

HOUSE BILL 1044

R5

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By: **Delegates McComas, Afzali, Bates, Cluster, Eckardt, Elliott, Frank, George, Glass, Hough, Kipke, McDermott, McDonough, W. Miller, Minnick, and Stocksdale**

Introduced and read first time: February 10, 2012

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Speed Monitoring Systems – Local Jurisdictions**

3 FOR the purpose of requiring that a speed monitoring system calibration check be
4 performed by an independent calibration laboratory that is unaffiliated with the
5 manufacturer of the speed monitoring system; requiring a local jurisdiction to
6 use a speed monitoring system that meets certain model minimum performance
7 specifications; requiring a local jurisdiction to keep certain documentation
8 related to speed monitoring systems and all recorded images on file and
9 available for inspection by the public; requiring a certificate alleging that a
10 certain speeding violation occurred to be sworn to or affirmed by a certain law
11 enforcement officer; requiring a court to issue a summons to appear to a speed
12 monitoring system operator if requested in writing within a certain time by a
13 person who received a citation based on a recorded image produced by a speed
14 monitoring system; authorizing a person named in a citation based on a
15 recorded image produced by a speed monitoring system to use the recorded
16 image in defense of the violation charged; prohibiting a contractor's fee from
17 being contingent on the number of citations issued or paid if the contractor
18 administers or processes the citations; and generally relating to speed
19 monitoring systems operated by local jurisdictions.

20 BY repealing and reenacting, with amendments,
21 Article – Transportation
22 Section 21–809
23 Annotated Code of Maryland
24 (2009 Replacement Volume and 2011 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Transportation**

2 21–809.

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

4 (2) “Agency” means:

5 (i) A law enforcement agency of a local political subdivision
6 that is authorized to issue a citation for a violation of the Maryland Vehicle Law or of
7 local traffic laws or regulations; or8 (ii) For a municipal corporation that does not maintain a police
9 force, an agency established or designated by the municipal corporation to implement
10 this subtitle using speed monitoring systems in accordance with this section.11 (3) (i) “Owner” means the registered owner of a motor vehicle or a
12 lessee of a motor vehicle under a lease of 6 months or more.

13 (ii) “Owner” does not include:

14 1. A motor vehicle rental or leasing company; or

15 2. A holder of a special registration plate issued under
16 Title 13, Subtitle 9, Part III of this article.17 (4) “Recorded image” means an image recorded by a speed monitoring
18 system:

19 (i) On:

20 1. A photograph;

21 2. A microphotograph;

22 3. An electronic image;

23 4. Videotape; or

24 5. Any other medium; and

25 (ii) Showing:

26 1. The rear of a motor vehicle;

27 2. At least two time–stamped images of the motor
28 vehicle that include the same stationary object near the motor vehicle; and

1 3. On at least one image or portion of tape, a clear and
2 legible identification of the entire registration plate number of the motor vehicle.

3 (5) “Speed monitoring system” means a device with one or more motor
4 vehicle sensors producing recorded images of motor vehicles traveling at speeds at
5 least 12 miles per hour above the posted speed limit.

6 (6) “Speed monitoring system operator” means a representative of an
7 agency or contractor that operates a speed monitoring system.

8 (b) (1) (i) A speed monitoring system may not be used in a local
9 jurisdiction under this section unless its use is authorized by the governing body of the
10 local jurisdiction by local law enacted after reasonable notice and a public hearing.

11 (ii) Before a county may use a speed monitoring system on a
12 State highway at a location within a municipal corporation, the county shall:

13 1. Obtain the approval of the State Highway
14 Administration;

15 2. Notify the municipal corporation of the State
16 Highway Administration’s approval of the use of a speed monitoring system at that
17 location; and

18 3. Grant the municipal corporation 60 days from the
19 date of the county’s notice to the municipal corporation to enact an ordinance
20 authorizing the municipal corporation instead of the county to use a speed monitoring
21 system at that location.

22 (iii) 1. This subparagraph applies only in Prince George’s
23 County.

24 2. In the county, a municipal corporation may
25 implement and use a speed monitoring system consistent with the requirements of
26 this subsection on a county highway at a location within its corporate limits if the
27 municipal corporation:

28 A. Submits to the county a plan describing the boundary
29 of the applicable school zone and the proposed location of the speed monitoring system;
30 and

31 B. Requests and receives permission from the county to
32 use the speed monitoring system at the proposed location.

1 3. If the county fails to respond to the request within 60
2 days, the municipal corporation may implement and use the speed monitoring system
3 as described in the plan submission.

4 4. The county may not:

5 A. Unreasonably deny a request under this
6 subparagraph; or

7 B. Place exactions, fees, or unreasonable restrictions on
8 the implementation and use of a speed monitoring system under this subparagraph.

9 5. The county shall state in writing the reasons for any
10 denial of a request under this subparagraph.

11 6. A municipal corporation may contest in the circuit
12 court a county denial of a request under this subparagraph.

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

18 (v) An ordinance or resolution adopted by the governing body of
19 a local jurisdiction under this paragraph shall provide that for a period of at least 30
20 days after the first speed monitoring system is placed in the local jurisdiction, a
21 violation recorded by any speed monitoring system in the local jurisdiction may be
22 enforced only by the issuance of a warning.

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

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

30 2. In a school zone established under § 21-803.1 of this
31 subtitle; or

32 3. In Prince George's County, on that part of a highway
33 located within the grounds of an institution of higher education as defined in §
34 10-101(h) of the Education Article, or within one-half mile of the grounds of a
35 building or property used by the institution of higher education where generally
36 accepted traffic and engineering practices indicate that motor vehicle, pedestrian, or

1 bicycle traffic is substantially generated or influenced by the institution of higher
2 education.

3 (vii) Before activating an unmanned stationary speed monitoring
4 system, the local jurisdiction shall:

5 1. Publish notice of the location of the speed monitoring
6 system on its website and in a newspaper of general circulation in the jurisdiction;

7 2. Ensure that each sign that designates a school zone
8 indicates that speed monitoring systems are in use in school zones; and

9 3. With regard to a speed monitoring system established
10 based on proximity to an institution of higher education under paragraph (1)(vi)³ of
11 this subsection, ensure that all speed limit signs approaching and within the segment
12 of highway on which the speed monitoring system is located include signs that:

13 A. Are in accordance with the manual and specifications
14 for a uniform system of traffic control devices adopted by the State Highway
15 Administration under § 25–104 of this article; and

16 B. Indicate that a speed monitoring system is in use.

17 (viii) A speed monitoring system in a school zone may operate
18 only Monday through Friday between 6:00 a.m. and 8:00 p.m.

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 the manufacturer-specified self-test of the speed monitoring
30 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 **UNAFFILIATED WITH THE MANUFACTURER OF THE SPEED MONITORING SYSTEM.**

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

- 6 1. Shall be kept on file; and
- 7 2. Shall be admitted as evidence in any court proceeding
8 for a violation of this section.

9 **(5) A LOCAL JURISDICTION MAY ONLY USE A SPEED MONITORING**
10 **SYSTEM THAT IS INCLUDED IN THE CONFORMING PRODUCT LIST OF THE**
11 **INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE.**

12 **(6) A LOCAL JURISDICTION SHALL KEEP ALL DOCUMENTATION**
13 **RELATED TO OPERATOR TRAINING, DAILY SET-UP LOGS, AND CALIBRATION**
14 **CHECKS AND ALL RECORDED IMAGES, REGARDLESS OF WHETHER THE**
15 **RECORDED IMAGES LED TO THE ISSUANCE OF CITATIONS, ON FILE AND**
16 **AVAILABLE FOR INSPECTION BY THE PUBLIC.**

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

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

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

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

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

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

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

1 (ii) The registration number of the motor vehicle involved in the
2 violation;

3 (iii) The violation charged;

4 (iv) The location where the violation occurred;

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

6 (vi) A copy of the recorded image;

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

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

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

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

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

20 1. Is an admission of liability;

21 2. May result in the refusal by the Administration to
22 register the motor vehicle; and

23 3. May result in the suspension of the motor vehicle
24 registration.

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

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

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

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

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

5 (ii) Elect to stand trial in the District Court for the alleged
6 violation.

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

16 (2) [If a person who received a citation under subsection (d) of this
17 section desires] **A COURT SHALL ISSUE A SUMMONS REQUIRING** the speed
18 monitoring system operator to be present and testify at trial[, the person shall notify
19 the court and the State] **IF REQUESTED BY A PERSON WHO RECEIVED A CITATION**
20 **UNDER SUBSECTION (D) OF THIS SECTION** in writing no later than 20 days before
21 trial.

22 (3) Adjudication of liability shall be based on a preponderance of
23 evidence.

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

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

29 (ii) 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;
31 and

32 (iii) Any other issues and evidence that the District Court deems
33 pertinent.

34 (2) To demonstrate that the motor vehicle or the registration plates
35 were stolen before the violation occurred and were not under the control or possession

1 of the owner at the time of the violation, the owner shall submit proof that a police
2 report regarding the stolen motor vehicle or registration plates was filed in a timely
3 manner.

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

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

10 (ii) Includes any other corroborating evidence.

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

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

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

24 **(5) A PERSON NAMED IN A CITATION THAT IS BASED ON A**
25 **RECORDED IMAGE PRODUCED BY A SPEED MONITORING SYSTEM MAY USE THE**
26 **RECORDED IMAGE IN DEFENSE OF THE VIOLATION CHARGED.**

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

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

31 (2) May suspend the registration of the motor vehicle cited for the
32 violation.

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

34 (1) Is not a moving violation for the purpose of assessing points under
35 § 16-402 of this article;

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

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

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

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

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

13 (2) If a contractor [operates a speed monitoring system]
14 **ADMINISTERS AND PROCESSES CIVIL CITATIONS ISSUED UNDER THIS SECTION**
15 on behalf of a local jurisdiction, the contractor's fee may not be contingent on the
16 number of citations issued or paid.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2012.