

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 855 (Senator Muse)
Judicial Proceedings

Prince George's County - Vehicle Laws - Speed Monitoring Systems

This bill expands to Prince George's County the authorization for operation of speed monitoring systems. The maximum fine for a speed camera violation is \$40.

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 from additional Motor Vehicle Administration (MVA) administrative flag removal fees. TTF expenditures increase for personnel costs to handle additional flag removal transactions.

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

Small Business Effect: Minimal.

Analysis

Bill Summary: The program authorization for Prince George's County mirrors that for Montgomery County. Thus, unless a police officer issues a citation at the time of the violation, the bill authorizes Prince George's 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 establishes a maximum civil penalty of \$40. 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 directly to the Prince George’s 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 local police departments of Prince George’s County are prohibited from mailing a citation to a person who is not a vehicle owner.

A certificate alleging that the speeding violation occurred on the applicable roadways as specified, based on inspection of recorded images, sworn to or affirmed by a police officer of the local police department of Prince George’s 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 provides 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.

If the fine is not paid and the violation is not contested, MVA may refuse to register or reregister the motor vehicle 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 recorded on 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 Prince George's County Office 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. The contractor's fee for a speed monitoring system may not be contingent on the number of citations issued or paid.

The bill requires Prince George's County to use revenues from automated speed enforcement to increase local expenditures for public 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 Prince George's County Council has to report to the General Assembly on the effectiveness of its speed monitoring systems by December 31, 2013.

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 an uncontested penalty is paid directly to the Prince George's Office of Finance, the effect on State revenues may still be significant. Any increase in revenues results from penalties paid to the District Court for contested cases and is 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 process contested violations with existing resources. Further, although the District Court has not fully evaluated the increase in case loads following the initial years of automated speed enforcement in Montgomery County, anecdotal evidence suggests that the District Court has been able to handle the additional workload from contested cases.

Based on data available from the first 10 months of Montgomery County's automated speed enforcement system, 17% of automated citations issued went unpaid. It is unknown what percentage of unpaid citations resulted from contested cases. *For illustrative purposes only*, if one-half of all unpaid citations were being contested in District Court and one-half of those trials ended in conviction, special fund revenues may

increase by approximately \$522,000. This estimate is based on full implementation of a similar system in Prince George's County and the county's current level of citations for speeding in excess of 10 miles per hour over the posted limit.

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 one-half of the 17% of unpaid citations were not contested in court, and 20% of those uncontested citations resulted in a flag removal payment, TTF revenues may increase by about \$150,000 annually. 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: To the extent that Prince George's County implements speed monitoring systems, revenues increase significantly and expenditures also increase.

Based on the experience of Montgomery County in implementing an automated speed monitoring system, Prince George's County may realize additional revenue of about \$10.2 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:

- The Montgomery County Safe Speed Program citations generated revenues of \$10.6 million in fiscal 2008;
- during the first 10 months of the Montgomery County automated speed enforcement system, 17% of citations issued went unpaid;
- in fiscal 2008 there were 21,288 citations for speeding at least 10 miles per hour over the speed limit in Montgomery County and 20,462 such citations in Prince George's County; and
- based on experience in Montgomery County as well as previous estimates, full implementation of automated speed monitoring systems generate 15 times more tickets than police issued tickets.

DLS advises that, although the effective date of this bill is October 1, 2009, it may take several years to begin to implement the system and may take an additional year to achieve full operational capability. Further, this revenue projection is based on the

assumption that the Prince George's County experience with automated speed monitoring systems is the same as that of Montgomery County. To the extent that Prince George's County implements its automated speed enforcement system differently or driving habits differ, the revenue collected under this bill may change substantially.

Prince George's County has not yet determined how to implement its automated speed enforcement system or estimated the expenditures necessary to do so. DLS notes, that in fiscal 2008, Montgomery County expenditures to implement its automated speed enforcement system and other expenses related to the Safe Speed Program of which the system is a part 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.

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 Prince George's 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.

Additional Information

Prior Introductions: A nearly identical bill, HB 472 was introduced in the 2007 session but did not receive a hearing. Likewise, HB 1017 of 2008 was withdrawn without a hearing. A similar bill, SB 963 of 2008, was amended in the Senate but did not receive a hearing in the House.

Cross File: HB 1020 (Prince George's County Delegation) - Environmental Matters.

Information Source(s): Montgomery and Prince George's counties, City of Bowie, City of Laurel, Maryland Insurance Administration, Judiciary (Administrative Office of the Courts), Maryland Automobile Insurance Fund, Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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