

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 826 (Prince George's County Senators)
Judicial Proceedings

Prince George's County - Safer Roads Act of 2009

This bill expands to Prince George's County the authorization for operation of speed monitoring systems and alters several aspects of the speed monitoring system authorized in Montgomery County. The maximum fine for a speed camera violation is \$40.

The bill has prospective application.

Fiscal Summary

State Effect: General and 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. 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 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. Therefore, the bill results in no net fiscal impact to Prince George's County after remitting the balance of net revenues over the costs of implementation recovered by the county. The changes to the program in Montgomery County may impact both revenues and expenditures.

Small Business Effect: Minimal.

Analysis

Bill Summary: As for the existing program in Montgomery County, 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 12 miles per hour (rather than 10 as under current law) 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.

In Prince George's County or Montgomery County, the bill applies to a highway in a residential district with a maximum posted speed limit of 45 miles per hour, as established using generally accepted traffic engineering practices, or in a school zone (defined as highways within a half-mile radius of any school).

In Prince George's County only, the bill also applies to a highway identified by local law enforcement data as a significantly dangerous location, with a maximum posted speed limit of between 46 and 55 miles per hour, as established using generally accepted traffic engineering practices. Exempted from the Prince George's County only provisions are Interstate Highways 95 or 495, and U.S. Route 50 or 301. Before a speed monitoring system may be implemented in Prince George's County, it must be authorized by ordinance or resolution of the county council or governing body of a municipal corporation after reasonable notice and a public hearing.

For five months after deployment of the first speed monitoring system, the Prince George's County Police Department or a municipal police department may only issue warnings for speed violations.

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 provided, the local police departments of Prince George's County are prohibited from mailing a citation to a person who is not a vehicle owner.

Of the fines collected in Prince George's County, the County Office of Finance or a municipal corporation may recover the costs of implementing and administering the speed monitoring system, and must remit the balance to the Comptroller annually for deposit into the general fund.

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 and that specified requirements have been satisfied, sworn to, or affirmed by an authorized agent of the local police department in 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 (1) the motor vehicle or registration plates were stolen, if a timely police report about the theft is submitted; (2) the person named in the citation was not operating the vehicle at the time of the violation, if the person cited submits a sworn written statement that he or she was not operating the vehicle at the time of the violation and provides the name, address, and, if possible, the driver's license number of the person who was driving; or (3) that the citation was issued to a volunteer for an ambulance, fire, or rescue company or a law enforcement agency responding to an emergency situation.

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

The Prince George's County Police Department must implement and/or continue an extensive public education and awareness campaign about the use of speed monitoring systems in the jurisdiction. The police must also submit a written report annually to the Prince George's County Delegation to the General Assembly, the county executive, and the county council by September 30 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 Prince George's County Council must report to the General Assembly by December 31, 2013 on the effectiveness of speed monitoring systems in Prince George's County.

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: Based on the experience of Montgomery County in implementing an automated speed monitoring system, revenues generated from speed monitoring in Prince George's County may exceed expenditures by over \$5 million. Montgomery County realized additional revenue of about \$10.2 million in the first fiscal year in which the automated speed enforcement system was fully implemented, and expenditures of about \$5 million. However, this estimate is based solely on implementation of speed monitoring systems on residential highways and school zones. If local ordinances authorize the implementation of additional speed monitoring systems on highways with maximum speed limits of up to 55 miles per hour under the bill, revenues and expenditures may be substantially greater. For example, a previous analysis of the fiscal impact of implementing five speed monitoring systems operating full-time in State work zones estimated a revenue increase of over \$10 million under various assumptions, with additional expenditures estimated at approximately \$2.1 million. That analysis considered statewide implementation of speed monitoring; restricting speed monitoring to Prince George's County highways with maximum speed limits of 55 miles per hour is likely to yield significantly less revenue.

Significant special fund revenues may be expected due to payment of penalties to the District Court from contested cases, with distribution to various transportation-related funds. However, DLS advises that there is a much greater likelihood that violators choose to prepay 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.

Although anecdotal evidence suggests that the District Court has been able to handle the additional workload from contested cases in Montgomery County, the scope of speed monitoring authorized by the bill may significantly increase the workload of the District Court beyond what may be handled with existing budgeted resources. The significant increase in the workload of the District Court is the result of the creation of a uniform citation, as well as a significant increase in the number of trials, notifications, collection of contested fines, and communication with MVA due to nonpayment of fines and failure

of individuals to appear for trial. The District Court may also require a new civil citation data system in order to implement the bill. If the District Court is unable to 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.

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.

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.

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, the revenue projection for speed monitoring in school zones and residential highways 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.

Local Fiscal Effect: To the extent that Prince George's County implements speed monitoring systems, revenues and expenditures increase significantly, with revenues expected to significantly exceed expenditures. However, under the bill, any revenues collected in excess of the amount necessary to cover Prince George's County expenditures for the implementation of the bill are required to be remitted to the Comptroller for deposit into the general fund. Therefore, the bill results in no net impact to Prince George's County finances. 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.

Additional Comments: If speed cameras replace a significant number of police-issued tickets, according to the Maryland Automobile Insurance Fund, insurance carriers 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 similar bill was introduced in the 2008 session as SB 963 and passed the Senate with amendments. The present bill is nearly identical to SB 963 as amended by the Senate.

Cross File: None.

Information Source(s): Montgomery and Prince George's counties, 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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