

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 822

(Montgomery County Delegation)

Environmental Matters

Judicial Proceedings

Montgomery County - Railroad Grade Crossings - Automated Enforcement
Systems
MC 907-09

This bill authorizes the use of automated enforcement systems at railroad crossings in Montgomery County to identify and issue citations to persons who pass through railroad crossings in violation of the Maryland Vehicle Law.

Fiscal Summary

State Effect: Minimal increase in general fund revenues from contested citations paid to the District Court. Minimal increase in Transportation Trust Fund (TTF) revenues from flag fees due to late payment of automated citations. The District Court, the Motor Vehicle Administration (MVA), and the State Police should be able to comply with the provisions of this bill within existing resources.

Local Effect: Potential increase in expenditures in Montgomery County to the extent that automated enforcement systems are installed at railroad crossings and the minimal revenues expected to be generated do not cover the cost of installation.

Small Business Effect: Potential minimal increase in revenues for contractors to install automated railroad crossing systems.

Analysis

Bill Summary: This bill authorizes the issuance of citations to drivers for passing through railroad crossings in Montgomery County in a way that violates the Maryland Vehicle Law, based on recorded images collected by automated railroad crossing enforcement systems. An “automated railroad crossing enforcement system” is a system

operated by a State or local agency that records a driver's response to a traffic control signal or device located at a railroad crossing. The system produces recorded images that must include an image of the motor vehicle; the driver; the vehicle's rear license plate; and the date, time, and location of the violation. The recording must be made on two or more photographs, microphotographs, or other media as specified.

The bill applies to the requirement to obey signals or to stop at railroad crossings maintained or operated by Montgomery County or a municipal corporation in Montgomery County. The bill establishes a maximum civil penalty of \$100.

A person who receives a citation by mail may pay the specified civil penalty directly to Montgomery County or to the District Court. Fines payable to the District Court are distributed to the general fund. The person may instead elect to stand trial in District Court. A warning notice may be issued instead of a citation. Generally, a citation must be mailed no later than two weeks after the alleged violation. Except as otherwise specified, the issuing agency is prohibited from mailing a citation to a person who is not a vehicle owner.

A certificate alleging that a railroad crossing violation occurred as specified, sworn to or affirmed by a duly authorized agent of the agency, is evidence of the facts and is also admissible at trial. Adjudication of liability is based on a preponderance of the evidence standard.

In defense of an alleged violation, the District Court may consider that the driver passed through railroad gates in violation of the Maryland Vehicle Law to yield the right-of-way to an emergency vehicle or as part of a funeral procession. The District Court may consider the defense that automated enforcement provisions were unenforceable because the traffic control signal or device was not in the proper position and could not be seen by an ordinarily observant individual at the time and place of the alleged offense.

The District Court may consider the defense that the motor vehicle or registration plates were stolen, but a timely police report about the theft must be submitted. The District Court may also consider that the person named in the citation was not operating the vehicle at the time of the violation. However, the person cited must provide satisfactory evidence to the District Court indicating who was operating the vehicle at the time of the violation, including, at a minimum, the name and address of the operator. If the citation involves a specified truck, tractor, passenger bus, or tractor-trailer combination vehicle, the person cited must submit a sworn, written statement that the person cited was not operating the vehicle at the time of the violation and provide the name, address, and driver's license number of the operator at the time of the violation. If the District Court finds that the person cited was not operating the vehicle, the clerk of the court must provide the substantiating evidence to the issuing agency.

If the fine is not paid and the violation is not contested, MVA may refuse to register or transfer the vehicle registration or may suspend the registration. A violation is treated as a parking violation, is not a moving violation for the purpose of assessing points, may not be placed on the driving record of the vehicle owner or driver, and may not be considered in the provision of motor vehicle insurance coverage.

In consultation with Montgomery County, the Chief Judge of the District Court must adopt procedures for citations, civil trials, and the collection of civil penalties.

Current Law:

Automated Enforcement: The State and political subdivisions are authorized to operate traffic control signal monitoring systems on any roads or highways in the State. A “traffic control signal monitoring system” is a device with one or more motor vehicle sensors working in conjunction with a traffic control signal to produce recorded images of motor vehicles entering an intersection against a red signal indication. Montgomery County is authorized to operate an automated enforcement system in specified areas to detect drivers who violate speeding laws. In addition, Prince George’s County currently administers automated enforcement at railroad crossings as authorized by legislation nearly identical to the bill.

Railroad Crossings: If a vehicle driver approaches a railroad grade crossing and the following circumstances exist, the driver must stop within 50 feet, but not less than 15 feet from the nearest rail in the crossing and may not proceed unless it is safe to do so:

- a clearly visible electric or mechanical signal device warns of a train;
- a crossing gate is lowered;
- a flagman signals the approach or passage of a train;
- a train within 1,500 feet of the crossing gives an audible signal to traffic and due to speed or proximity, the train is an immediate danger; or
- a train is plainly visible and is approaching or dangerously close to the crossing.

The State Highway Administration (SHA) or any approved local authority may place a stop sign at any particularly dangerous railroad crossing. The driver is required to obey such signage. Except as otherwise specified, every motor vehicle carrying passengers for hire, school vehicle, church-owned bus carrying passengers, and vehicles carrying flammable or explosive materials must stop upon approaching a railroad crossing within 50 feet, but no less than 15 feet from the nearest rail in the crossing. The drivers of these vehicles must also look and listen for any signal of the approach or passing of a train. Commercial motor vehicle operators or movers of specified heavy equipment are subject to additional restrictions when passing through railroad crossings.

Background: According to the Governors Highway Safety Association, 21 states and the District of Columbia have provisions related to automated enforcement. However, only a few states (California, Illinois, and Washington) have authorized the use of automated enforcement systems to record traffic offenses at railroad crossings. In addition, the automated enforcement system used in the Colorado and the District of Columbia issues citations for any recorded moving violation, including violations at railroad crossings. In 2004, the Secretary of the U.S. Department of Transportation developed an action plan for improving safety at railroad crossings, including encouraging state and local governments to increase the use of automated enforcement. Automated camera systems are used extensively in Europe and Australia to enforce most traffic laws.

In September 2001, a San Diego Superior Court judge ruled that red light cameras do not violate a person's constitutional right to privacy and that the city has the constitutional right to operate red light cameras. And in February 2007, the District of Columbia Court of Appeals held that the District of Columbia's Automated Traffic Enforcement system does not violate constitutional rights to due process.

State Revenues: Minimal increase in general fund revenues from penalties paid to the District Court for contested cases. Eight citations were filed in Montgomery County for traffic violations at railroad crossings in fiscal 2008. Based on current experience with automated speed enforcement systems, the number of automated tickets issued ranges from 15 to 25 times the number of police-issued tickets for the same infraction. Thus, automated rail crossing enforcement may generate between 120 and 200 citations in the first full fiscal year in which the system is implemented. If one-fifth of those people decided to contest the penalty, the District Court case load increases by between 24 and 40 additional trials. If all of those drivers were found guilty, general fund revenues may increase by between \$2,400 and \$4,000.

TTF revenues may increase minimally under the bill. Since automated railroad crossing citations are treated as parking violations under the bill, a driver who does not pay the fine by the deadline is subject to having a flag placed on his/her vehicle's registration. Removal of the flag requires payment of the fine as well as a \$30 flag removal fee, *by way of illustration*, if automated rail crossing enforcement in Montgomery County increased the number of tickets issued in a fiscal year to between 120 and 200 and 5% of those citations were paid after the deadline, TTF revenues increase by between \$180 and \$300, assuming a 100% MVA collection rate. To the extent that the drivers fail to pay these citations, there may also be an increase in the volume of vehicle registrations withheld, suspended, and reinstated. Legislative Services anticipates any increase in the number of registrations withheld, suspended, or reinstated to be minimal as a result of this bill.

State Expenditures: The District Court advises that the bill may have a significant operational impact on its operations because of additional contested cases under the bill, and because court clerks may be requested to provide substantiating evidence to issuing agencies, requiring additional clerical and court resources and possibly additional personnel to manually process the citations that can be issued under this bill.

Legislative Services advises, however, that the automated system in the bill is authorized, not mandated. Montgomery County must work with railroad companies to install automated systems at crossing gates controlled by the companies, as well as undertake significant expense to actually install and maintain the systems. Therefore, it is possible that the county may choose not to install the automated systems authorized in the bill. Further, the number of citations currently processed by the District Court in Montgomery County on annual basis is small (only eight for fiscal 2008). Many people cited will likely choose to prepay the penalty rather than contesting the violation in the District Court – even if this number increased many times under automated enforcement because (1) the penalty is a civil one; (2) is not a moving violation; and (3) is not recordable for points or for insurance coverage. Accordingly, the District Court should be able to process any increased citations resulting from this bill with existing resources.

Local Fiscal Effect: The fiscal impact will depend on the number of railroad crossings that are outfitted with automated systems. It is likely that, given the small number of expected violations, the revenues generated from automated enforcement will be less than the expenditures required to implement the program in Montgomery County.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Montgomery County; Maryland Department of Transportation; Department of Legislative Services

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