

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1314

(Howard County Delegation)

Environmental Matters

Rules

Howard County - Vehicle Laws - Speed Monitoring Systems
Ho. Co. 6-09

This bill expands to Howard County the authorization for operation of speed monitoring systems. Speed monitoring systems may be used to identify and issue citations to persons who are recorded exceeding 10 miles per hour above the speed limit 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 fine for a speed camera violation is \$40. In addition, the bill regulates the payment of fees to speed monitoring operators in Montgomery and Howard counties.

The bill takes effect October 1, 2009, contingent on the failure of SB 277/HB 313, and terminates September 30, 2014. The bill has prospective application.

Fiscal Summary

State Effect: Special fund revenues increase significantly from additional fines paid to the District Court. Transportation Trust Fund (TTF) revenues increase minimally from additional Motor Vehicle Administration (MVA) administrative flag removal fees. TTF expenditures may increase for personnel costs to handle additional flag removal transactions. Potential increase in general fund expenditures for the District Court.

Local Effect: The full effect on local finances depends on the extent to which these systems are deployed and on driving habits in Howard County. Based on experience with Montgomery County's automated speed enforcement system, Howard County revenues exceed expenditures by a significant amount with full implementation of the system.

Small Business Effect: Minimal.

Analysis

Bill Summary: The program authorization for Howard County mirrors that for Montgomery County. Thus, unless a police officer issues a citation at the time of violation; the bill authorizes Howard County to issue citations to drivers for speeding based on recorded images collected by automated speed monitoring systems. A “speed monitoring system” records at least two time-stamped images of a vehicle traveling at least 10 miles per hour above the speed limit. The image must show the rear of the motor vehicle and clearly identify the registration plate number of the motor vehicle on at least one image or portion of tape.

The bill applies to speeding violations that occur (1) on a highway in a residential district with a maximum posted speed limit of 35 miles per hour; or (2) in an established school zone. The bill specifies training and recordkeeping requirements for speed monitoring system operators, as well as maintenance of the system itself, including the performance of calibration checks as specified by the system manufacturer and an annual calibration check performed by an independent laboratory.

A person who receives a citation by mail may pay the specified civil penalty of up to \$40 directly to the Howard County Office of Finance or 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 Howard County Police Department 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 system is admissible at trial without authentication. A certificate alleging that the speeding violation occurred on the applicable roadways as specified, sworn to or affirmed by a police officer of the local police department of Howard County, is evidence of the facts and is also admissible at trial. If a person who received a citation wants the speed monitoring system operator to testify at trial, the person must notify the court and the State in writing no later than 20 days before trial. Adjudication of liability is based on a preponderance of the evidence standard.

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 submit a sworn written statement, sent to the District Court, that the person cited was not operating the

vehicle at the time of the violation and that divulges the name, address, and, if possible, the driver's license number of the person who was driving. The person who was driving may then receive a citation. Any fines or penalties collected by the District Court are remitted to the Comptroller and distributed to various transportation-related funds.

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

In consultation with the Howard County Office of Finance, the Montgomery County Department of Finance, and the local police departments, the Chief Judge of the District Court must adopt procedures for the citations, civil trials, and the collection of civil penalties.

A contractor's fee may not be contingent on the number of citations issued, if the contractor operates the speed monitoring system on behalf of a jurisdiction, determines the placement of the speed cameras, or has the final authority to determine whether a citation is issued.

The bill requires Howard County to use revenues from automated speed enforcement to increase local expenditures for public safety, including pedestrian safety, beginning in fiscal 2010 and every subsequent fiscal year. Related public safety expenditures must be used to supplement and may not supplant existing local expenditures for the same purpose. The Howard County Council must report to the General Assembly on the effectiveness of speed monitoring systems by December 31, 2013.

The Howard County Police Department must also submit a written report to the Howard County Delegation in the General Assembly by September 30 each year on enforcement activity, driver behavior, financial matters, and other relevant issues in the immediate preceding fiscal year related to the use of speed monitoring systems.

The authorization for use of speed monitoring systems in Howard County terminates after five years.

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 at least 10 miles per hour above the limit 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 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 alleged that, because the contractor is to receive “\$16.25 per ticket or \$18,000 per month,” the contract is unlawful.

State Fiscal Effect: Although the majority of speed monitoring revenues are generated by uncontested penalties and paid directly to the Howard County Office of Finance, the effect on State revenues may still be significant. Any increase in State revenues results from penalties paid to the District Court for contested cases ending in conviction and to MVA for administrative flag removal fees. District Court penalties are distributed to various transportation-related funds.

The Department of Legislative Services (DLS) advises that there is a much greater likelihood that violators will choose to pay the fine associated with the bill rather than appear in court because a citation issued by a speed monitoring system (1) is not considered a moving violation for the purpose of assessing points against a driver’s license; (2) may not be considered in the provision of insurance coverage; and (3) carries a maximum fine of \$40. Accordingly, DLS advises that the District Court can likely process the number of contested violations with existing resources. Further, although the District Court has not yet been able to fully evaluate the increase in case loads following the initial years of automated speed monitoring in Montgomery County, anecdotal evidence suggests that the District Court has been able to handle the additional workload from contested cases. However, to the extent that the cumulative effect of extending to an additional county the authorization for automated speed monitoring causes overall workloads at the District Court to increase beyond what may be handled with existing resources, expenditures may increase significantly; this may include the cost of contracting with an outside computer services vendor at a cost of up to \$2.4 million to create a new data system.

Based on preliminary data available from the Montgomery County automated speed enforcement system 73.3% of unpaid automated citations are contested in District Court. If one-half of those trials result in conviction, special fund revenues may increase by approximately \$231,500 in fiscal 2010 and by \$506,860 in the first fiscal year of full system implementation.

In addition, TTF revenues may increase significantly due to increased collection of the \$30 administrative flag removal fees by MVA. As the citations issued under the bill are treated like parking violations, an individual issued a citation that does not pay the citation fine or contest the violation in court has a flag placed on his or her driving record. To have the flag removed, the driver must pay a \$30 flag removal fee. Current MVA policy is to withhold a registration until unpaid tickets are satisfied and to suspend the registration if a vehicle has at least \$1,000 in fines.

For illustrative purposes only, if 26.7% of unpaid citations are not contested in court, and 33% of those uncontested citations resulted in a flag removal payment, TTF revenues may increase by about \$41,700 in fiscal 2010 and by about \$91,400 in the first fiscal year of full system implementation. TTF expenditures may increase by about \$47,600 in the first full fiscal year due to the cost of hiring one additional MVA customer agent to handle the significant increase in flag removal transactions. This includes a salary, fringe benefits, and one-time start-up costs.

Local Fiscal Effect: Howard County advises that it plans to use four cameras – two fixed cameras and two mobile cameras – to implement its speed monitoring system in fiscal 2010. Based on information provided by Howard County through the projections of a private vendor and assuming that automated speed monitoring begins on October 1, 2009, Howard County revenues increase by about \$3.1 million in fiscal 2010 and expenditures increase by about \$1.7 million; it is unknown whether this includes additional personnel costs to operate the mobile units.

Based on the experience of Montgomery County in implementing an automated speed monitoring system, Howard County may realize additional revenue of about \$6.8 million in the first fiscal year in which the automated speed enforcement system is fully implemented. This estimate is based in part on the following information:

- based on experience in Montgomery County as well as previous estimates, full implementation of an automated speed monitoring system generates 15 times more tickets than police-issued citations;
- in fiscal 2008 there were 21,288 citations for speeding at least 10 miles per hour over the speed limit in Montgomery County and 13,559 such citations in Howard County;
- based on the experience of Montgomery County, about 17% of citations issued go unpaid; and
- Howard County implements a comparable automated enforcement system to the one in Montgomery County.

DLS advises that, since the authorization terminates in five years, implantation is likely to be more rapid than in Montgomery County. Nevertheless, it will likely take multiple years to achieve full operational capability. Further, this revenue projection is based on the assumption that the Howard County experience with automated speed monitoring systems is the same as that of Montgomery County. To the extent that Howard County implements its automated speed enforcement system differently or driving habits differ, the revenue collected under this bill may change substantially.

Preliminary information on the fiscal impact of the Safe Speed Program in Montgomery County indicates that the number of drivers speeding fell by 70% in areas with speed enforcement systems and warning signs. Six mobile units were in place at the beginning of the Safe Speed Program in May 2007; now the program has 6 mobile units and 46 systems fixed to poles. Thus, despite the substantial estimated reduction in the number of individuals speeding in Montgomery County, overall revenues are anticipated to increase to approximately \$14.4 million for fiscal 2009.

Howard County has not determined how it will implement its automated speed monitoring system beyond fiscal 2010 or estimated the expenditures necessary to do so. Legislative Services notes that, in fiscal 2008, Montgomery County expenditures to implement its automated speed enforcement system totaled approximately \$5 million. According to the Montgomery County Office of Management and Budget, operating costs represented about two-thirds of total costs, with one-third for personnel costs. It is unknown whether expenditures rise in proportion with revenues as a speed monitoring system develops into full operational capacity, or whether expenditures are relatively static. DLS advises that a reliable estimate of speed monitoring expenditures cannot be made in the absence of a full evaluation of the Montgomery County program, but assumes that revenues continue to exceed expenditures by a significant margin in future years until the authorization terminates in fiscal 2014.

Additional Comments: The Maryland Automobile Insurance Fund has advised that, if speeding cameras replace a significant number of police-issued tickets, insurance carriers writing policies in Howard County may 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.

This bill is contingent on the failure of SB 277/HB 313, which, if enacted, authorizes the use of automated speed monitoring systems in school zones and work zones stateside. In a local jurisdiction where its use is authorized by an ordinance or resolution, automated speed monitoring system citations would be issued to vehicles speeding in excess of 12 miles per hour over the posted speed limit in school zones.

Additional Information

Prior Introductions: A similar bill, HB 1198 of 2008, was heard by the House Environmental Matters Committee, but no further action was taken.

Cross File: None.

Information Source(s): Howard County, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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