

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 388

(Senator McFadden)(By Request - Baltimore City
Administration)

Judicial Proceedings

Baltimore City - Vehicle Laws - Speed Monitoring Systems

This bill expands to Baltimore City the authorization to use speed monitoring systems within the city 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.

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 Motor Vehicle Administration (MVA) fees.

Local Effect: The full effect on local finances depends on the extent to which these systems are deployed and on driving habits in Baltimore City. 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: This bill authorizes Baltimore City 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 Baltimore City Department 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 Baltimore City Police Department is 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 based on inspection of recorded images and sworn to or affirmed by a police officer of the Baltimore City Police Department, 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.

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 Baltimore City Department of Finance and the local police department, 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 enforcement system may not be contingent on the number of citations issued.

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 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 Baltimore City Department 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. Based on data available from the first 10 months of Montgomery County's automated speed enforcement system, 17% of automated citations issued were 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 could increase by approximately \$369,852. This estimate is based on full implementation of a similar system in Baltimore City and the city's current level of citations for speeding in excess of 10 miles per hour over the posted limit. TTF revenues could increase by \$88,447 in fiscal 2010 and by approximately \$82,500 thereafter, due to the increase in flag removal fees paid to MVA and the need for additional staff to handle the workload.

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.

Any such impact cannot yet be reliably estimated because Baltimore City has not determined how and when it will implement its speed monitoring system.

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.

Local Fiscal Effect: To the extent that Baltimore City implements speed monitoring systems, revenues increase significantly and expenditures also increase.

For illustrative purposes only, based on the experience of Montgomery County in implementing an automated speed monitoring system, Baltimore City may realize additional revenue of about \$7.2 million in the first full fiscal year in which the automated speed enforcement system is fully implemented. This estimate is based in part on the following information and assumptions:

- the Montgomery County Office of Management and Budget estimated revenues of \$10.5 million in fiscal 2009 from citations issued under the county's Safe Speed Program;
- 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 compared to 14,504 such citations in Baltimore City; and
- Baltimore City implements a comparable automated enforcement system to the one in Montgomery County.

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 Baltimore City experience with automated speed enforcement systems is the same as that of Montgomery County. To the extent that Baltimore City implements its automated speed enforcement system differently or driving habits differ, the revenue collected under the bill may change substantially.

Baltimore City 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.

Preliminary information on the fiscal impact of the Safe Speed Program indicates that the number of drivers speeding fell by 30% overall and 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 have increased to approximately \$8.9 million in the six-month period ending January 2009.

Additional Comments: The Maryland Automobile Insurance Fund has advised that, if automated speed enforcement systems replace a significant number of police-issued tickets, insurance carriers writing policies in Baltimore City 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: None.

Cross File: HB 396 (Delegate Anderson, *et al.*) (By Request - Baltimore City Administration) - Environmental Matters.

Information Source(s): Baltimore City, Montgomery County, Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, National Conference of State Legislatures, Department of Legislative Services

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