

SENATE BILL 652

R5

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CF 4r1887

By: **Senator Robey**

Introduced and read first time: January 31, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

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

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

23 BY repealing and reenacting, with amendments,
24 Article – Transportation
25 Section 21–809
26 Annotated Code of Maryland
27 (2012 Replacement Volume and 2013 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Transportation

21–809.

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

(2) “Agency” means:

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

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

(3) **(I) “ERRONEOUS VIOLATION” MEANS 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. APPARENTLY INACCURATE BASED ON A TECHNICAL VARIABLE FOR WHICH THE CONTRACTOR IS RESPONSIBLE.

(II) “ERRONEOUS VIOLATION” INCLUDES:

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

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

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

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

- 1 (ii) “Owner” does not include:
- 2 1. A motor vehicle rental or leasing company; or
- 3 2. A holder of a special registration plate issued under
- 4 Title 13, Subtitle 9, Part III of this article.

5 **(5) “PROGRAM ADMINISTRATOR” MEANS AN EMPLOYEE OR A**

6 **REPRESENTATIVE OF THE LOCAL JURISDICTION DESIGNATED BY THE LOCAL**

7 **JURISDICTION TO OVERSEE A CONTRACT WITH A SPEED MONITORING SYSTEM**

8 **CONTRACTOR.**

9 **[(4)] (6)** “Recorded image” means an image recorded by a speed

10 monitoring system:

- 11 (i) On:
- 12 1. A photograph;
- 13 2. A microphotograph;
- 14 3. An electronic image;
- 15 4. Videotape; or
- 16 5. Any other medium; and
- 17 (ii) Showing:
- 18 1. The rear of a motor vehicle;
- 19 2. At least two time-stamped images of the motor
- 20 vehicle that include the same stationary object near the motor vehicle; and
- 21 3. On at least one image or portion of tape, a clear and
- 22 legible identification of the entire registration plate number of the motor vehicle.

23 **(7) “SCHOOL ZONE” MEANS A DESIGNATED ROADWAY SEGMENT**

24 **WITHIN UP TO A HALF-MILE RADIUS OF A SCHOOL FOR ANY OF GRADES**

25 **KINDERGARTEN THROUGH GRADE 12 WHERE SCHOOL-RELATED ACTIVITY**

26 **OCCURS, INCLUDING:**

27 **(I) TRAVEL BY STUDENTS TO OR FROM SCHOOL ON FOOT**

28 **OR BY BICYCLE; OR**

- 1 4. The county may not:
- 2 A. Unreasonably deny a request under this
3 subparagraph; or
- 4 B. Place exactions, fees, or unreasonable restrictions on
5 the implementation and use of a speed monitoring system under this subparagraph.
- 6 5. The county shall state in writing the reasons for any
7 denial of a request under this subparagraph.
- 8 6. A municipal corporation may contest in the circuit
9 court a county denial of a request under this subparagraph.

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

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

- 24 1. **UNTIL SIGNAGE IS INSTALLED IN ACCORDANCE
25 WITH SUBPARAGRAPH (VII) OF THIS PARAGRAPH; AND**
- 26 2. **FOR AT LEAST THE FIRST 15 CALENDAR DAYS
27 AFTER THE SIGNAGE IS INSTALLED.**

28 (vi) This section applies to a violation of this subtitle recorded by
29 a speed monitoring system that meets the requirements of this subsection and has
30 been placed:

- 31 1. In Montgomery County, on a highway in a residential
32 district, as defined in § 21-101 of this title, with a maximum posted speed limit of 35
33 miles per hour, which speed limit was established using generally accepted traffic
34 engineering practices;

1 **2. A. THE LOCAL DESIGNEE SHALL REVIEW A**
2 **CITATION GENERATED BY A SPEED MONITORING SYSTEM IF THE PERSON WHO**
3 **RECEIVED THE CITATION REQUESTS REVIEW BEFORE THE DEADLINE FOR**
4 **CONTESTING LIABILITY UNDER THIS SECTION.**

5 **B. IF THE LOCAL DESIGNEE DETERMINES THAT THE**
6 **CITATION IS AN ERRONEOUS VIOLATION, THE LOCAL DESIGNEE SHALL VOID**
7 **THE CITATION.**

8 **3. A LOCAL DESIGNEE MAY NOT BE EMPLOYED BY A**
9 **SPEED MONITORING SYSTEM CONTRACTOR OR HAVE BEEN INVOLVED IN ANY**
10 **REVIEW OF A SPEED MONITORING SYSTEM CITATION, OTHER THAN REVIEW OF A**
11 **CITATION UNDER THIS SUBPARAGRAPH.**

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

15 **5. A LOCAL JURISDICTION SHALL MAKE ANY**
16 **WRITTEN QUESTIONS OR CONCERNS RECEIVED UNDER THIS SUBPARAGRAPH**
17 **AND ANY SUBSEQUENT WRITTEN ANSWERS OR RESPONSES AVAILABLE FOR**
18 **PUBLIC INSPECTION.**

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

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

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

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

28 (i) States that the speed monitoring system operator
29 successfully performed **OR REVIEWED AND EVALUATED** the manufacturer-specified
30 **DAILY** self-test of the speed monitoring system prior to producing a recorded image;

31 (ii) Shall be kept on file; and

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

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

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

4 2. **UNAFFILIATED WITH THE MANUFACTURER OF**
5 **THE SPEED MONITORING SYSTEM.**

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

8 1. Shall be kept on file; and

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

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

13 **(I) THE LOCAL JURISDICTION SHALL DESIGNATE A**
14 **PROGRAM ADMINISTRATOR WHO MAY NOT BE AN EMPLOYEE OR**
15 **REPRESENTATIVE OF THE SPEED MONITORING SYSTEM CONTRACTOR; AND**

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

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

25 2. **THE LOCAL JURISDICTION MAY CANCEL A**
26 **CONTRACT WITH A CONTRACTOR IF THE CONTRACTOR VIOLATES THE**
27 **CONTRACT BY SUBMITTING ERRONEOUS VIOLATIONS TO THE AGENCY THAT**
28 **EXCEED A THRESHOLD SPECIFIED IN THE CONTRACT OR VIOLATES THE LAW IN**
29 **IMPLEMENTING THE CONTRACT.**

30 **(6) (I) THE MARYLAND POLICE TRAINING COMMISSION, IN**
31 **CONSULTATION WITH THE STATE HIGHWAY ADMINISTRATION AND OTHER**
32 **INTERESTED STAKEHOLDERS, SHALL DEVELOP A TRAINING PROGRAM**
33 **CONCERNING THE OVERSIGHT AND ADMINISTRATION OF A SPEED MONITORING**

1 PROGRAM BY A LOCAL JURISDICTION, INCLUDING A CURRICULUM OF BEST
2 PRACTICES IN THE STATE.

3 (II) 1. A PROGRAM ADMINISTRATOR SHALL
4 PARTICIPATE IN THE TRAINING PROGRAM ESTABLISHED UNDER THIS
5 PARAGRAPH BEFORE A LOCAL JURISDICTION INITIALLY IMPLEMENTS A SPEED
6 MONITORING PROGRAM AND SUBSEQUENTLY AT LEAST ONCE EVERY 2 YEARS.

7 2. IF A LOCAL JURISDICTION DESIGNATES A NEW
8 PROGRAM ADMINISTRATOR, THE NEW PROGRAM ADMINISTRATOR SHALL
9 PARTICIPATE IN THE NEXT AVAILABLE TRAINING PROGRAM.

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

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

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

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

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

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

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

26 (ii) The registration number of the motor vehicle involved in the
27 violation;

28 (iii) The violation charged;

29 (iv) The location where the violation occurred;

30 (v) The date and time of the violation;

31 (vi) A copy of the recorded image;

1 (vii) The amount of the civil penalty imposed and the date by
2 which the civil penalty should be paid;

3 (viii) A signed statement by a duly authorized law enforcement
4 officer employed by or under contract with an agency that, based on inspection of
5 recorded images, the motor vehicle was being operated in violation of this subtitle;

6 (ix) A statement that recorded images are evidence of a violation
7 of this subtitle;

8 (x) Information advising the person alleged to be liable under
9 this section of the manner and time in which liability as alleged in the citation may be
10 contested in the District Court; and

11 (xi) Information advising the person alleged to be liable under
12 this section that failure to pay the civil penalty or to contest liability in a timely
13 manner:

14 1. Is an admission of liability;

15 2. May result in the refusal by the Administration to
16 register the motor vehicle; and

17 3. May result in the suspension of the motor vehicle
18 registration.

19 (2) An agency may mail a warning notice instead of a citation to the
20 owner liable under subsection (c) of this section.

21 (3) Except as provided in subsection (f)(4) of this section, an agency
22 may not mail a citation to a person who is not an owner.

23 (4) Except as provided in subsection (f)(4) of this section, a citation
24 issued under this section shall be mailed no later than 2 weeks after the alleged
25 violation if the vehicle is registered in this State, and 30 days after the alleged
26 violation if the vehicle is registered in another state.

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

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

31 (ii) Elect to stand trial in the District Court for the alleged
32 violation.

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

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

14 (3) Adjudication of liability shall be based on a preponderance of
15 evidence.

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

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

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

24 (iii) Any other issues and evidence that the District Court deems
25 pertinent.

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

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

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

37 (ii) Includes any other corroborating evidence.

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

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

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

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

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

18 (2) May suspend the registration of the motor vehicle cited for the
19 violation.

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

21 (1) Is not a moving violation for the purpose of assessing points under
22 § 16–402 of this article;

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

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

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

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

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

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

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

9 SECTION 3. AND BE IT FURTHER ENACTED, That a local jurisdiction shall
10 alter without penalty an obligation, a contract, or a contract right existing on January
11 1, 2014, to comply with the provisions of this Act by June 1, 2017.

12 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 June 1, 2014.