

SB 652

Department of Legislative Services

Maryland General Assembly

2014 Session

FISCAL AND POLICY NOTE

Senate Bill 652 (Senator Robey)
Judicial Proceedings

Motor Vehicles - Speed Monitoring Systems - Local Jurisdictions

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, 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. 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 before June 1, 2014, to comply with the bill by June 1, 2017.

The bill takes effect June 1, 2014.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) revenues decrease, potentially significantly, beginning in FY 2014 (accounting for the bill's effective date) assuming fewer speed monitoring system citations are issued and fewer administrative flag removal fees are collected following nonpayment of a citation. TTF expenditures increase by about \$20,000 in FY 2014 only for the Maryland Department of Transportation (MDOT) to assist in the development of the required training program. District Court caseloads decrease, potentially significantly, due to a reduction in the number of payments to process and trials to handle, beginning in FY 2014; however, clerical personnel are likely redirected to other tasks. General fund revenues decrease minimally due to fewer contested speed monitoring system citations.

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

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 annual calibration check 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, if the person that receives a citation requests review of the citation, the designee must review a citation and, if a citation is determined to be an “erroneous violation,” must void the 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) apparently inaccurate 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 be otherwise involved in the review of speed monitoring system citations. On receipt of a written 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 written 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 Police Training Commission, in consultation with SHA and other interested stakeholders, 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 contract must include a provision for payment of liquidated damages for erroneous violations by the contractor. Specifically, if more than 5% of violations in a calendar year are erroneous violations, liquidated damages apply – equal to at least 50% of the fine amount for each erroneous violation, plus any reimbursements paid by the local jurisdiction. Also, the contract must include a provision allowing the local jurisdiction to cancel a contract if the contractor violates the law in implementing it or violates the contract by submitting erroneous violations to the agency that exceed a threshold specified in 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.

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.

Background:

Speed Monitoring Systems

Chapter 15 of 2006 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 expanded statewide the authorization for the use of speed monitoring systems in school zones. Chapter 474 of 2010 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.

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.

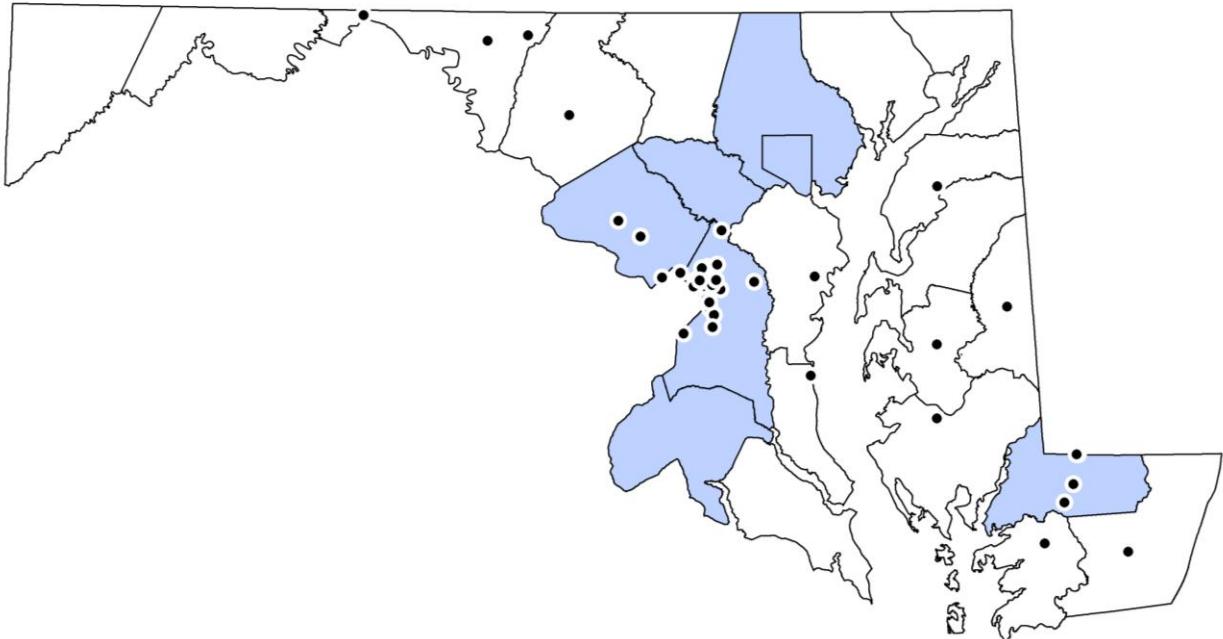
As shown in **Exhibit 1**, a number of counties and municipal corporations currently implement speed monitoring systems. The Department of Legislative Services advises that the map only reflects jurisdictions that have reported revenues to the Comptroller in fiscal 2013 and, therefore, may not include all jurisdictions 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 system 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 or 2013. In addition, 45 local jurisdictions generated speed monitoring system fine revenues of about \$69.8 million, of which about \$36.3 million (52%) was retained by local jurisdictions for public safety programs after recovery of the costs of implementing the systems.

In comparison, through fiscal 2013, about 1.4 million citations had been generated by work zone speed control systems, according to data from SHA. In fiscal 2013, the State's Automated Speed Enforcement Program generated about \$16.4 million in revenues, less than the \$18.4 million in fiscal 2011, but greater than the approximately \$15.0 million in fiscal 2012.

Exhibit 1

Local Speed Monitoring System Enforcement



Note: ● represents municipal corporations that operate speed monitoring systems;
■ represents counties that operate speed monitoring systems

Source: Comptroller's Office; Department of Legislative Services

Recent Media Scrutiny

A number of bills were introduced in the 2013 legislative session, in part due to media scrutiny of speed cameras in Baltimore City and several other jurisdictions. This 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 or purpose of speed cameras.

Automated Speed Enforcement Efficacy

National and international studies of automated speed enforcement, as well as local program evaluations, provide some insight into the level of effectiveness of such enforcement mechanisms. According to the Insurance Institute for Highway Safety, SB 652/ Page 7

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 recently evaluated its speed monitoring system implementation and found that compliance with speed limits increased during the study period, 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, according to data presented by the Maryland Association of Counties in February 2013, there have been reductions in the number of violations reported and the incidence of speeding measured by Baltimore City and Baltimore, Howard, and Montgomery counties.

More information is available on safety in work zones. Data from the National Work Zone Safety Information Clearinghouse shows that there were 609 fatalities in highway work zones nationwide in 2012, including six in Maryland. While the number of work zone fatalities in Maryland in 2012 is greater than the number in 2011, there has been a significant drop in the average number of fatalities in the three full years since the work zone speed control program began, as compared with the three full years prior to the program's commencement. Between 2010 and 2012, there was an average of 5.3 work zone fatalities per year in Maryland, a reduction of about 53% from the three-year average of 11.3 fatalities per year from 2006 through 2008. Nationally, there was also a similar, but much less significant, drop in work zone fatalities, with a 30% reduction in the three-year average between 2010 and 2012, as compared with the period from 2006 through 2008. Federal data also shows that work zone fatalities, *as a percentage of total traffic fatalities*, have dropped in Maryland, using three-year averages from 2006 through 2008 and 2010 through 2012. Again, the reduction in Maryland is greater than the similar, but less significant, reduction nationally in terms of the percentage of traffic fatalities occurring in work zones.

State Effect: TTF expenditures increase by about \$20,000 in fiscal 2015 for SHA to assist in the development of a training program concerning oversight and administration by local jurisdictions of speed monitoring systems.

TTF revenues decrease beginning in fiscal 2015 as the issuance of fewer speed monitoring system citations results in the collection of fewer administrative flag removal

fees (currently \$30) following nonpayment of a citation. For example, 164,909 administrative flags imposed on the driving records of vehicles that failed to pay a speed monitoring system fine were removed in fiscal 2013. *For illustrative purposes only*, if the number of speed monitoring citations issued and the number of administrative flags removed decreased by one-third on an annual basis, then TTF revenues decrease by more than \$1.6 million on an annual basis; the actual revenue loss may vary significantly and depends on the reduction in the number of citations issued. Any such reduction in the number of administrative flags is assumed to result in redirection of staff.

District Court caseloads decrease, potentially significantly, due to an anticipated reduction in the number of payments to process and trials to handle under the bill's restriction on the usage of speed monitoring systems; however, expenditures are not likely affected if personnel are merely redirected to other tasks. Finally, general fund revenues decrease minimally as fewer speed monitoring system citations are contested.

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 within a school zone to roads with a posted speed limit of at least 20 miles per hour and by defining a school zone as a roadway that is approaching, adjacent to or beyond school buildings or grounds. Expenditures may increase, and revenues may decrease minimally to the extent that a jurisdiction must alter the location for use of a system.

Local government expenditures may also increase to renegotiate contracts with contractors and/or independent laboratories to comply with the bill, notwithstanding the bill's statement that contracts may be altered without penalty; it is unclear how this provision may affect the renegotiation of contracts. For example, the City of Frederick advises that several provisions of the bill affect the city's current contract with its vendor. 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. Howard County advises that this provision increases costs, Baltimore County has advised that such a requirement may double current costs, and Montgomery County estimates that the provision may result in an increase in costs of at least \$1.8 million.

Finally, local expenditures may increase to hire additional law enforcement or other local personnel and potentially to undergo training required by the bill. 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 written 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 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 and 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 requires 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.

Additional Information

Prior Introductions: HB 929 of 2013, which was similar as amended by the House, received a favorable with amendments report from the Senate Judicial Proceedings Committee, but the bill did not pass second reading in the Senate.

Cross File: HB 929 (Delegates Malone and McMillan) - Environmental Matters.

Information Source(s): Baltimore, Howard, Montgomery, Prince George's, and Wicomico counties; the cities of Frederick and Havre de Grace; Comptroller's Office; National Work Zone Safety Information Clearinghouse; Maryland Association of Counties; Maryland Municipal League; Insurance Institute for Highway Safety; Cochrane Collaboration; Department of Legislative Services

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