, the clerk of the court shall provide to the agency issuing the citation a copy of any evidence substantiating who was operating the vehicle at the time of the violation.

(ii) On the receipt of substantiating evidence from the District Court under subparagraph (i) of this paragraph, an agency may issue a citation as provided in subsection (f) of this section to the person that 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.

(i) If the civil penalty is not paid and the violation is not contested, the Administration may refuse to register or reregister or may suspend the registration of the motor vehicle.

(j) 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 and may not be recorded by the Administration on the driving record of the owner or driver of the vehicle;

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

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

(k) In consultation with local law enforcement agencies in **MONTGOMERY COUNTY AND** Prince George's County, the Chief Judge of the District Court shall adopt procedures for the issuance of citations, the trial of violations, and the collection of civil penalties under this section.

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

Approved by the Governor, May 7, 2009.