HOUSE BILL 231

R5, L1 2lr0677 HB 564/21 - ENT

By: Montgomery County Delegation

Introduced and read first time: January 13, 2022 Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2

Montgomery County - Automated Traffic Enforcement - Implementing Agency

3 MC 18–22

- 4 FOR the purpose of authorizing Montgomery County to designate the Montgomery County Department of Transportation instead of a local law enforcement agency as the 5 6 agency responsible for implementing automated traffic enforcement programs in the 7 county; requiring that an employee of the Montgomery County Department of 8 Transportation, instead of a law enforcement officer, sign a certain required 9 statement on a citation issued through the use of automated traffic enforcement 10 systems in Montgomery County, under certain circumstances; altering the process 11 under certain circumstances for the certification of evidence produced through the 12 use of automated traffic enforcement systems; and generally relating to automated 13 traffic enforcement in Montgomery County.
- 14 BY repealing and reenacting, without amendments,
- 15 Article Transportation
- Section 21–202.1(a)(1) and (c), 21–809(a)(1), and 21–810(a)(1)
- 17 Annotated Code of Maryland
- 18 (2020 Replacement Volume and 2021 Supplement)
- 19 BY repealing and reenacting, with amendments,
- 20 Article Transportation
- 21 Section 21–202.1(a)(2), 21–706.1, 21–809(a)(2), (d)(1)(viii), and (e)(1), and
- 22 21–810(a)(2) and (8), (d)(1) through (3), (e)(1), and (i)
- 23 Annotated Code of Maryland
- 24 (2020 Replacement Volume and 2021 Supplement)
- 25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND.
- 26 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



30

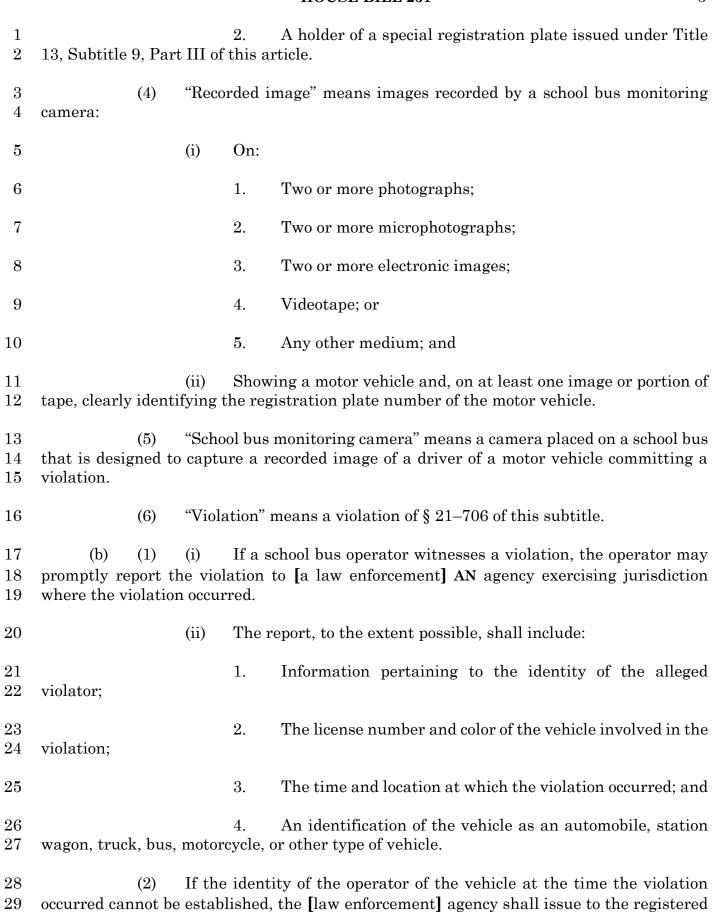
Article – Transportation 1 2 21-202.1.3 (a) (1) In this section the following words have the meanings indicated. "Agency" means: 4 (2)For a traffic control signal operated and maintained at an 5 6 intersection under the control of the State, the law enforcement agency primarily 7 responsible for traffic control at that intersection; or 8 (ii) 1. For a traffic control signal operated and maintained at an 9 intersection under the control of a political subdivision, a law enforcement agency of the political subdivision that is authorized to issue citations for a violation of the Maryland 10 11 Vehicle Law or of local traffic laws or regulations; OR 2. 12 IN MONTGOMERY COUNTY, FOR A TRAFFIC CONTROL SIGNAL OPERATED AND MAINTAINED AT AN INTERSECTION UNDER THE CONTROL 13 14 OF THE COUNTY, THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION IF DESIGNATED BY THE COUNTY TO IMPLEMENT THIS SECTION. 15 16 This section applies to a violation of § 21–202(h) of this subtitle at an 17 intersection monitored by a traffic control signal monitoring system. 18 21 - 706.1. 19 In this section the following words have the meanings indicated. (a) (1) ["Law enforcement agency"] "AGENCY" means [a]: 20 (2)21(I)A law enforcement agency of a local political subdivision that is 22 authorized to issue a citation for a violation of the Maryland Vehicle Law or of local traffic 23laws or regulations; OR 24 IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY 25 DEPARTMENT OF TRANSPORTATION IF DESIGNATED BY THE COUNTY TO IMPLEMENT THIS SECTION. 26 "Owner" means the registered owner of a motor vehicle or a 27 (3)(i) lessee of a motor vehicle under a lease of 6 months or more. 28

"Owner" does not include:

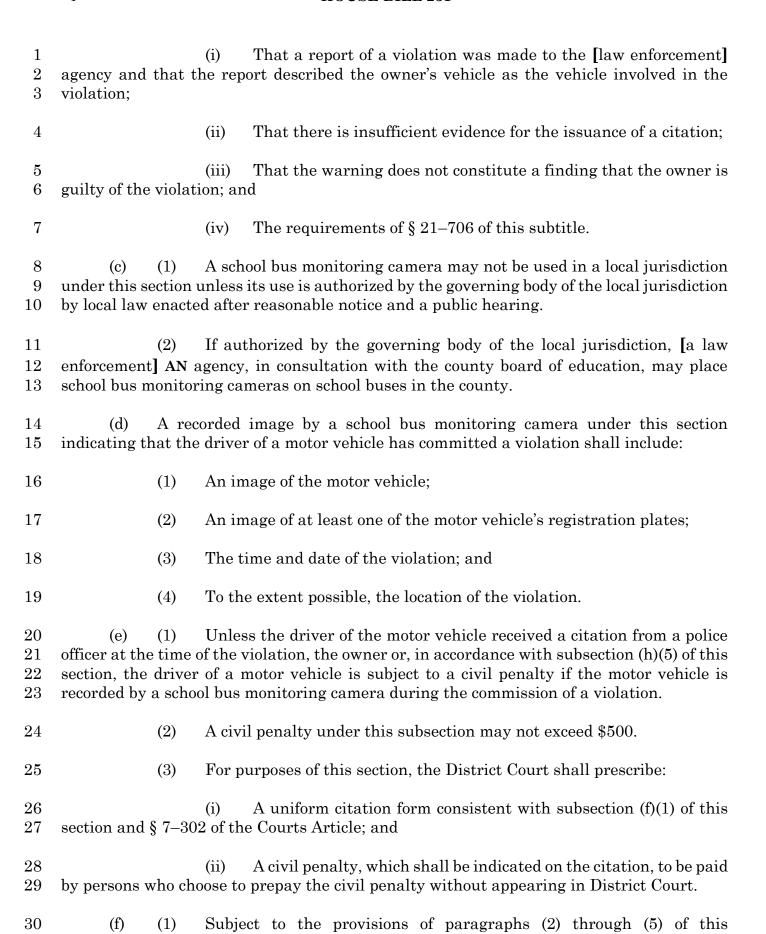
A motor vehicle leasing company; or

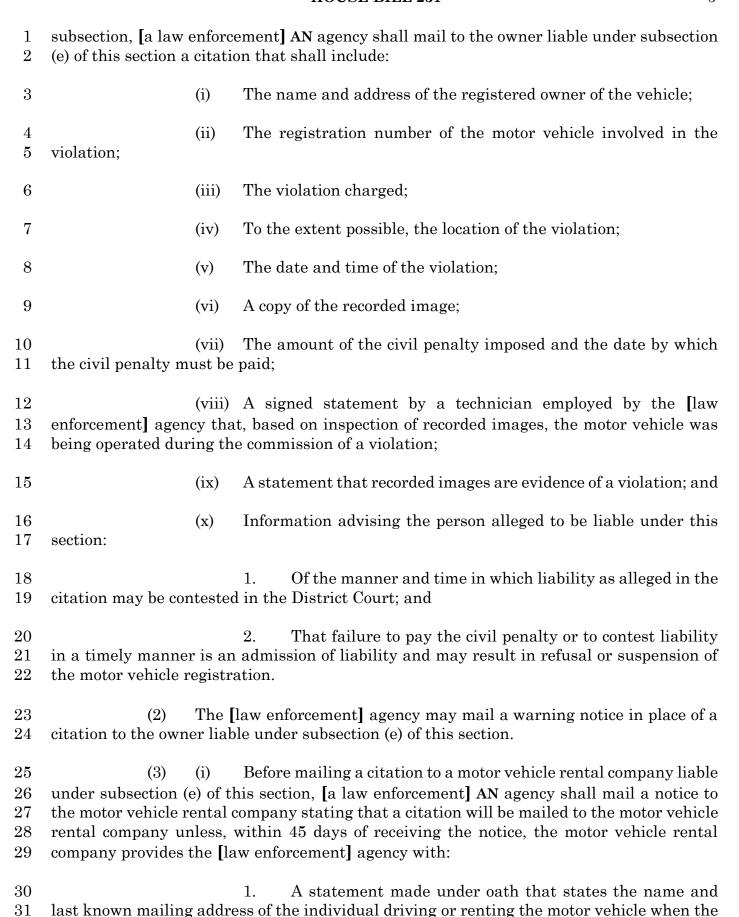
(ii)

1.



owner of the vehicle, a warning stating:





32

pertinent.

(iii)

1 violation occurred; 2 A statement made under oath that states that the Α. 3 motor vehicle rental company is unable to determine who was driving or renting the vehicle 4 at the time the violation occurred because the motor vehicle was stolen at the time of the 5 violation; and 6 В. A copy of the police report associated with the motor 7 vehicle theft claimed under item A of this item; or 8 3. Payment for the penalty associated with the violation. 9 [A law enforcement] AN agency may not mail a citation to a 10 motor vehicle rental company liable under subsection (e) of this section if the motor vehicle 11 rental company complies with subparagraph (i) of this paragraph. 12 Except as provided in paragraph (3) of this subsection and subsection **(4)** 13 (h)(5) of this section, a citation issued under this section shall be mailed no later than 2 14 weeks after the alleged violation. 15 (5)A person who receives a citation under paragraph (1) of this subsection 16 may: 17 Pay the civil penalty, in accordance with instructions on the (i) 18 citation, directly to the county; or 19 (ii) Elect to stand trial for the alleged violation. 20 A certificate alleging that a violation occurred, sworn to or affirmed by 21a duly authorized agent of [a law enforcement] AN agency, based on inspection of recorded 22images produced by a school bus monitoring camera shall be evidence of the facts contained 23 in the certificate and shall be admissible in any proceeding concerning the alleged violation. 24 (2) Adjudication of liability shall be based on a preponderance of evidence. 25(h) The District Court may consider in defense of a violation: (1) 26 Subject to paragraph (2) of this subsection, that the motor vehicle (i) 27 or registration plates of the motor vehicle were stolen before the violation occurred and 28were not under the control or possession of the owner at the time of the violation; 29 Subject to paragraph (3) of this subsection, evidence that the 30 person named in the citation was not operating the vehicle at the time of the violation; and

Any other issues and evidence that the District Court deems

- 1 (2) In order to demonstrate that the motor vehicle or the registration plates 2 were stolen before the violation occurred and were not under the control or possession of 3 the owner at the time of the violation, the owner must submit proof that a police report 4 about the stolen motor vehicle or registration plates was filed in a timely manner.
 - (3) To satisfy the evidentiary burden under paragraph (1)(ii) of this subsection, the person named in the citation shall provide to the District Court evidence to the satisfaction of the District Court of who was operating the vehicle at the time of the violation, including, at a minimum, the operator's name and current address.

6

7

8

22

23

24

25

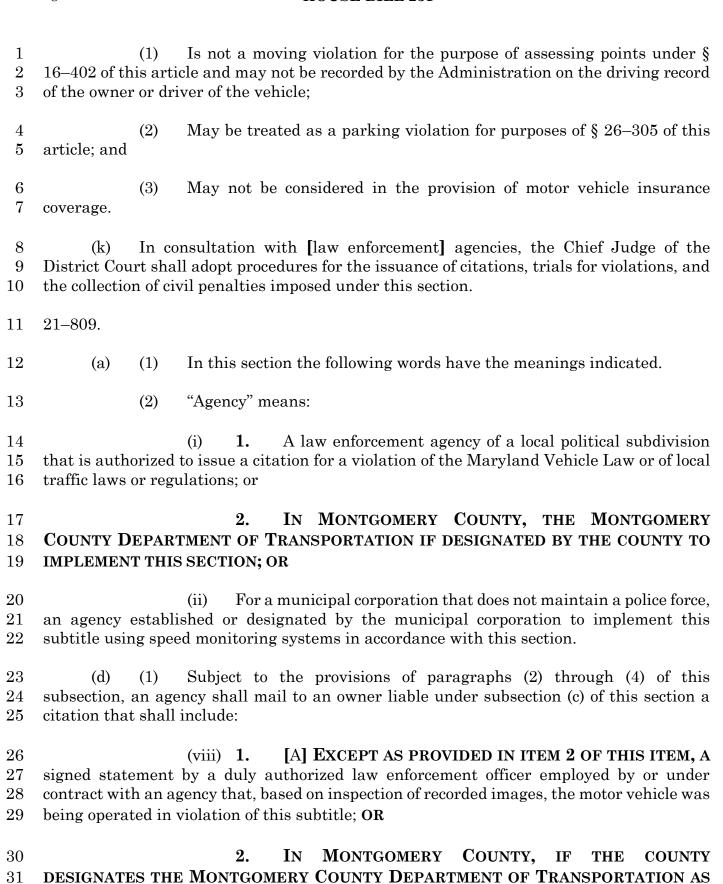
26

27

37

- 9 (4) (i) The provisions of this paragraph apply only to a citation that involves a Class E (truck) vehicle with a registered gross weight of 26,001 pounds or more, Class F (tractor) vehicle, Class G (trailer) vehicle operated in combination with a Class F (tractor) vehicle, or Class P (passenger bus) vehicle.
- 13 (ii) To satisfy the evidentiary burden under paragraph (1)(ii) of this 14 subsection, the person named in a citation described under subparagraph (i) of this 15 paragraph may provide to the District Court a letter, sworn to or affirmed by the person 16 and mailed by certified mail, return receipt requested, that:
- 17 1. States that the person named in the citation was not operating the vehicle at the time of the violation; and
- 2. Provides the name, address, and driver's license identification number of the person who was operating the vehicle at the time of the violation.
 - (5) (i) If the District Court finds that the person named in the citation was not operating the vehicle at the time of the violation or receives evidence under paragraph (4)(ii)2 of this subsection identifying the person driving the vehicle at the time of the violation, the clerk of the court shall provide to the [law enforcement] agency issuing the citation a copy of any evidence substantiating who was operating the vehicle at the time of the violation.
- 28 (ii) On the receipt of substantiating evidence from the District Court 29 under subparagraph (i) of this paragraph, the [law enforcement] agency may issue a 30 citation as provided in subsection (f) of this section to the person that the evidence indicates 31 was operating the vehicle at the time of the violation.
- 32 (iii) A citation issued under subparagraph (ii) of this paragraph shall 33 be mailed no later than 2 weeks after receipt of the evidence from the District Court.
- 34 (i) If the civil penalty is not paid and the violation is not contested, the 35 Administration may refuse to register or reregister or may suspend the registration of the 36 motor vehicle.
 - (j) A violation for which a civil penalty is imposed under this section:

33



THE AGENCY RESPONSIBLE FOR IMPLEMENTING THIS SECTION IN THE COUNTY, A

SIGNED STATEMENT BY AN EMPLOYEE OF THE AGENCY THAT, BASED ON INSPECTION

1 OF THE RECORDED IMAGES, THE MOTOR VEHICLE WAS BEING OPERATED IN VIOLATION OF THIS SUBTITLE;

- 3 [A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS (1) **(I)** PARAGRAPH, A certificate alleging that the violation of this subtitle occurred and the 4 requirements under subsection (b) of this section have been satisfied, sworn to, or affirmed 5 by a duly authorized law enforcement officer employed by or under contract with an agency, 6 7 based on inspection of recorded images produced by a speed monitoring system, shall be evidence of the facts contained in the certificate and shall be admissible in a proceeding 8 9 alleging a violation under this section without the presence or testimony of the speed monitoring system operator who performed the requirements under subsection (b) of this 10 11 section.
- 12 IN MONTGOMERY COUNTY, IF THE COUNTY DESIGNATES THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION AS THE AGENCY 13 14 RESPONSIBLE FOR IMPLEMENTING THIS SECTION IN THE COUNTY, A CERTIFICATE ALLEGING THAT THE VIOLATION OF THIS SUBTITLE OCCURRED AND THE 15 16 REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION HAVE BEEN SATISFIED, 17 SWORN TO OR AFFIRMED BY AN EMPLOYEE OF THE AGENCY, BASED ON INSPECTION 18 OF RECORDED IMAGES PRODUCED BY A SPEED MONITORING SYSTEM, SHALL BE 19 EVIDENCE OF THE FACTS CONTAINED IN THE CERTIFICATE AND SHALL BE 20 ADMISSIBLE IN A PROCEEDING ALLEGING A VIOLATION UNDER THIS SECTION 21WITHOUT THE PRESENCE OR TESTIMONY OF THE SPEED MONITORING SYSTEM 22OPERATOR WHO PERFORMED THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS 23 SECTION.
- 24 21-810.
- 25 (a) (1) In this section the following words have the meanings indicated.
- 26 (2) "Local [police department"] AGENCY" means:
- 27 (i) The police department of any municipal corporation;
- 28 (ii) The police department of any county; [and]
- 29 (iii) The sheriff's department of any county that has highway traffic 30 patrol responsibilities; AND
- 31 (IV) IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY 32 DEPARTMENT OF TRANSPORTATION IF DESIGNATED BY THE COUNTY TO 33 IMPLEMENT THIS SECTION.
- 34 (8) "Work zone speed control system operator" means an individual who 35 has been trained and certified to operate a work zone speed control system and who is:

this subtitle;

1		(i)	A police officer;
2		(ii)	A representative of a local [police department] AGENCY;
3		(iii)	A representative of a State police department; or
4		(iv)	A State Highway Administration contractor.
5 6 7 8	(d) (1) Subject to the provisions of paragraphs (2) through (4) of this subsection, a local [police department] AGENCY, State police department, or police department contractor shall mail to the owner liable under subsection (c) of this section a citation that shall include:		
9		(i)	The name and address of the registered owner of the vehicle;
10 11	violation;	(ii)	The registration number of the motor vehicle involved in the
12		(iii)	The violation charged;
13		(iv)	The location where the violation occurred;
14		(v)	The date and time of the violation;
15 16 17	imprinted on each		At least one recorded image of the vehicle with a data bar that includes the speed of the vehicle and the date and time the
18 19	(vii) The amount of the civil penalty imposed and the date by which the civil penalty should be paid;		
20 21 22 23	(viii) 1. [A] EXCEPT AS PROVIDED IN ITEM 2 OF THIS ITEM, A signed statement by a police officer employed by the local police department or State police department that, based on inspection of recorded images, the motor vehicle was being operated in violation of this subtitle; OR		
24 25 26 27 28 29	2. IN MONTGOMERY COUNTY, IF THE COUNTY DESIGNATES THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION AS THE AGENCY RESPONSIBLE FOR IMPLEMENTING THIS SECTION IN THE COUNTY, A SIGNED STATEMENT BY AN EMPLOYEE OF THE AGENCY THAT, BASED ON INSPECTION OF THE RECORDED IMAGES, THE MOTOR VEHICLE WAS BEING OPERATED IN VIOLATION OF THIS SUBTITLE;		
30		(ix)	A statement that recorded images are evidence of a violation of

- 1 (x) Information advising the person alleged to be liable under this 2 section of the manner and time in which liability as alleged in the citation may be contested 3 in the District Court; and
- 4 (xi) Information advising the person alleged to be liable under this section that failure to pay the civil penalty or to contest liability in a timely manner:
- 6 1. Is an admission of liability;

17 18

19

 $\frac{20}{21}$

22

23

24

- 7 May result in the refusal to register the motor vehicle; and
- 8 3. May result in the suspension of the motor vehicle 9 registration.
- 10 (2) The local [police department] AGENCY or State police department may mail a warning notice instead of a citation to the owner liable under subsection (c) of this section.
- 13 (3) Except as provided in subsection (f)(4) of this section, the local [police department] AGENCY or State police department may not mail a citation to a person who is not an owner.
 - (e) (1) (I) [A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A certificate alleging that the violation of this subtitle occurred and the requirements under subsection (b) of this section have been satisfied, sworn to, or affirmed by a police officer employed by the local [police department] AGENCY or State police department, based on inspection of recorded images produced by a work zone speed control system, shall be evidence of the facts contained in the certificate and shall be admissible in a proceeding alleging a violation under this section without the presence or testimony of the work zone speed control system operator who performed the requirements under subsection (b) of this section.
- 25 (II)IN MONTGOMERY COUNTY, IF THE COUNTY DESIGNATES 26 THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION AS THE AGENCY 27 RESPONSIBLE FOR IMPLEMENTING THIS SECTION IN THE COUNTY, A CERTIFICATE ALLEGING THAT THE VIOLATION OF THIS SUBTITLE OCCURRED AND THE 28 29 REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION HAVE BEEN SATISFIED, 30 SWORN TO OR AFFIRMED BY AN EMPLOYEE OF THE AGENCY, BASED ON INSPECTION 31 OF RECORDED IMAGES PRODUCED BY A SPEED MONITORING SYSTEM, SHALL BE 32EVIDENCE OF THE FACTS CONTAINED IN THE CERTIFICATE AND SHALL BE ADMISSIBLE IN A PROCEEDING ALLEGING A VIOLATION UNDER THIS SECTION 33 34 WITHOUT THE PRESENCE OR TESTIMONY OF THE SPEED MONITORING SYSTEM 35 OPERATOR WHO PERFORMED THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS 36 SECTION.

- 1 (i) In consultation with local [police departments] AGENCIES and State police 2 departments, the Chief Judge of the District Court shall adopt procedures for the issuance 3 of citations, the trial of civil violations, and the collection of civil penalties under this 4 section.
- 5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 6 October 1, 2022.