

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 313

(The Speaker, *et al.*) (By Request - Administration)

Environmental Matters

**Vehicle Laws - Speed Monitoring Systems - Statewide Authorization and Use in
Highway Work Zones**

This Administration bill extends authorization for use of speed monitoring systems statewide. Local law enforcement agencies or their agents or contractors may issue citations or warnings to vehicle owners for speeding at least 12 miles per hour above the posted speed limit on a highway in a residential district with a maximum posted speed limit of 45 miles per hour and in a school zone. The maximum fine for a speed monitoring system citation is \$40. In addition, the bill authorizes use of work zone speed control systems. State and local law enforcement agencies or their contractors are authorized to issue citations or warnings for speeding at least 12 miles per hour above the posted speed limit in highway work zones that are set up on expressways or controlled access highways where the speed limit is 45 miles per hour or greater. The maximum fine for a citation from a work zone speed control system is \$40. Each local jurisdiction that enforces speed limits with automated enforcement under the bill must report to the Governor and the General Assembly by December 31, 2013, on the effectiveness of speed monitoring systems in the jurisdiction.

Fiscal Summary

State Effect: Special fund revenues may increase by \$11.9 million beginning in FY 2010, assuming full implementation at the State level of speed control systems in highway work zones. Transportation Trust Fund (TTF) expenditures increase by \$566,700 in FY 2010 for the State Highway Administration (SHA) to implement work zone speed control systems. General fund expenditures for the Department of State Police (DSP) increase by \$1.5 million in fiscal 2010 for enforcement of work zone speed control systems. General fund expenditures in the District Court may increase significantly due to an expansion in workload.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
SF Revenue	\$11,886,600	\$16,038,900	\$14,435,000	\$12,991,500	\$11,692,300
GF Expenditure	\$1,541,300	\$2,079,700	\$1,871,700	\$1,684,600	\$1,516,100
SF Expenditure	\$566,700	\$130,000	\$130,600	\$131,200	\$131,800
Net Effect	\$9,778,600	\$13,829,200	\$12,432,600	\$11,175,700	\$10,044,400

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The full effect on local finances depends on the extent to which these systems are deployed, but based on local experience with speed and red light camera programs, it is expected that revenues may be significantly more than the expenditures for a speed monitoring or work zone speed control system.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary:

Definitions

A “recorded image” is an image of a part of a motor vehicle recorded by a speed monitoring or work zone speed control system on a photograph, a microphotograph, an electronic image, videotape, or any other medium, which clearly and legibly identifies the entire registration plate number of the motor vehicle and shows at least two time-stamped images of the vehicle and a stationary object near the vehicle. A “speed monitoring system” or a “work zone speed control system” is a device with one or more motor vehicle sensors producing recorded images of motor vehicles traveling at speeds at least 12 miles per hour above the posted speed limit. A “work zone” is a segment of highway identified as a temporary traffic control zone by traffic control devices and where highway construction, repair, utility work, or related activity is being performed, regardless of whether workers are present.

Extension of Speed Monitoring Systems Statewide

A speed monitoring system may be placed on a highway in a residential district with a maximum posted speed limit of 45 miles per hour or in a school zone. Before a speed monitoring system may be used in a local jurisdiction, its use must be authorized by the governing body by ordinance or resolution adopted after reasonable notice and a public hearing. The ordinance or resolution must require the issuance of warnings only during

the first 30 days, at a minimum, after the first speed monitoring system is placed in a local jurisdiction. Before activating an unmanned stationary speed monitoring system, a local jurisdiction must publish notice of its location on the local jurisdiction's web site and in a general circulation newspaper in the jurisdiction. The local jurisdiction must also ensure that each school zone sign indicates that speed monitoring systems are used in school zones. For those speed monitoring systems in operation before October 1, 2009 only, the bill exempts Montgomery County from complying with county government authorization provisions, the required 30-day warning period, published notice of the location, and signage in school zones.

Before a county may use a speed monitoring system on a State highway within a municipal corporation, the county must obtain the authorization of SHA and notify the municipal corporation of SHA approval. The county must then allow the municipal corporation 60 days from the date of the county notice to enact an ordinance authorizing the municipal corporation instead of the county to operate a speed monitoring system at that location.

Except for those systems placed in school zones, if a speed monitoring system is placed within 250 feet after the sign decreasing the maximum speed, the system must be calibrated to record vehicles traveling at least 12 miles per hour above the higher speed limit in effect before the posted sign.

New Authorization for Work Zone Speed Control Systems

A work zone speed control system may be placed within a work zone on a highway that is an expressway or controlled access highway where the speed limit that is established using generally accepted traffic engineering practices is 45 miles per hour or greater. A conspicuous road sign must be placed at a reasonable distance, according to national standards, from the work zone, and the system must be operated by a specified individual who is trained and certified to do so.

A law enforcement agency or its contractor may only issue warnings during the 30 days after the first work zone system is in place. The bill defines "State Police Department" as including the Maryland Transportation Authority police and the Department of State Police.

Training and Recordkeeping

The bill establishes training and recordkeeping requirements for system operators, including the performance of calibration checks as specified by the system manufacturer and an annual calibration check performed by an independent laboratory.

Impact, Payment, and Issuance of Citations

Speeding citations issued from automated enforcement systems may be treated as parking violations. They are not moving violations for the purpose of point assessment, may not be placed on the driving record of the owner or driver of the vehicle, and may not be considered in the provision of vehicle insurance.

Unless the driver receives a citation from a police officer at the time of the violation, a person who receives a citation by mail may pay the specified civil penalty to the issuing jurisdiction or elect to stand trial in District Court. A warning notice may be issued instead of a citation.

In addition to other required information, for work zone violations, the citation must include at least one recorded image of the vehicle, each with an imprinted data bar that shows the vehicle's speed and the date and time the image was recorded. For speed monitoring violations, the citation must include a copy of the recorded image. A recorded image from a speed monitoring or a work zone speed control system may be used only to identify the vehicle subject to a speeding violation. A citation must contain notice of the right to have a speed monitoring or work zone speed control system operator present to testify at a trial. The individual who requests the presence of the operator must notify the court and issuing jurisdiction in writing no later than 20 days before trial. A citation must be mailed no later than two weeks after the alleged violation if the vehicle is registered in Maryland, or no later than 30 days after the alleged violation if the vehicle is registered in another state. An agency is prohibited from mailing a citation to a person who is not a vehicle owner.

A recorded image of a motor vehicle produced by a speed monitoring or work zone speed control system is admissible at trial without authentication. A certificate alleging that the speeding violation occurred, that is sworn to or affirmed by an agent or employee of an agency, is evidence of the facts contained therein and is also admissible at trial. Adjudication of liability is to be based on a preponderance of the evidence standard. The District Court may consider the defenses specified in the bill. However, the provision in current law requiring a person who was not operating the vehicle to provide the name, address, and license information of the vehicle operator is repealed.

If the fine is not paid and the violation is not contested, the Motor Vehicle Administration (MVA) may refuse to register, reregister, or suspend the registration of, the motor vehicle. If a contractor deploys or operates a speed monitoring or a work zone speed control system on behalf of State or local law enforcement, the contractor's fee may not be contingent on the number of citations issued. Any fines or penalties collected by the District Court are remitted to the Comptroller and distributed to various transportation-related funds for speed monitoring system infractions. For civil fines collected from

speeding in work zones, the Comptroller must distribute to SHA the revenues required to cover the implementation and administration costs of the speed control system.

Other Implementation Requirements

Any agency, agent, or contractor designated by the State or local law enforcement agency must administer and process speed monitoring system citations. However, work zone speed control system citations must be processed by the Department of State Police or a contractor the department designates. The bill authorizes local jurisdictions to use any revenues generated from automated speed enforcement in excess of the amount necessary to recover implementation costs for related public safety purposes, including pedestrian safety programs. If after recovering implementation costs, a local government does not use the balance of revenues to supplement (and not to supplant) existing public safety expenditures within two years of the fiscal year in which that revenue is collected, then it must be remitted to the Comptroller for deposit in the general fund. Local jurisdictions have to report annually on their public safety expenditures.

Current Law: Montgomery County is the only jurisdiction authorized to issue citations to drivers for speeding based on images collected by automated speed monitoring systems. Automated speed enforcement applies to speeding violations in Montgomery County that occur either on a highway in a residential district with a maximum posted speed limit of 35 miles per hour or in an established school zone. The maximum civil penalty is \$40. Uncontested fines are paid directly to the Montgomery County Department of Finance and must be used for public safety purposes. A report from the Montgomery County Council on the effectiveness of its system is due by December 31, 2009.

Unlike a citation issued by a law enforcement officer, a violation recorded only by an automated speed enforcement system is not a moving violation and may not be considered for purposes of motor vehicle insurance coverage. However, the civil penalty may be treated as a parking violation. Thus, if the civil penalty is not paid and the violation is not contested, MVA may refuse to register or reregister the vehicle or may suspend the registration.

Any fines or penalties collected by the District Court are remitted to the Comptroller and distributed to various transportation-related funds. A recorded image of a motor vehicle produced by an automated speed monitoring system is admissible at trial without authentication.

Background: Photo-radar enforcement systems have been implemented in several states and countries. In Utah, photo-radar enforcement is limited to school zones and other areas with a speed limit of 30 miles per hour or less, when a police officer is present, and

signs are posted for motorists. The radar photograph must accompany a citation. The District of Columbia has an extensive automated enforcement program for speeding and most other moving violations. While Arizona allows automated speed enforcement statewide, Illinois allows automated speed enforcement only in construction zones or on toll roads. Oregon and Washington also authorize automated speed enforcement in highway work zones. In Colorado, this type of enforcement is allowed only in school zones, residential areas, or adjacent to municipal parks. Automated speed enforcement systems are used extensively throughout Europe and in Australia.

Some states have limited or banned automated traffic enforcement, while others have considered authorizing or expanding it. Arkansas prohibits automated enforcement unless it occurs in school zones or at rail crossings. An officer must be present to issue a citation at the time of the violation. Nevada prohibits photographic recording of traffic violations unless the equipment is in use by an officer or is installed at a law enforcement agency. In New Hampshire, a specific statutory authorization is required, otherwise automated enforcement is prohibited. New Jersey, West Virginia, and Wisconsin specifically prohibit any type of photo-radar enforcement. Most states have no provisions related to automated enforcement.

Montgomery County's automated speed enforcement system has been the subject of several lawsuits. Most recently, a lawsuit was filed in Montgomery County Circuit Court challenging the structure of payments made by Montgomery County to the contractor that implements the automated speed enforcement system. Current law prohibits a contractor's fee from being contingent on the number of citations issued. The plaintiff has alleged that, because the contractor is to receive "\$16.25 per ticket or \$18,000 per month," the contract is unlawful.

State Fiscal Effect: Under the bill, contested and uncontested penalties from automated systems maintained by a State agency are paid to the District Court, resulting in a significant increase in special fund revenues. This bill authorizes the State to establish work zone speed control systems. Revenues do not accrue until one month after the first system becomes operational, since the bill requires that only warnings be issued for at least 30 days after the first operational unit. Since the bill's effective date is October 1, 2009, the earliest that revenues begin to accrue is November 1, 2009, assuming that at least one work zone speed system becomes operational on October 1, 2009.

For work zone speed control systems only, the bill requires that revenues be paid to the SHA to cover the costs of implementing and administering the work zone speed control system. SHA has not made any final determinations on how the program will be implemented, but SHA and DSP have provided a likely implementation scenario, which assumes that all penalties are paid at the \$40 maximum.

State Highway Administration Expenditures: SHA advises that it plans to deploy five mobile units at a cost of \$100,000 each at highway work zones. Thus, SHA administration may cost about \$46,690 in fiscal 2010 and \$70,000 annually thereafter. Maintenance for the five mobile units costs \$60,000 annually beginning in fiscal 2011. In addition, highway signage is estimated to cost \$20,000 in fiscal 2010 only.

	<u>FY 2010</u>	<u>FY 2011</u>
Mobile Enforcement Units	\$500,000	\$0
Maintenance	0	60,000
Signage	20,000	0
SHA Administration	46,690	70,000
Total SHA Expenditures	\$566,690	\$130,000

Department of State Police Expenditures: DSP advises that manpower for training, field operations, court time, and image review may cost about \$1.5 million in fiscal 2010 and \$2.1 million in fiscal 2011.

Revenues from State Work Zone Citations

Revenue generated from the five mobile units, which can be used to cover the cost of implementation by SHA, is estimated to be \$10,629,312 in fiscal 2010 and \$10,455,610 by fiscal 2014. These revenues are to be distributed to various special funds. This estimate is based on the following information and assumptions:

- average daily traffic of 25,000 vehicles;
- each of the five mobile units is operated an average of 8 hours per day, 5 days per week, and 40 weeks per year, with full implementation assumed in fiscal 2010;
- each unit records 60 violations per hour that are confirmed after image analysis;
- 83% of citations issued result in a \$40 fine prepayment; and
- the number of citations issued decreases by 10% annually due to the deterrent effect of the work zone speed control systems.

Motor Vehicle Administration Flag Removal: TTF revenues increase due to additional administrative flags placed on vehicle registrations for nonpayment of fines from statewide expansion of automated speed monitoring and from work zone speed control systems. A driver has to pay \$30 to remove an administrative flag placed on a vehicle registration. Consistent with the assumptions related to implementation, TTF revenue from collection of additional administrative flag removal fees by MVA may increase by approximately \$1.3 million in fiscal 2010. This revenue estimate is based on the following assumptions:

- approximately 17% of the estimated citations issued in work zones are unpaid and result in a flag being placed on a vehicle registration;
- approximately 83% of the estimated 320,160 citations issued in fiscal 2010 are prepaid and only a negligible fraction are contested; and
- the current MVA collection rate of 77% for flag fees continues in fiscal 2010.

TTF expenditures may increase if MVA hires additional personnel to handle the significant increase in administrative flag removal requests.

District Court: The District Court will collect fines from contested citations based on the speed monitoring and work zone systems implemented by a local law enforcement agency and all citations from State-run work zone speed control systems.

The District Court workload may increase significantly due to the creation of a uniform citation, additional trials, additional notifications, collection of contested fines from local jurisdictions and all fines from State-run work zone systems, and additional notification to MVA for nonpayment of fines and failure to appear for trial.

The extent to which locally implemented speed monitoring systems and State and locally implemented work zone speed control systems impact the work of the District Court will depend, however, on the extent to which local jurisdictions choose to set up these systems. Each local jurisdiction is required to pass a law or ordinance before implementing any of the systems authorized in the bill. In addition, before a county can install a speed monitoring system within a municipal corporation, the county government must obtain SHA approval and give municipal corporations at least 60 days to enact an ordinance to authorize the corporation to install a speed monitoring system instead.

The District Court advises that a new civil citation data system may be needed to implement the bill. If the District Court is unable handle the new citations and workload utilizing its existing databases, it may be necessary to contract with an outside computer services vendor at a cost of up to \$2.4 million to create a new data system.

Other Revenue and Expenditure Impacts

Although a higher uncontested payment rate has been assumed in previous estimates associated with automated enforcement, the most recent information available suggests that this rate has dropped considerably. To the extent that this rate reflects only a temporary change in behavior, special fund revenues may increase from greater collection of prepaid fines. Likewise, MVA revenues may decrease from lower collection of the administrative flag removal fee. Further, the above estimates do not account for contested fines associated with local implementation of automated enforcement.

Legislative Services advises that, due to the lack of reliable data from which to estimate the number of citations that will be generated by the bill, as well as uncertainty as to how the work zone speed control systems will be implemented, the expenditure and revenue estimates may vary substantially. Notably, the number of work zone systems deployed may differ significantly, and implementation may be delayed by months or years.

Local Fiscal Effect: To the extent that local governments implement speed monitoring and work zone speed control systems, both expenditures and revenues will increase. Although the magnitude of these increases is difficult to predict, given the experience of Montgomery County, revenue from speed cameras is expected to be significantly higher than associated expenditures.

The bill requires that only warnings may be issued during the first 30 days of automated speed enforcement. Therefore, local governments have to cover the costs of the first month of implementation. In addition to the automated speed enforcement units, this cost also includes signage in school zones.

The bill effectively expands the automated speed enforcement program in Montgomery County by increasing enforcement to residential arterial roads with a maximum speed limit of 45 miles per hour. However, in terms of the number of citations generated, this expansion may be offset somewhat by the higher threshold (from 10 to 12 miles per hour) required for issuing a citation.

Charles County indicates that start-up costs for a speed camera program may be about \$1 million. Frederick and Somerset counties indicate that there are no current plans to implement an automated speed enforcement system.

Additional Comments: If speed cameras replace a significant number of police-issued tickets, according to the Maryland Automobile Insurance Fund, insurance carriers would have reduced information regarding the level of risk for those drivers. The level of risk is one of the factors used in setting insurance premiums.

Additional Information

Prior Introductions: Similar bills were introduced in the 2008 session as HB 364 and SB 269; both bills passed the House and Senate with amendments, but no further action was taken after conference committees were appointed.

Cross File: SB 277 (The President, *et al.*) (By Request - Administration) - Judicial Proceedings.

Information Source(s): Charles, Frederick, and Somerset counties; Maryland Insurance Administration; Maryland Department of Transportation; Department of State Police; Judiciary (Administrative Office of the Courts); National Conference of State Legislatures; Department of Legislative Services.

Fiscal Note History: First Reader - February 9, 2009
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Vehicle Laws – Speed Monitoring System – Statewide Authorization and
 Use in Highway Work Zones

BILL NUMBER: House Bill 313

PREPARED BY: Governor's Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

 WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.