

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1139

(Delegate Lierman, *et al.*)

Environment and Transportation

Judicial Proceedings

Baltimore City – Vehicle Height Monitoring Systems – Enforcement

This bill authorizes the Motor Vehicle Administration (MVA) and requires the State Highway Administration (SHA) to take specified enforcement actions against a vehicle owner (or, if applicable, a liable person) who fails to pay a civil penalty, contest liability, or appear for trial for a violation of a vehicle height monitoring system in Baltimore City. The bill requires Baltimore City to monitor, document, and report on compliance rates. **The bill's enforcement provisions take effect December 1, 2018, and are subject to abrogation, as discussed below.**

Fiscal Summary

State Effect: The bill is not likely to materially affect State expenditures or revenues, as discussed below.

Local Effect: Baltimore City revenues increase, potentially significantly, beginning in FY 2019 and at least through the first half of FY 2021, due to the additional enforcement mechanism. Expenditures increase commensurately for vehicle height monitoring system implementation and roadway improvements.

Small Business Effect: Minimal.

Analysis

Bill Summary: If a motor vehicle involved in a violation is registered outside of the State and the penalty is not paid or contested, Baltimore City is required to (1) provide a delinquency notice to SHA for the failure of the owner to pay the civil penalty or contest the violation and (2) notify SHA if the delinquency is satisfied. Likewise, the bill requires

the District Court to notify SHA of any out-of-state vehicle owner who elects to stand trial for a violation of a vehicle height monitoring system and subsequently fails to appear for the trial.

The bill requires SHA to suspend any permits to travel in Baltimore City (and prohibits SHA from issuing any new permits to travel in Baltimore City) for an out-of-state vehicle (or combination of vehicles) for which SHA has received (1) a delinquency notice from Baltimore City for a violation recorded by a vehicle height monitoring system or (2) notice from the District Court that the registered owner has failed to appear for trial for a violation recorded by a vehicle height monitoring system. SHA is required to continue the suspension of (and refusal to issue) permits to travel in Baltimore City until (1) Baltimore City notifies SHA that the delinquency has been satisfied or (2) the District Court notifies SHA that the registered owner has appeared for trial or has admitted liability and paid the fine for the violation.

In addition, for a liable in-state owner who does not pay the civil penalty or contest the violation, the bill authorizes MVA to (1) refuse to register or reregister the motor vehicle cited for the violation or (2) suspend the registration of the motor vehicle cited for the violation. Baltimore City is also required to provide information about these actions in the citation mailed to the owner.

The bill specifies that a violation recorded by a vehicle height monitoring system (1) may not be recorded on the driving record of any person and (2) may be treated as a parking violation pursuant to § 26-305 of the Transportation Article.

Subrogation of Liability

The bill authorizes an owner of a vehicle that is cited for a violation of a vehicle height monitoring system to subrogate liability if the owner provides substantial evidence that another person was driving at the time of the violation. If the appropriate authority determines that a person other than the vehicle owner committed the violation, then the citation must be sent to the liable person within a specified time period. If the person cited subsequently admits to – or is adjudicated liable for – the violation, then the vehicle owner is not liable for the violation.

Required Monitoring of Compliance and Abrogation

Baltimore City must monitor and document compliance rates (for either the payment of civil penalties assessed or the appropriate contesting of liability) from the date of initial implementation and use of vehicle height monitoring systems. The cumulative compliance rate must be provided periodically to the Department of Legislative Services (DLS). The bill's enforcement provisions abrogate if DLS does *not* receive notice by January 1, 2021,

stating that the cumulative compliance rate through December 1, 2020, does *not* meet or exceed 80%.

Current Law: Before a vehicle height monitoring system may be established, an analysis must be conducted to determine the appropriateness of the location, and the approval of the Baltimore City Police Commissioner must be obtained. Before a vehicle height monitoring system may be activated, notice of the location must be published in a newspaper and on the Baltimore City website. Baltimore City must also ensure that all signs stating restrictions on the presence of certain vehicles during certain times near the system are in accordance with SHA specifications and must state that a vehicle height monitoring system is in use.

Unless a driver receives a citation from a police officer at the time of the violation, a person who receives a citation by mail may pay the civil penalty to Baltimore City or elect to stand trial in District Court, which is granted exclusive jurisdiction in proceedings for infractions. In addition to other specified information, the mailed citation must include a copy of the recorded image of the vehicle and a signed statement by a Baltimore City police officer. The citation must also be mailed within 30 days of the violation.

A recorded image of a motor vehicle produced by a vehicle height monitoring system is admissible in a contested case without authentication. A certificate alleging that the violation occurred, which is affirmed by a Baltimore City police officer, is evidence of the facts contained therein and is also admissible. Adjudication of liability is to be based on a preponderance of the evidence standard. The District Court may consider certain specified defenses, including that the vehicle was stolen.

In a contested case, the penalty must be paid to the District Court. From the fines collected in uncontested cases, Baltimore City may recover the costs of implementing the vehicle height monitoring systems and must spend any remaining balance on roadway improvements. If a contractor operates a vehicle height monitoring system on behalf of Baltimore City, the contractor's fee may not be contingent on the number of citations issued or paid.

A citation may not be considered in the provision of vehicle insurance, is not a moving violation for which points may be assessed, may not be placed on the driving record of the owner or driver of the vehicle, and may not be treated as a parking violation for purposes of enforcement.

State Highway Administration Permits

Under Title 24, Subtitle 1 of the Transportation Article, SHA is authorized to issue various permits allowing vehicles to exceed specified size and weight limits and generally may

charge a fee for issuing such permits. Violating the terms of a permit for excess size and weight is prohibited and, if a person is convicted of a violation, a fine is assessed based on the frequency of offenses.

Background: Although Chapters 375 and 376 of 2012 authorized the use of vehicle height monitoring systems in Baltimore City, the systems have not been fully deployed to date. The first cameras were activated in March 2018. However, Baltimore City advises that it anticipates fully activating the vehicle height monitoring camera system by May 2018. For a first offense, the violator receives a warning. The fine for a second offense is \$125, and a third or subsequent offense carries a \$250 fine.

State Fiscal Effect: The Administrative Office of the Courts advises that it intends to process vehicle height monitoring system citations manually, the same as it does for red light, speed monitoring, work zone monitoring, toll violations, and school bus camera citations. Because a vehicle height monitoring system in Baltimore City has not yet been fully implemented, the impact on caseload is unclear. Even so, the District Court can likely handle any additional caseload under the bill and notifications to SHA with existing resources. Further, general fund revenues may be minimally impacted to the extent that additional vehicle height monitoring system citations are contested in District Court. However, the number of additional contested citations is not expected to be significant.

MVA flag fee revenues may be minimally affected to the extent that additional vehicle owners have their registrations suspended under the bill and subsequently pay the \$30 flag fee to reinstate the registration. In addition, SHA permit revenues may increase minimally to the extent that permits are revoked under the bill and subsequently reinstated. However, overall, the bill is not anticipated to have a material impact on Transportation Trust Fund revenues or expenditures.

This analysis assumes that the bill does not abrogate. However, if the bill *does* abrogate in fiscal 2021, State finances and operations are no longer affected.

Local Fiscal Effect: As noted above, Baltimore City only recently activated its vehicle height monitoring system. Therefore, there is no data available to determine how the bill may affect local revenues. In addition, because there is no enforcement mechanism in place to collect unpaid violations, violators have no incentive to pay any violations under current law. All other types of fines (*e.g.*, speed camera and red light camera violations) have enforcement mechanisms in place to ensure compliance. Baltimore City assumes that, under current law, only about 20% of citations will be paid. Under the bill, Baltimore City assumes the collection rate will increase to about 75%, resulting in about \$750,000 in additional revenues.

DLS advises that, while paid citations may increase significantly under the bill, a reliable estimate cannot be made due to insufficient data. The impact of the bill largely depends on the extent to which violators would not pay citations under current law – which, at this time, cannot be determined.

Pursuant to current law, from any fines generated by a vehicle height monitoring system, Baltimore City may recover the costs of implementing the system and must spend any remaining balance on roadway improvements. Therefore, to the extent that the bill results in additional revenues, Baltimore City expenditures increase by the same amount for implementation and roadway improvement.

Again, this analysis assumes that the bill does not abrogate in fiscal 2021. If the bill's enforcement provisions terminate, the effect on Baltimore City finances is unclear. Abrogation of the enforcement provisions potentially results in a significant revenue decrease for Baltimore City. However, until additional data become available, the effect on Baltimore City revenues cannot be determined.

Additional Comments: The bill requires the *cumulative* compliance rate, which determines whether the bill's enforcement mechanism remains in place or abrogates, to encompass compliance from the *initial* implementation and use of vehicle height monitoring systems. The initial compliance report will be based *solely* on implementation without the enforcement mechanism. Thus, given Baltimore City's expectation that the bill's enforcement mechanism will increase compliance to about 75%, it is likely that the final *cumulative* compliance rate to be reported by January 1, 2021, will be lower than 80% (indeed, it is likely to be lower than 75%).

The bill's enforcement provisions appear to abrogate if either or both of the following conditions are met:

- the cumulative compliance rate reported on January 1, 2021, does not meet or exceed 80% (*i.e.*, if it is less than 80%); and/or
- the required notice is not provided by that date.

Accordingly, if Baltimore City's expectation related to compliance under the bill is met, the enforcement mechanism that helped to attain such compliance is no longer available.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Judiciary (Administrative Office of the Courts); Maryland Department of Transportation; Department of Legislative Services

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