

Bill No.: _____

Requested: _____

Committee: _____

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Stored – 10/26/07

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By: **Howard County Delegation**

A BILL ENTITLED

1 AN ACT concerning

2 **Howard County – Vehicle Laws – Speed Monitoring Systems**

3 **Ho. Co. 07-08**

4 FOR the purpose of adding Howard County as a county authorized to use certain
5 speed monitoring systems to enforce highway speed laws under certain
6 standards and procedures; limiting the use of speed monitoring systems in
7 Howard County to certain highways; establishing a certain maximum fine for a
8 violation of law enforced by means of a speed monitoring system in Howard
9 County; requiring the Chief Judge of the District Court to consult with a certain
10 Howard County agency in adopting certain procedures; restricting the use of
11 certain revenues generated by this Act; providing for the application of this Act;
12 providing that existing obligations or contract rights may not be impaired by
13 this Act; requiring Howard County to report on the effectiveness of speed
14 monitoring systems to the General Assembly on or before a certain date;
15 altering a certain definition; and generally relating to imposition of liability on
16 certain persons recorded by speed monitoring systems violating certain laws
17 regarding the operation of motor vehicles in excess of certain speed limits.

18 BY repealing and reenacting, without amendments,
19 Article – Courts and Judicial Proceedings
20 Section 4-401(13), 7-301(a), 7-302(e), and 10-311
21 Annotated Code of Maryland
22 (2006 Replacement Volume and 2007 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



23 BY repealing and reenacting, without amendments,
24 Article – Insurance
25 Section 11–215(e) and 11–318(e)
26 Annotated Code of Maryland
27 (2003 Replacement Volume and 2007 Supplement)

28 BY repealing and reenacting, without amendments,
29 Article – State Government
30 Section 10–616(o)
31 Annotated Code of Maryland
32 (2004 Replacement Volume and 2007 Supplement)

33 BY repealing and reenacting, with amendments,
34 Article – Transportation
35 Section 21–809
36 Annotated Code of Maryland
37 (2006 Replacement Volume and 2007 Supplement)

38 BY repealing and reenacting, without amendments,
39 Article – Transportation
40 Section 26–305(a) and 26–401
41 Annotated Code of Maryland
42 (2006 Replacement Volume and 2007 Supplement)

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

45 **Article – Courts and Judicial Proceedings**

46 4–401.

47 Except as provided in § 4–402 of this subtitle, and subject to the venue
48 provisions of Title 6 of this article, the District Court has exclusive original civil
49 jurisdiction in:

50 (13) A proceeding for a civil infraction under § 21–202.1, § 21–704.1, or
51 § 21–809 of the Transportation Article or § 10–112 of the Criminal Law Article;

52 7-301.

53 (a) The court costs in a traffic case, including parking and impounding cases,
54 cases under § 21-202.1 or § 21-809 of the Transportation Article in which costs are
55 imposed, and cases under § 10-112 of the Criminal Law Article in which costs are
56 imposed are \$22.50. Such costs shall also be applicable to those cases in which the
57 defendant elects to waive his right to trial and pay the fine or penalty deposit
58 established by the Chief Judge of the District Court by administrative regulation. In
59 an uncontested case under § 21-202.1 or § 21-809 of the Transportation Article, an
60 uncontested case under § 10-112 of the Criminal Law Article, or an uncontested
61 parking or impounding case in which the fines are paid directly to a political
62 subdivision or municipality, costs are \$2.00, which costs shall be paid to and retained
63 by the political subdivision or municipality. In an uncontested case in which the fine is
64 paid directly to an agency of State government authorized by law to regulate parking
65 of motor vehicles, the costs are \$2.00. The fine and the costs shall be paid to the
66 agency, which shall receive and account for these funds as in all other cases involving
67 sums due the State through a State agency.

68 7-302.

69 (e) (1) A citation issued pursuant to § 21-202.1 or § 21-809 of the
70 Transportation Article shall provide that the person receiving the citation may elect to
71 stand trial by notifying the issuing agency of the person's intention to stand trial at
72 least 5 days prior to the date of payment as set forth in the citation. On receipt of the
73 notice to stand trial, the agency shall forward to the District Court having venue a
74 copy of the citation and a copy of the notice from the person who received the citation
75 indicating the person's intention to stand trial. On receipt thereof, the District Court
76 shall schedule the case for trial and notify the defendant of the trial date under
77 procedures adopted by the Chief Judge of the District Court.

78 (2) A citation issued as the result of a traffic control signal monitoring
79 system or speed monitoring system controlled by a political subdivision shall provide
80 that, in an uncontested case, the penalty shall be paid directly to that political
81 subdivision. A citation issued as the result of a traffic control signal monitoring system
82 controlled by a State agency or a speed monitoring system, in a case contested in
83 District Court, shall provide that the penalty shall be paid directly to the District
84 Court.

113 probation before judgment disposition of a motor vehicle law offense, a civil penalty
114 imposed pursuant to § 21–202.1 or § 21–809 of the Transportation Article, or a first
115 offense of driving with an alcohol concentration of 0.08 or more under § 16–205.1 of the
116 Transportation Article on record with the Motor Vehicle Administration, as provided
117 in § 16–117(b) of the Transportation Article.

118 **Article – State Government**

119 10–616.

120 (o) (1) In this subsection, “recorded images” has the meaning stated in §
121 21–202.1 or § 21–809 of the Transportation Article.

122 (2) Except as provided in paragraph (3) of this subsection, a custodian
123 of recorded images produced by a traffic control signal monitoring system operated
124 under § 21–202.1 of the Transportation Article or a speed monitoring system operated
125 under § 21–809 of the Transportation Article shall deny inspection of the recorded
126 images.

127 (3) A custodian shall allow inspection of recorded images:

128 (i) as required in § 21–202.1 or § 21–809 of the Transportation
129 Article;

130 (ii) by any person issued a citation under § 21–202.1 or § 21–809
131 of the Transportation Article, or an attorney of record for the person; or

132 (iii) by an employee or agent of a law enforcement agency in an
133 investigation or proceeding relating to the imposition of or indemnification from civil
134 liability pursuant to § 21–202.1 or § 21–809 of the Transportation Article.

135 **Article – Transportation**

136 21–809.

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

138 (2) “Local police department” means:

- 139 (i) **THE HOWARD COUNTY POLICE DEPARTMENT;**
- 140 (II) The Montgomery County Department of Police; and
- 141 [(ii)] (III) The police department of any municipal corporation in
142 Montgomery County.
- 143 (3) (i) “Owner” means the registered owner of a motor vehicle or a
144 lessee of a motor vehicle under a lease of 6 months or more.
- 145 (ii) “Owner” does not include:
- 146 1. A motor vehicle rental or leasing company; or
- 147 2. A holder of a special registration plate issued under
148 Title 13, Subtitle 9, Part III of this article.
- 149 (4) “Recorded image” means an image recorded by a speed monitoring
150 system:
- 151 (i) On:
- 152 1. A photograph;
- 153 2. A microphotograph;
- 154 3. An electronic image;
- 155 4. Videotape; or
- 156 5. Any other medium; and
- 157 (ii) Showing:
- 158 1. The rear of a motor vehicle;

159 2. At least two time-stamped images of the motor
160 vehicle that include the same stationary object near the motor vehicle; and

161 3. On at least one image or portion of tape, clearly
162 identifying the registration plate number of the motor vehicle.

163 (5) “Speed monitoring system” means a device with one or more motor
164 vehicle sensors producing recorded images of motor vehicles traveling at speeds at
165 least 10 miles per hour above the posted speed limit.

166 (6) “Speed monitoring system operator” means an individual who
167 operates a speed monitoring system.

168 (b) (1) This section applies to a violation of this subtitle that occurs in
169 **HOWARD COUNTY OR** Montgomery County recorded by a speed monitoring system
170 that meets the requirements of this subsection and has been placed:

171 (i) [On] **IN MONTGOMERY COUNTY, ON** a highway in a
172 residential district as defined in § 21-101 of this title:

173 1. With a maximum posted speed limit of 35 miles per
174 hour; and

175 2. That has a speed limit that was established using
176 generally accepted traffic engineering practices; [or]

177 (ii) In **HOWARD COUNTY, ON A HIGHWAY:**

178 1. **WITH A MAXIMUM POSTED SPEED LIMIT OF 45**
179 **MILES PER HOUR; AND**

180 2. **THAT HAS A SPEED LIMIT THAT WAS**
181 **ESTABLISHED USING GENERALLY ACCEPTED TRAFFIC ENGINEERING**
182 **PRACTICES; OR**

183 (iii) **IN HOWARD COUNTY OR MONTGOMERY COUNTY IN** a
184 school zone established under § 21-803.1 of this subtitle.

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

188 (ii) The manufacturer shall issue a signed certificate to the
189 speed monitoring system operator upon completion of the training.

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

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

194 (i) States that the speed monitoring system operator
195 successfully performed the manufacturer-specified self-test of the speed monitoring
196 system prior to producing a recorded image;

197 (ii) Shall be kept on file; and

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

200 (4) (i) A speed monitoring system shall undergo an annual
201 calibration check performed by an independent calibration laboratory.

202 (ii) The independent calibration laboratory shall issue a signed
203 certificate of calibration after the annual calibration check, which:

204 1. Shall be kept on file; and

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

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

212 (2) A civil penalty under this subsection may not [exceed \$40]
213 **EXCEED:**

214 (I) **\$75 FOR A VIOLATION THAT OCCURRED IN HOWARD**
215 **COUNTY; OR**

216 (II) **\$40 FOR A VIOLATION THAT OCCURRED IN**
217 **MONTGOMERY COUNTY.**

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

219 (i) A uniform citation form consistent with subsection (d)(1) of
220 this section and § 7–302 of the Courts Article; and

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

224 (d) (1) Subject to the provisions of paragraphs (2) through (4) of this
225 subsection, the local police department shall mail to the owner, liable under subsection
226 (c) of this section, a citation that shall include:

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

228 (ii) The registration number of the motor vehicle involved in the
229 violation;

230 (iii) The violation charged;

231 (iv) The location where the violation occurred;

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

233 (vi) A copy of the recorded image;

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

236 (viii) A signed statement by a duly authorized agent of the local
237 police department that, based on inspection of recorded images, the motor vehicle was
238 being operated in violation of this subtitle;

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

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

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

- 247 1. Is an admission of liability;
- 248 2. May result in the refusal by the Administration to
249 register the motor vehicle; and
- 250 3. May result in the suspension of the motor vehicle
251 registration.

252 (2) The local police department may mail a warning notice instead of a
253 citation to the owner liable under subsection (c) of this section.

254 (3) Except as provided in subsection (f)(4) of this section, the local
255 police department may not mail a citation to a person who is not an owner.

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

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

262 (i) Pay the civil penalty, in accordance with instructions on the
263 citation, directly to the **HOWARD COUNTY OFFICE OF FINANCE OR** Montgomery
264 County Department of Finance, **AS APPROPRIATE**; or

265 (ii) Elect to stand trial in the District Court for the alleged
266 violation.

267 (e) (1) A certificate alleging that the violation of this subtitle occurred and
268 the requirements under subsection (b) of this section have been satisfied, sworn to, or
269 affirmed by a duly authorized agent of the local police department, based on inspection
270 of recorded images produced by a speed monitoring system, shall be evidence of the
271 facts contained in the certificate and shall be admissible in a proceeding alleging a
272 violation under this section without the presence or testimony of the speed monitoring
273 system operator who performed the requirements under subsection (b) of this section.

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

278 (3) Adjudication of liability shall be based on a preponderance of
279 evidence.

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

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

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

288 (iii) Any other issues and evidence that the District Court deems
289 pertinent.

290 (2) In order to demonstrate that the motor vehicle or the registration
291 plates were stolen before the violation occurred and were not under the control or
292 possession of the owner at the time of the violation, the owner shall submit proof that
293 a police report regarding the stolen motor vehicle or registration plates was filed in a
294 timely manner.

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

299 (i) States that the person named in the citation was not
300 operating the vehicle at the time of the violation;

301 (ii) Provides the name, address, and, if possible, the driver's
302 license identification number of the person who was operating the vehicle at the time
303 of the violation; and

304 (iii) Includes any other corroborating evidence.

305 (4) (i) If the District Court finds that the person named in the
306 citation was not operating the vehicle at the time of the violation or receives evidence
307 under paragraph (3) of this subsection identifying the person driving the vehicle at the
308 time of the violation, the clerk of the court shall provide to the local police department
309 a copy of any evidence substantiating who was operating the vehicle at the time of the
310 violation.

311 (ii) On receipt of substantiating evidence from the District
312 Court under subparagraph (i) of this paragraph, the local police department may issue
313 a citation as provided in subsection (d) of this section to the person who the evidence
314 indicates was operating the vehicle at the time of the violation.

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

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

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

322 (2) May suspend the registration of the motor vehicle cited for the
323 violation.

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

325 (1) Is not a moving violation for the purpose of assessing points under
326 § 16–402 of this article;

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

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

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

333 (i) In consultation with the **HOWARD COUNTY OFFICE OF FINANCE, THE**
334 **Montgomery County Department of [Finance] FINANCE,** and the local police
335 departments, the Chief Judge of the District Court shall adopt procedures for the
336 issuance of citations, the trial of civil violations, and the collection of civil penalties
337 under this section.

338 (j) If a contractor operates a speed monitoring system on behalf of **HOWARD**
339 **COUNTY OR** Montgomery County, the contractor’s fee may not be contingent on the
340 number of citations issued or paid.

341 26–305.

342 (a) The Administration may not register or transfer the registration of any
343 vehicle involved in a parking violation under this subtitle, a violation under any
344 federal parking regulation that applies to property in this State under the jurisdiction
345 of the U.S. government, a violation of § 21–202(h) of this article as determined under §
346 21–202.1 of this article or Title 21, Subtitle 8 of this article as determined under §

347 21–809 of this article, or a violation of the State litter control law or a local law or
348 ordinance adopted by Baltimore City relating to the unlawful disposal of litter as
349 determined under § 10–112 of the Criminal Law Article, if:

350 (1) It is notified by a political subdivision or authorized State agency
351 that the person cited for the violation under this subtitle, § 21–202.1 or § 21–809 of
352 this article, or § 10–112 of the Criminal Law Article has failed to either:

353 (i) Pay the fine for the violation by the date specified in the
354 citation; or

355 (ii) File a notice of his intention to stand trial for the violation;

356 (2) It is notified by the District Court that a person who has elected to
357 stand trial for the violation under this subtitle, under § 21–202.1 or § 21–809 of this
358 article, or under § 10–112 of the Criminal Law Article has failed to appear for trial; or

359 (3) It is notified by a U.S. District Court that a person cited for a
360 violation under a federal parking regulation:

361 (i) Has failed to pay the fine for the violation by the date
362 specified in the federal citation; or

363 (ii) Either has failed to file a notice of his intention to stand trial
364 for the violation, or, if electing to stand trial, has failed to appear for trial.

365 26–401.

366 If a person is taken before a District Court commissioner or is given a traffic
367 citation or a civil citation under § 21–202.1 or § 21–809 of this article containing a
368 notice to appear in court, the commissioner or court shall be one that sits within the
369 county in which the offense allegedly was committed.

370 SECTION 2. AND BE IT FURTHER ENACTED, That:

371 (1) Beginning in fiscal year 2009 and each fiscal year thereafter, Howard
372 County shall use the revenues generated from the enforcement of speed limit laws as
373 authorized under this Act solely to increase local expenditures for related public safety
374 purposes, including pedestrian safety programs; and

375 (2) Related public safety expenditures required under this section shall be
376 used to supplement and may not supplant existing local expenditures for the same
377 purpose.

378 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
379 construed to apply only prospectively and may not be applied or interpreted to have
380 any effect on or application to any contract awarded before the effective date of this
381 Act.

382 SECTION 4. AND BE IT FURTHER ENACTED, That a presently existing
383 obligation or contract right may not be impaired in any way by this Act.

384 SECTION 5. AND BE IT FURTHER ENACTED, That the Howard County
385 Council shall report to the General Assembly on or before December 31, 2012, in
386 accordance with § 2-1246 of the State Government Article, on the effectiveness of
387 speed monitoring systems in Howard County.

388 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
389 October 1, 2008.