

**Department of Legislative Services**  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 929

(Delegate Malone, *et al.*)

Environmental Matters

Judicial Proceedings

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**Motor Vehicles - Speed Monitoring Systems - Local Jurisdictions**

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This bill alters requirements and restrictions pertaining to the issuance of citations and warnings from speed monitoring systems, the calibration and self-testing of systems, and the use and placement of systems in school zones. The bill also requires local jurisdictions that operate speed monitoring systems to ensure citations are sworn to by duly authorized law enforcement officers, to designate an employee or official to review citations and address questions or concerns, and designate a program administrator to oversee contracts with speed monitoring system contractors. Finally, the bill prohibits payments on a per-ticket basis to specified contractors and requires contracts to provide for the payment of liquidated damages by contractors if more than 5% of violations issued are erroneous as defined in the bill; a local jurisdiction is required to alter without penalty a contract existing on October 1, 2013, to comply with the bill by October 1, 2014.

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**Fiscal Summary**

**State Effect:** Transportation Trust Fund (TTF) revenues decrease beginning in FY 2014 assuming fewer speed monitoring system citations are issued. To the extent that the bill results in fewer citations due to the additional restrictions on the placement and use of speed monitoring systems and the additional procedures and incentives to review and reject erroneous citations, fewer citations will be paid late and result in the payment to MVA of administrative flag removal fees. An estimate of this decrease cannot be made but is not anticipated to be significant. General fund revenues also decrease minimally beginning in fiscal 2014 from the collection of fewer penalties and court costs in contested cases. District Court caseloads likely decrease minimally.

**Local Effect:** Local government expenditures increase – likely significantly – for jurisdictions that operate speed monitoring systems and that are required to alter the

location of nonmobile speed monitoring systems within school zones, negotiate new contracts with contractors and/or independent laboratories, hire additional law enforcement or other personnel, and/or make other programmatic changes to comply with the bill. Local revenues decrease – likely significantly – due to the expanded use of warning periods and as fewer erroneous violations result in a paid citation. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** Minimal.

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## Analysis

### Bill Summary:

#### *Speed Monitoring System Warnings and Calibration Checks*

The bill repeals the 30-day period during which only warnings may be issued following placement of *the first* speed monitoring system in a jurisdiction and, instead, requires a warning period of 15 days after specified signage is installed at each *new location* in which a speed monitoring system is placed.

The bill specifies that the daily set-up log for a speed monitoring system must state that the operator successfully performed *or reviewed and evaluated* the manufacturer-specified daily self-test of the system. The bill requires that the independent calibration laboratory that performs the required annual calibration check of each speed monitoring system be selected by the local jurisdiction and unaffiliated with the manufacturer of the speed monitoring system.

#### *Use of Speed Monitoring Systems in School Zones*

The bill restricts the use of a speed monitoring system to within a school zone that has a posted speed limit of at least 20 miles per hour. The bill defines a “school zone” as a designated roadway segment within up to a half-mile radius of a school (kindergarten through grade 12) that is *approaching, adjacent to, or beyond* school buildings or grounds where school-related activity occurs, including travel by students to or from school (on foot or by bicycle) or the dropping off or picking up of students by school buses or other vehicles.

The bill also specifies that, before activating any speed monitoring system, the jurisdiction must ensure that each sign designating a school zone is proximate to a sign indicating that a speed monitoring system is in use and is in accordance with the manual

and specifications for a uniform system of traffic control devices adopted by the State Highway Administration (SHA).

#### *Review by a Duly Authorized Law Enforcement Officer*

The bill clarifies that a certificate alleging a speed monitoring system violation must be sworn to or affirmed by a *duly authorized* law enforcement officer, rather than an agent or employee of a law enforcement agency.

#### *Designated Employee to Review Citations and Address Questions and Concerns*

A local jurisdiction that authorizes speed monitoring systems must designate an official or employee to investigate and respond to questions or concerns. Before the deadline for contesting liability, the designee may review and, if a citation is determined to be an “erroneous violation,” void a citation. The bill defines an “erroneous violation” as a potential violation submitted by a speed monitoring system contractor for review by an agency that is (1) clearly not supported by the available evidence or applicable law or (2) based on a technical variable for which the contractor is responsible. The bill specifies that an erroneous violation includes a potential violation that is subject to the “radar effect” or that is generated by a speed monitoring system at an improper distance or angle or in improper focus. The designee may not be employed by a contractor and may not have been involved in any previous review of speed monitoring system citations. On receipt of a question or concern from a person, the local designee must provide a written answer or response to the person within a reasonable time, and the jurisdiction must make the question or concern, and any subsequent answer or response, available for public inspection.

#### *Program Administrator and Training Requirements*

A local jurisdiction that authorizes speed monitoring systems must designate a program administrator, who may not be an employee or representative of the speed monitoring system contractor. The bill defines a “program administrator” as an employee or representative of a jurisdiction designated to oversee a contract with a speed monitoring system contractor.

The bill requires the Maryland Chiefs of Police Association, in consultation with the Maryland Sheriffs’ Association and MVA, to develop a training program for oversight and administration of a speed monitoring program by a local jurisdiction, including a curriculum of best practices. A program administrator must participate in the training program before a jurisdiction *initially* implements a speed monitoring program and at least once every two years thereafter. If a local jurisdiction designates a new program

administrator, the new program administrator must participate in the next available training program.

### *Speed Monitoring System Contract Requirements*

The bill prohibits the payment of a contractor on a per-ticket basis and specifies that this prohibition applies to a contractor that, in any manner, operates a speed monitoring system or administers or processes citations.

The bill also requires a contract with a speed monitoring system contractor to stipulate that the contractor is subject to liquidated damages equal to at least 50% of the fine amount for each erroneous violation, plus any reimbursements paid by the local jurisdiction, if more than 5% of the violations in a calendar year are erroneous. The bill also allows a jurisdiction to cancel a contract if the contractor violates the contract beyond a threshold specified in the contract or violates the law in implementing the contract.

**Current Law:** SHA or a local authority may designate an area within a half-mile radius of a school as a school zone, which must have signs designating the school zone and may have other traffic control devices, including timed flashing warning lights. A “local authority” is defined as a political subdivision or a local board or other body that has authority under State law to enact laws and adopt local police regulations relating to traffic. A “school” is not defined by State law, but according to the SHA website, it is an accredited public, parochial, or private learning institution for one or more grades kindergarten through grade 12.

A citation mailed to a person whose vehicle was recorded by a speed monitoring system must include specified information, including a copy of the recorded image and a signed statement by a duly authorized law enforcement officer employed by, or under contract with, an agency that, based on an inspection of recorded images, the motor vehicle was being operated in violation of a speed restriction. By contrast, a certificate alleging that a violation occurred must be to the satisfaction of, or sworn to or affirmed by, an *agent or employee* of an authorized agency of a local political subdivision.

For the first 30 days after *the first* speed monitoring system is *placed* in a local jurisdiction, only warnings may be issued by any speed monitoring system.

A speed monitoring system operator may be a representative of a local law enforcement agency (or if the local government does not have a police force, then another designated unit) or a contractor.

A speed monitoring system operator must fill out and sign a daily set-up log that states that the operator successfully performed, and the device passed, the manufacturer-specified self-tests before producing a recorded image. These logs must be kept on file and admitted as evidence in any court proceeding for a violation. A speed monitoring system must also undergo an annual calibration check performed by an independent calibration laboratory. The laboratory must issue a signed certificate of calibration that must be kept on file and admitted as evidence in any court proceeding for a violation.

A contractor that operates a local speed monitoring system may not be paid a fee that is *contingent* on the number of citations issued or paid.

## **Background:**

### *Speed Monitoring Systems*

Chapter 15 of 2006 (HB 443 of 2005) authorized the first use of speed monitoring systems in the State, but it only applied to highways in school zones and residential districts in Montgomery County. Chapter 500 of 2009 (SB 277) expanded statewide the authorization for the use of speed monitoring systems in school zones. Chapter 474 of 2010 (HB 1477) authorized the use of speed monitoring systems in Prince George's County on a highway located within the grounds of an institution of higher education or on nearby highways under certain circumstances.

Unless the driver of a motor vehicle received a citation from a police officer at the time of the violation, the owner or driver of the vehicle is subject to a civil penalty if the vehicle is recorded speeding at least 12 miles per hour above the posted speed limit by a speed monitoring system in violation of specified speed restrictions in the Maryland Vehicle Law. The maximum fine for a citation issued by a speed monitoring system operator is \$40. However, a local law enforcement or other designated agency operating the speed monitoring system may mail a warning notice instead of a citation.

Before activating an unmanned stationary speed monitoring system, a local jurisdiction must:

- publish notice of the location on its website and in a newspaper of general circulation in the jurisdiction;
- ensure that each school zone sign indicates that speed monitoring systems are in use in school zones; and
- for a speed monitoring system near an institution of higher education, ensure that all speed limit signs approaching and within the segment of highway on which the speed monitoring system is located include signs that indicate that a speed

monitoring system is in use and that are in accordance with the manual and specifications for a uniform system of traffic control devices adopted by SHA.

A speed monitoring system may be placed in a school zone for operation between 6:00 a.m. and 8:00 p.m., Monday through Friday. Before a speed monitoring system may be used in a local jurisdiction, its use must be authorized by the governing body by ordinance or resolution adopted after reasonable notice and a public hearing.

As shown in **Exhibit 1**, a number of counties and municipal corporations currently implement speed monitoring systems. The Department of Legislative Services advises that, as to municipal corporations, the exhibit only reflects municipal corporations that have reported revenues to the Comptroller in fiscal 2012 and, therefore, may not include all municipal corporations that *currently implement* speed monitoring systems. Further, additional jurisdictions may be *considering* the use of speed monitoring systems at this time.

From the fines generated by a speed monitoring system, the relevant jurisdiction may recover the costs of implementing the systems and may spend any remaining balance solely for public safety purposes, including for pedestrian safety programs. However, if the balance of revenues after cost recovery for any fiscal year is greater than 10% of the jurisdiction's total revenues, the excess must be remitted to the Comptroller. According to data from the Comptroller, about \$2.2 million was remitted in fiscal 2011 from five municipal corporations, but no money was remitted in fiscal 2012. In addition, 17 municipal corporations and Baltimore City generated speed monitoring system fine revenues of about \$36.3 million, of which about \$21.7 million was retained by local jurisdictions for public safety programs after recovery of the costs of implementing the systems.

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**Exhibit 1**  
**Local Speed Monitoring System Enforcement**

<u>County</u>	<u>Municipal Corporation</u>
Baltimore	Bowie
Charles	Brentwood
Howard	Chesapeake Beach
Montgomery	Chevy Chase Village
Prince George's	College Park
Wicomico	Denton
Baltimore City	Forest Heights
	Fruitland
	Hagerstown
	Laurel
	New Carrollton
	Princess Anne
	Riverdale Park
	Rockville
	Salisbury
	Seat Pleasant
	Takoma Park

Source: Comptroller's Office; Department of Legislative Services

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*Recent Media Scrutiny*

A number of bills related to automated enforcement have been introduced in the 2013 legislative session, in part due to recent media scrutiny of speed cameras statewide. The additional scrutiny has centered around two common criticisms of speed cameras: (1) that technical issues and insufficient review of recorded images result in erroneously generated citations; and (2) that the contracts with vendors are structured in such a manner as to establish an incentive to generate more citations and revenues, thereby casting doubt on the integrity of speed cameras as a safety measure.

*Automated Speed Enforcement Efficacy*

Although a statewide review of speed monitoring programs has not been conducted, a combination of national and international studies and local program evaluations provide some insight into the level of effectiveness of such programs. According to the Insurance Institute for Highway Safety, several studies have documented reductions in crashes in

the vicinities of speed cameras, including crashes that result in an injury or fatality. The most recent of these studies was a meta-analysis by the Cochrane Collaboration in 2010, which reviewed 28 individual studies and found reductions of between 8% and 49% for crashes, between 8% and 50% for crashes resulting in injury, and between 11% and 44% for crashes involving fatalities and serious injuries.

Locally, Prince George's County has evaluated its first year of speed monitoring system implementation and found that compliance with speed limits increased, on average, from about 20% of vehicles in certain locations before speed cameras were installed to about 67% after installation. This was based on an assessment of only seven locations, however. In Montgomery County, a 2009 review of its Safe Speed Program revealed that, on average, the number of citations generated by a speed camera decreased 78% between the first and twelfth months of the system's usage and that the average speed of passing vehicles declined by 6%. Finally, an SHA review of its work zone speed monitoring systems revealed that work zone crashes decreased by 11.8% between 2009 and 2011; crashes involving an injury dropped by 16.8%; and the number of annual fatalities fell from nine to three.

**Local Fiscal Effect:** Local government expenditures may increase significantly for any jurisdiction that operates speed monitoring systems. The bill restricts the use of a speed monitoring system to within a school zone that has a posted speed limit of at least 20 miles per hour and defines a school zone as a roadway that is approaching, adjacent to, or beyond school buildings or grounds. To the extent that a jurisdiction must alter the location of a nonmobile system to comply with the bill, expenditures may increase significantly.

Local government expenditures may also increase to negotiate contracts with contractors and/or independent laboratories to comply with the bill. For example, an independent laboratory that performs annual system calibration checks must be selected by a jurisdiction and be unaffiliated with the manufacturer of the speed monitoring system. Thus, contract costs for jurisdictions may increase to ensure that the required calibration checks are conducted by a laboratory that satisfies the bill. Additionally, contract costs may increase as the bill prohibits the payment of a contractor on a per-ticket basis. Several jurisdictions have advised that a contract based on a specified amount per month or year is typically more costly than payments to contractors on a per-ticket basis, and Montgomery County estimates that expenditures increase by nearly \$3.5 million on an annual basis under the bill, given the current number of speed monitoring systems in use. Finally, the bill requires a contract to stipulate that the contractor is subject to liquidated damages if the number of erroneous violations exceeds a specified rate. It is unclear whether this requirement may also result in an increase in the overall cost of a contract. It should be noted that, for jurisdictions that have contracts in effect as of October 1, 2013, any increase in contract costs may not be incurred until fiscal 2015.



Finally, local expenditures may increase to hire additional law enforcement or other local personnel. The bill requires a jurisdiction to designate an official or employee to investigate questions or concerns and provide written responses within a “reasonable” time. Some jurisdictions may need to hire an additional person to handle these requirements. Further, the bill requires that any answer or response from the designated employee or official be available for public inspection; thus, expenditures may also increase to ensure that such records are available for public inspection, which may include costs to ensure physical inspection and/or electronic availability of documents. Additionally, the bill requires the designation of a program administrator and biennial training for the administrator. It is unclear whether a program administrator may also serve as the designated employee for addressing questions and concerns under the bill or whether jurisdictions will instead need to hire additional personnel to satisfy this requirement as well.

Local government revenues may decrease significantly due to the expanded use of warning periods under the bill. The bill requires a warning period of 15 days after specified signage is installed for each placement of a speed monitoring system at a new location. Thus, violations recorded during these warning periods result in the issuance of a warning rather than a citation resulting in the payment of a fine. A reliable estimate of this decrease cannot be made as it is unknown how often cameras are moved to new locations or how many tickets might be issued in each location.

In addition, revenues may decrease as fewer erroneous violations result in a paid citation. The bill authorizes the designated employee to void a citation based on an erroneous violation. Additionally, the bill establishes a new incentive to review potential violations due to the requirement of liquidated damages paid by a contractor if the number of erroneous violations exceeds a specified rate.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore, Harford, Howard, Montgomery, Talbot, and Wicomico counties; Baltimore City; the towns of Bel Air and Leonardtown; Maryland Department of Transportation; Comptroller’s Office; National Work Zone Safety Information Clearinghouse; Federal Highway Administration; Insurance Institute for Highway Safety; Cochrane Collaboration; Department of Legislative Services

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