

HOUSE BILL 929

R5

3lr1841

By: ~~Delegates Malone and McMillan~~, McMillan, and Conaway

Introduced and read first time: February 7, 2013

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 30, 2013

CHAPTER _____

1 AN ACT concerning

2 **Motor Vehicles – Speed Monitoring Systems – Local Jurisdictions**

3 FOR the purpose of ~~clarifying that a certain warning period for violations recorded by~~
4 ~~speed monitoring systems operated by local jurisdictions begins when the first~~
5 ~~speed monitoring system in the jurisdiction is in use~~ altering the standards and
6 requirements for the required warning period for violations recorded by speed
7 monitoring systems; establishing that speed monitoring systems placed in
8 certain areas may only be placed on highways with a certain minimum speed
9 limit; applying certain notice and signage standards for unmanned local
10 stationary speed monitoring systems to all local ~~stationary~~ speed monitoring
11 systems; altering the standards for signage required for local stationary speed
12 monitoring systems; requiring certain local jurisdictions to designate certain
13 persons to act in a certain liaison capacity; altering the standards and
14 requirements for daily self-tests and annual calibrations for speed monitoring
15 systems; requiring certain local jurisdictions to designate a certain program
16 administrator; requiring a contract for a certain speed monitoring system to
17 include certain provisions; establishing certain training requirements; clarifying
18 that a certificate alleging that a certain speeding violation occurred is required
19 to be sworn to or affirmed by a certain law enforcement officer; expanding the
20 application of the prohibition against a speed monitoring system contractor's fee
21 being contingent on the number of citations issued or paid; providing that,
22 except under certain circumstances, existing obligations, contracts, or contract
23 rights may not be impaired by this Act; defining certain terms; and generally
24 relating to speed monitoring systems operated by local jurisdictions.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,
2 Article – Transportation
3 Section 21–809
4 Annotated Code of Maryland
5 (2012 Replacement Volume)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Transportation**

9 21–809.

10 (a) (1) In this section the following words have the meanings indicated.

11 (2) “Agency” means:

12 (i) A law enforcement agency of a local political subdivision
13 that is authorized to issue a citation for a violation of the Maryland Vehicle Law or of
14 local traffic laws or regulations; or

15 (ii) For a municipal corporation that does not maintain a police
16 force, an agency established or designated by the municipal corporation to implement
17 this subtitle using speed monitoring systems in accordance with this section.

18 (3) (i) **“ERRONEOUS VIOLATION” MEANS A POTENTIAL**
19 **VIOLATION SUBMITTED BY A SPEED MONITORING SYSTEM CONTRACTOR FOR**
20 **REVIEW BY AN AGENCY THAT IS:**

21 **1. CLEARLY NOT SUPPORTED BY THE AVAILABLE**
22 **EVIDENCE OR APPLICABLE LAW; OR**

23 **2. BASED ON A TECHNICAL VARIABLE FOR WHICH**
24 **THE CONTRACTOR IS RESPONSIBLE.**

25 (ii) **“ERRONEOUS VIOLATION” INCLUDES:**

26 **1. A POTENTIAL VIOLATION BASED ON INACCURATE**
27 **RADAR IMAGING, INCLUDING THE PHENOMENON KNOWN AS THE “RADAR**
28 **EFFECT”;** OR

29 **2. A POTENTIAL VIOLATION BASED ON A RECORDED**
30 **IMAGE THAT IS GENERATED BY A SPEED MONITORING SYSTEM THAT IS AT AN**
31 **IMPROPER DISTANCE OR ANGLE OR IN IMPROPER FOCUS.**

1 **(III) “ERRONEOUS VIOLATION” DOES NOT INCLUDE A**
2 **POTENTIAL VIOLATION THAT AN AGENCY IS UNABLE TO VALIDATE BUT**
3 **OTHERWISE COMPLIES WITH APPLICABLE LAWS AND CONTRACT PROVISIONS.**

4 **(4) (I)** “Owner” means the registered owner of a motor vehicle or a
5 lessee of a motor vehicle under a lease of 6 months or more.

6 (ii) “Owner” does not include:

- 7 1. A motor vehicle rental or leasing company; or
- 8 2. A holder of a special registration plate issued under
9 Title 13, Subtitle 9, Part III of this article.

10 ~~(4)~~ **(5) “PROGRAM ADMINISTRATOR” MEANS AN EMPLOYEE OR**
11 **REPRESENTATIVE OF THE LOCAL JURISDICTION DESIGNATED BY THE LOCAL**
12 **JURISDICTION TO OVERSEE A CONTRACT WITH A SPEED MONITORING SYSTEM**
13 **CONTRACTOR.**

14 **(6)** “Recorded image” means an image recorded by a speed monitoring
15 system:

16 (i) On:

- 17 1. A photograph;
- 18 2. A microphotograph;
- 19 3. An electronic image;
- 20 4. Videotape; or
- 21 5. Any other medium; and

22 (ii) Showing:

- 23 1. The rear of a motor vehicle;
- 24 2. At least two time-stamped images of the motor
25 vehicle that include the same stationary object near the motor vehicle; and
- 26 3. On at least one image or portion of tape, a clear and
27 legible identification of the entire registration plate number of the motor vehicle.

28 **(7) “SCHOOL ZONE” MEANS A DESIGNATED ROADWAY SEGMENT**
29 **WITHIN UP TO A HALF-MILE RADIUS OF A SCHOOL FOR ANY OF GRADES**

1 KINDERGARTEN THROUGH GRADE 12 THAT IS APPROACHING, ADJACENT TO, OR
 2 BEYOND SCHOOL BUILDINGS OR GROUNDS WHERE SCHOOL RELATED ACTIVITY
 3 OCCURS, INCLUDING:

4 (I) TRAVEL BY STUDENTS TO OR FROM SCHOOL ON FOOT
 5 OR BY BICYCLE; OR

6 (II) THE DROPPING OFF OR PICKING UP OF STUDENTS BY
 7 SCHOOL BUSES OR OTHER VEHICLES.

8 ~~(5)~~ **(8)** “Speed monitoring system” means a device with one or more
 9 motor vehicle sensors producing recorded images of motor vehicles traveling at speeds
 10 at least 12 miles per hour above the posted speed limit.

11 ~~(6)~~ **(9)** “Speed monitoring system operator” means a representative of
 12 an agency or contractor that operates a speed monitoring system.

13 (b) (1) (i) A speed monitoring system may not be used in a local
 14 jurisdiction under this section unless its use is authorized by the governing body of the
 15 local jurisdiction by local law enacted after reasonable notice and a public hearing.

16 (ii) Before a county may use a speed monitoring system on a
 17 State highway at a location within a municipal corporation, the county shall:

18 1. Obtain the approval of the State Highway
 19 Administration;

20 2. Notify the municipal corporation of the State
 21 Highway Administration’s approval of the use of a speed monitoring system at that
 22 location; and

23 3. Grant the municipal corporation 60 days from the
 24 date of the county’s notice to the municipal corporation to enact an ordinance
 25 authorizing the municipal corporation instead of the county to use a speed monitoring
 26 system at that location.

27 (iii) 1. This subparagraph applies only in Prince George’s
 28 County.

29 2. In the county, a municipal corporation may
 30 implement and use a speed monitoring system consistent with the requirements of
 31 this subsection on a county highway at a location within its corporate limits if the
 32 municipal corporation:

1 A. Submits to the county a plan describing the boundary
2 of the applicable school zone and the proposed location of the speed monitoring system;
3 and

4 B. Requests and receives permission from the county to
5 use the speed monitoring system at the proposed location.

6 3. If the county fails to respond to the request within 60
7 days, the municipal corporation may implement and use the speed monitoring system
8 as described in the plan submission.

9 4. The county may not:

10 A. Unreasonably deny a request under this
11 subparagraph; or

12 B. Place exactions, fees, or unreasonable restrictions on
13 the implementation and use of a speed monitoring system under this subparagraph.

14 5. The county shall state in writing the reasons for any
15 denial of a request under this subparagraph.

16 6. A municipal corporation may contest in the circuit
17 court a county denial of a request under this subparagraph.

18 (iv) In Prince George's County, if a municipal corporation has
19 established a school zone that is within one-quarter mile of a school zone established
20 in another municipal corporation, the municipal corporation may not implement or use
21 a speed monitoring system in that school zone unless it has obtained the approval of
22 the other municipal corporation.

23 (v) An ordinance or resolution adopted by the governing body of
24 a local jurisdiction under this paragraph shall provide that ~~for a period of at least 30~~
25 ~~days after the first speed monitoring system is [placed]~~ **IN USE** in the local
26 ~~jurisdiction, a violation recorded by any speed monitoring system in the local~~
27 ~~jurisdiction may be enforced only by the issuance of a warning~~ **IF THE LOCAL**
28 **JURISDICTION MOVES OR PLACES A MOBILE OR STATIONARY SPEED**
29 **MONITORING SYSTEM TO OR AT A LOCATION WHERE A SPEED MONITORING**
30 **SYSTEM HAD NOT PREVIOUSLY BEEN MOVED OR PLACED, THE LOCAL**
31 **JURISDICTION MAY NOT ISSUE A CITATION FOR A VIOLATION RECORDED BY**
32 **THAT SPEED MONITORING SYSTEM:**

33 **1. UNTIL SIGNAGE IS INSTALLED IN ACCORDANCE**
34 **WITH SUBPARAGRAPH (VII) OF THIS PARAGRAPH; AND**

1 A. Are in accordance with the manual and specifications
2 for a uniform system of traffic control devices adopted by the State Highway
3 Administration under § 25–104 of this article; and

4 B. Indicate that a speed monitoring system is in use.

5 (viii) A speed monitoring system in a school zone may operate
6 only Monday through Friday between 6:00 a.m. and 8:00 p.m.

7 **(ix) 1. A LOCAL JURISDICTION THAT AUTHORIZES A**
8 **PROGRAM OF SPEED MONITORING SYSTEMS SHALL DESIGNATE AN OFFICIAL OR**
9 **EMPLOYEE TO INVESTIGATE AND RESPOND TO QUESTIONS OR CONCERNS**
10 **ABOUT THE LOCAL JURISDICTION’S SPEED MONITORING SYSTEM PROGRAM.**

11 **2. BEFORE THE DEADLINE FOR CONTESTING**
12 **LIABILITY UNDER THIS SECTION, THE LOCAL DESIGNEE MAY REVIEW AND, IF A**
13 **CITATION IS DETERMINED TO BE AN ERRONEOUS VIOLATION, VOID A SPEED**
14 **MONITORING SYSTEM CITATION.**

15 **3. A LOCAL DESIGNEE MAY NOT BE EMPLOYED BY A**
16 **SPEED MONITORING SYSTEM CONTRACTOR OR HAVE BEEN INVOLVED IN ANY**
17 **PREVIOUS REVIEW UNDER THIS SECTION OF SPEED MONITORING SYSTEM**
18 **CITATIONS.**

19 **4. ON RECEIPT OF A QUESTION OR CONCERN FROM**
20 **A PERSON, THE LOCAL DESIGNEE SHALL PROVIDE A WRITTEN ANSWER OR**
21 **RESPONSE TO THE PERSON WITHIN A REASONABLE TIME.**

22 **5. A LOCAL JURISDICTION SHALL MAKE ANY**
23 **WRITTEN QUESTIONS OR CONCERNS RECEIVED UNDER THIS SUBPARAGRAPH,**
24 **AND ANY SUBSEQUENT ANSWERS OR RESPONSES, AVAILABLE FOR PUBLIC**
25 **INSPECTION.**

26 (2) (i) A speed monitoring system operator shall complete training
27 by a manufacturer of speed monitoring systems in the procedures for setting up and
28 operating the speed monitoring system.

29 (ii) The manufacturer shall issue a signed certificate to the
30 speed monitoring system operator on completion of the training.

31 (iii) The certificate of training shall be admitted as evidence in
32 any court proceeding for a violation of this section.

33 (3) A speed monitoring system operator shall fill out and sign a daily
34 set-up log for a speed monitoring system that:

1 (i) States that the speed monitoring system operator
2 successfully performed **OR REVIEWED AND EVALUATED** the manufacturer–specified
3 **DAILY** self–test of the speed monitoring system prior to producing a recorded image;

4 (ii) Shall be kept on file; and

5 (iii) Shall be admitted as evidence in any court proceeding for a
6 violation of this section.

7 (4) (i) A speed monitoring system shall undergo an annual
8 calibration check performed by an independent calibration laboratory **THAT IS:**

9 **1. SELECTED BY THE LOCAL JURISDICTION; AND**

10 **2. UNAFFILIATED WITH THE MANUFACTURER OF**
11 **THE SPEED MONITORING SYSTEM.**

12 (ii) The independent calibration laboratory shall issue a signed
13 certificate of calibration after the annual calibration check that:

14 1. Shall be kept on file; and

15 2. Shall be admitted as evidence in any court proceeding
16 for a violation of this section.

17 **(5) IF A LOCAL JURISDICTION AUTHORIZES A PROGRAM OF**
18 **SPEED MONITORING SYSTEMS UNDER THIS SECTION:**

19 **(I) THE LOCAL JURISDICTION SHALL DESIGNATE A**
20 **PROGRAM ADMINISTRATOR, WHO MAY NOT BE AN EMPLOYEE OR**
21 **REPRESENTATIVE OF THE SPEED MONITORING SYSTEM CONTRACTOR; AND**

22 **(II) THE CONTRACT WITH THE SPEED MONITORING SYSTEM**
23 **CONTRACTOR SHALL INCLUDE THE FOLLOWING PROVISIONS:**

24 **1. FOR POTENTIAL VIOLATIONS SUBMITTED BY A**
25 **CONTRACTOR FOR REVIEW BY AN AGENCY, IF MORE THAN 5% OF THE**
26 **VIOLATIONS IN A CALENDAR YEAR ARE ERRONEOUS VIOLATIONS, THEN THE**
27 **CONTRACTOR SHALL BE SUBJECT TO LIQUIDATED DAMAGES FOR EACH**
28 **ERRONEOUS VIOLATION EQUAL TO AT LEAST 50% OF THE FINE AMOUNT FOR**
29 **THE ERRONEOUS VIOLATION, PLUS ANY REIMBURSEMENTS PAID BY THE LOCAL**
30 **JURISDICTION; AND**

1 **2. THE LOCAL JURISDICTION MAY CANCEL A**
2 **CONTRACT WITH A CONTRACTOR IF THE CONTRACTOR VIOLATES THE**
3 **CONTRACT BEYOND A THRESHOLD SPECIFIED IN THE CONTRACT OR VIOLATES**
4 **THE LAW IN IMPLEMENTING THE CONTRACT.**

5 **(6) (I) THE MARYLAND ASSOCIATION OF CHIEFS OF POLICE,**
6 **IN CONSULTATION WITH THE MARYLAND SHERIFF'S ASSOCIATION AND THE**
7 **ADMINISTRATION, SHALL DEVELOP A TRAINING PROGRAM CONCERNING THE**
8 **OVERSIGHT AND ADMINISTRATION OF A SPEED MONITORING PROGRAM BY A**
9 **LOCAL JURISDICTION, INCLUDING A CURRICULUM OF BEST PRACTICES IN THE**
10 **STATE.**

11 **(II) 1. A PROGRAM ADMINISTRATOR SHALL**
12 **PARTICIPATE IN THE TRAINING PROGRAM ESTABLISHED UNDER THIS**
13 **PARAGRAPH BEFORE A LOCAL JURISDICTION INITIALLY IMPLEMENTS A SPEED**
14 **MONITORING PROGRAM AND SUBSEQUENTLY AT LEAST ONCE EVERY 2 YEARS.**

15 **2. IF A LOCAL JURISDICTION DESIGNATES A NEW**
16 **PROGRAM ADMINISTRATOR, THE NEW PROGRAM ADMINISTRATOR SHALL**
17 **PARTICIPATE IN THE NEXT AVAILABLE TRAINING PROGRAM.**

18 (c) (1) Unless the driver of the motor vehicle received a citation from a
19 police officer at the time of the violation, the owner or, in accordance with subsection
20 (f)(4) of this section, the driver of a motor vehicle is subject to a civil penalty if the
21 motor vehicle is recorded by a speed monitoring system while being operated in
22 violation of this subtitle.

23 (2) A civil penalty under this subsection may not exceed \$40.

24 (3) For purposes of this section, the District Court shall prescribe:

25 (i) A uniform citation form consistent with subsection (d)(1) of
26 this section and § 7-302 of the Courts Article; and

27 (ii) A civil penalty, which shall be indicated on the citation, to be
28 paid by persons who choose to prepay the civil penalty without appearing in District
29 Court.

30 (d) (1) Subject to the provisions of paragraphs (2) through (4) of this
31 subsection, an agency shall mail to an owner liable under subsection (c) of this section
32 a citation that shall include:

33 (i) The name and address of the registered owner of the vehicle;

34 (ii) The registration number of the motor vehicle involved in the
35 violation;

- 1 (iii) The violation charged;
- 2 (iv) The location where the violation occurred;
- 3 (v) The date and time of the violation;
- 4 (vi) A copy of the recorded image;
- 5 (vii) The amount of the civil penalty imposed and the date by
6 which the civil penalty should be paid;
- 7 (viii) A signed statement by a duly authorized law enforcement
8 officer employed by or under contract with an agency that, based on inspection of
9 recorded images, the motor vehicle was being operated in violation of this subtitle;
- 10 (ix) A statement that recorded images are evidence of a violation
11 of this subtitle;
- 12 (x) Information advising the person alleged to be liable under
13 this section of the manner and time in which liability as alleged in the citation may be
14 contested in the District Court; and
- 15 (xi) Information advising the person alleged to be liable under
16 this section that failure to pay the civil penalty or to contest liability in a timely
17 manner:
- 18 1. Is an admission of liability;
- 19 2. May result in the refusal by the Administration to
20 register the motor vehicle; and
- 21 3. May result in the suspension of the motor vehicle
22 registration.
- 23 (2) An agency may mail a warning notice instead of a citation to the
24 owner liable under subsection (c) of this section.
- 25 (3) Except as provided in subsection (f)(4) of this section, an agency
26 may not mail a citation to a person who is not an owner.
- 27 (4) Except as provided in subsection (f)(4) of this section, a citation
28 issued under this section shall be mailed no later than 2 weeks after the alleged
29 violation if the vehicle is registered in this State, and 30 days after the alleged
30 violation if the vehicle is registered in another state.

1 (5) A person who receives a citation under paragraph (1) of this
2 subsection may:

3 (i) Pay the civil penalty, in accordance with instructions on the
4 citation, directly to the political subdivision; or

5 (ii) Elect to stand trial in the District Court for the alleged
6 violation.

7 (e) (1) A certificate alleging that the violation of this subtitle occurred and
8 the requirements under subsection (b) of this section have been satisfied, sworn to, or
9 affirmed by [an agent or employee of] **A DULY AUTHORIZED LAW ENFORCEMENT**
10 **OFFICER EMPLOYED BY OR UNDER CONTRACT WITH** an agency, based on
11 inspection of recorded images produced by a speed monitoring system, shall be
12 evidence of the facts contained in the certificate and shall be admissible in a
13 proceeding alleging a violation under this section without the presence or testimony of
14 the speed monitoring system operator who performed the requirements under
15 subsection (b) of this section.

16 (2) If a person who received a citation under subsection (d) of this
17 section desires the speed monitoring system operator to be present and testify at trial,
18 the person shall notify the court and the State in writing no later than 20 days before
19 trial.

20 (3) Adjudication of liability shall be based on a preponderance of
21 evidence.

22 (f) (1) The District Court may consider in defense of a violation:

23 (i) Subject to paragraph (2) of this subsection, that the motor
24 vehicle or the registration plates of the motor vehicle were stolen before the violation
25 occurred and were not under the control or possession of the owner at the time of the
26 violation;

27 (ii) Subject to paragraph (3) of this subsection, evidence that the
28 person named in the citation was not operating the vehicle at the time of the violation;
29 and

30 (iii) Any other issues and evidence that the District Court deems
31 pertinent.

32 (2) To demonstrate that the motor vehicle or the registration plates
33 were stolen before the violation occurred and were not under the control or possession
34 of the owner at the time of the violation, the owner shall submit proof that a police
35 report regarding the stolen motor vehicle or registration plates was filed in a timely
36 manner.

1 (3) To satisfy the evidentiary burden under paragraph (1)(ii) of this
2 subsection, the person named in the citation shall provide to the District Court a
3 letter, sworn to or affirmed by the person and mailed by certified mail, return receipt
4 requested, that:

5 (i) States that the person named in the citation was not
6 operating the vehicle at the time of the violation; and

7 (ii) Includes any other corroborating evidence.

8 (4) (i) If the District Court finds that the person named in the
9 citation was not operating the vehicle at the time of the violation or receives evidence
10 under paragraph (3) of this subsection identifying the person driving the vehicle at the
11 time of the violation, the clerk of the court shall provide to the agency issuing the
12 citation a copy of any evidence substantiating who was operating the vehicle at the
13 time of the violation.

14 (ii) On receipt of substantiating evidence from the District
15 Court under subparagraph (i) of this paragraph, an agency may issue a citation as
16 provided in subsection (d) of this section to the person who the evidence indicates was
17 operating the vehicle at the time of the violation.

18 (iii) A citation issued under subparagraph (ii) of this paragraph
19 shall be mailed no later than 2 weeks after receipt of the evidence from the District
20 Court.

21 (g) If a person liable under this section does not pay the civil penalty or
22 contest the violation, the Administration:

23 (1) May refuse to register or reregister the motor vehicle cited for the
24 violation; or

25 (2) May suspend the registration of the motor vehicle cited for the
26 violation.

27 (h) A violation for which a civil penalty is imposed under this section:

28 (1) Is not a moving violation for the purpose of assessing points under
29 § 16–402 of this article;

30 (2) May not be recorded by the Administration on the driving record of
31 the owner or driver of the vehicle;

32 (3) May be treated as a parking violation for purposes of § 26–305 of
33 this article; and

1 (4) May not be considered in the provision of motor vehicle insurance
2 coverage.

3 (i) In consultation with the appropriate local government agencies, the Chief
4 Judge of the District Court shall adopt procedures for the issuance of citations, the
5 trial of civil violations, and the collection of civil penalties under this section.

6 (j) (1) An agency or an agent or contractor designated by the agency shall
7 administer and process civil citations issued under this section in coordination with
8 the District Court.

9 (2) If a contractor IN ANY MANNER operates a speed monitoring
10 system OR ADMINISTERS OR PROCESSES CITATIONS GENERATED BY A SPEED
11 MONITORING SYSTEM on behalf of a local jurisdiction, the contractor's fee may not be
12 contingent ON A PER-TICKET BASIS on the number of citations issued or paid.

13 SECTION 2. AND BE IT FURTHER ENACTED, That, except as provided in
14 Section 3 of this Act, a presently existing obligation, contract, or contract right may
15 not be impaired in any way by this Act and this Act does not abrogate any current
16 obligation, contract, or contract right in existence before the effective date of this Act.

17 SECTION 3. AND BE IT FURTHER ENACTED, That ~~on or after October 1,~~
18 ~~2014, but before the termination date of an obligation, contract, or contract right~~
19 ~~existing on the effective date of this Act, a local jurisdiction may alter without penalty~~
20 ~~an obligation, contract, or contract right existing on the effective date of this Act to~~
21 ~~comply with the provisions of this Act if the governing body of the local jurisdiction~~
22 ~~provides in writing that the alteration would serve the public interest~~ a local
23 jurisdiction shall alter without penalty an obligation, contract, or contract right
24 existing on October 1, 2013 to comply with the provisions of this Act by October 1,
25 2014.

26 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.