

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

Senate Bill 269

(The President) (By Request – Administration)

Judicial Proceedings

Environmental Matters

**Vehicle Laws - Speed Monitoring Systems - Statewide Authorization and Use in
Highway Work Zones**

This Administration bill authorizes State and local law enforcement agencies to issue citations or warnings to vehicle owners for speeding at least 12 miles per hour above the posted speed limit • on a highway in a residential district with a maximum posted speed limit of 45 miles per hour; • in a school zone; and • in highway work zones that are set up on expressways or controlled access highways where the speed limit is 45 miles per hour or greater. A citation is subject to a civil penalty with a maximum fine of \$40. Each local jurisdiction that enforces speed limits with automated enforcement must report to the Governor and the General Assembly by December 31, 2012 on the effectiveness of speed monitoring systems in the jurisdiction.

The bill has prospective application.

Fiscal Summary

State Effect: General fund revenues increase \$123,600 beginning in FY 2010 from automated enforcement citations in highway work zones. Potential additional general fund increase to the extent local work zone speed control systems are implemented. Transportation Trust Fund revenues increase \$1.4 million in FY 2010 due to cost recovery for the State Highway Administration and additional revenues for nonpayment of citations. Out-years assume a stable number of citations and include annualization. TTF expenditures increase by \$1.5 million in FY 2009 to implement work zone enforcement systems. Out-years include staffing and annualization. Significant increase in general fund expenditures in the District Court due to collection of fines and notifications from speed monitoring and work zone speed control systems. Increase in

general and special fund revenues from additional fines from speed monitoring systems beginning in FY 2009.

| (in dollars) | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2013 |
|----------------|---------------|-----------|-----------|-----------|-----------|
| GF Revenue | - | \$123,600 | \$586,700 | \$559,200 | \$531,200 |
| SF Revenue | - | 1,350,600 | 1,378,900 | 1,406,400 | 1,434,400 |
| GF Expenditure | - | - | - | - | - |
| SF Expenditure | 1,510,000 | 1,346,400 | 1,373,300 | 1,400,800 | 1,428,800 |
| Net Effect | (\$1,510,000) | \$127,800 | \$592,300 | \$564,800 | \$536,800 |

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The full effect on local finances depends on the extent to which these systems are deployed, but based on local experience with speed and red light camera programs, it is expected that revenues would cover the implementation and administration expenditures for a speed monitoring or work zone speed control system. Revenues could be generated as early as the last quarter of 2009 for speed monitoring systems if the first systems are implemented October 1, 2008. However, in the first year of implementation for work zone speed control systems there would not be any revenue generated, just expenditures.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: Speeding citations issued from automated enforcement systems may be treated as parking violations, but they are not moving violations for the purpose of point assessment, may not be placed on the driving record of the owner or driver of the vehicle, and may not be considered in the provision of vehicle insurance.

A “recorded image” is an image of a part of a motor vehicle recorded by a speed monitoring or work zone speed control system on a photograph, a microphotograph, an electronic image, videotape, or any other medium, which clearly identifies the registration plate number of the motor vehicle and shows at least two time-stamped images of the vehicle and a stationary object near the vehicle. A “speed monitoring system” or a “work zone speed control system” is a device with one or more motor vehicle sensors producing recorded images of motor vehicles traveling at speeds at least 12 miles per hour above the posted speed limit. A “work zone” is a segment of highway identified as a temporary traffic control zone by traffic control devices and where highway construction, repair, utility work, or related activity is being performed.

A speed monitoring system may be placed on a highway in a residential district with a maximum posted speed limit of 45 miles per hour or in a school zone. 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. The ordinance or resolution must require the issuance of warnings only during the first five months, at a minimum, after the first speed monitoring system is placed in a local jurisdiction. Before placing an unmanned stationary speed monitoring system, a local jurisdiction must publish notice of its location on the local jurisdiction's web site and in a general circulation newspaper in the jurisdiction. The local jurisdiction must also ensure that each school zone sign indicates that a speed monitoring system is used in the school zone.

A work zone speed control system may be placed within a work zone on a highway that is an expressway or controlled access highway where the speed limit is 45 miles per hour or greater. A conspicuous road sign must be placed within one-quarter mile of the work zone and must be operated by a police officer certified to operate the system. A law enforcement agency may only issue warnings during the 12-month period after the first work zone system is in place.

The bill establishes training and recordkeeping requirements for system operators, including the performance of calibration checks as specified by the system manufacturer and an annual calibration check performed by an independent laboratory.

Unless the 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 specified civil penalty to the issuing jurisdiction or elect to stand trial in District Court. A warning notice may be issued instead of a citation. In addition to other required information, for work zone violations, the citation must include at least one recorded image of the vehicle, each with an imprinted data bar that shows the vehicle's speed and the date and time the image was recorded. For speed monitoring violations, the citation must include a copy of the recorded image. A recorded image from a speed monitoring or a work zone speed control system may be used only to identify the vehicle subject to a speeding violation. A citation must contain notice of the right to have a speed monitoring or work zone speed control system operator present to testify at a trial. The individual who requests the presence of the operator must notify the court and issuing jurisdiction in writing no later than 20 days before trial. A citation must be mailed no later than two weeks after the alleged violation if the vehicle is registered in Maryland, or no later than 30 days after the alleged violation if the vehicle is registered in another state. An agency is prohibited from mailing a citation to a person who is not a vehicle owner.

A recorded image of a motor vehicle produced by a speed monitoring or work zone speed control system is admissible at trial without authentication. A certificate alleging that the speeding violation occurred, sworn to or affirmed by a police officer or designated municipal official, is evidence of the facts contained therein and is also admissible at trial. Adjudication of liability is to be based on a preponderance of the evidence standard. The District Court may consider the defense that the motor vehicle or registration plates were stolen, but a timely police report about the theft must be submitted. The District Court may consider that the person named in the citation was not operating the vehicle at the time of the violation. The District Court may also consider that the driver was a law enforcement, fire, or rescue company volunteer who was responding to an emergency at the time of the violation. The volunteer may satisfy the evidentiary burden by submitting a letter by certified mail, return receipt requested, that is sworn to or affirmed by the head of the agency that the person named in the citation was a volunteer responding to an emergency at the time of the violation.

If the fine is not paid and the violation is not contested, the Motor Vehicle Administration may refuse to register or reregister, or may suspend the registration of the motor vehicle. If a contractor operates a speed monitoring or a work zone speed control system on behalf of State or local law enforcement, the contractor's fee may not be contingent on the number of citations issued.

Any contested fines or penalties collected by the District Court for speed monitoring systems are remitted to the Comptroller and distributed to various transportation-related funds. Any uncontested fines or penalties collected by local governments for speed monitoring systems may be used to recover the costs of implementing and administering the speed monitoring systems. Local governments must remit revenues beyond those needed to cover implementation and administration costs to the Comptroller, who is then required to deposit those revenues into the State general fund.

For all civil fines collected from speeding in work zones, the revenues must be paid to the State Highway Administration to cover the cost of implementing and administering the work zone speed control system. Revenues attained beyond what is required to cover costs must be deposited into the State general fund. For local governments that implement work zone control speed control systems, the bill does not specify whether local governments that install work zone speed control systems are allowed to recover implementation and administration expenditures before remitting collected revenues to the District Court for deposit into the State general fund.

Current Law: Montgomery County is the only jurisdiction authorized to issue citations to drivers for speeding based on recorded images collected by automated speed monitoring systems. A "speed monitoring system" is a device with one or more motor

vehicle sensors producing recorded images of motor vehicles traveling at least 10 miles per hour above the posted speed limit. The recorded image must include at least two time-stamped images of the vehicle with a stationary object, show the rear of the motor vehicle, and clearly identify the registration plate number of the motor vehicle on at least one image or portion of tape.

Automated speed enforcement applies to speeding violations in Montgomery County that occur • on a highway in a residential district with a maximum posted speed limit of 35 miles per hour; or • in an established school zone. The maximum civil penalty is \$40. Training and recordkeeping requirements must be met for speed monitoring system operators, including the performance of calibration checks as specified by the system manufacturer, and an annual calibration check performed by an independent laboratory.

Generally, a traffic control signal or speed enforcement citation must be mailed no later than two weeks after the alleged violation. Fines in uncontested cases are paid directly to the issuing political subdivision or, if the State issues the citation, to the District Court. If an individual wishes to challenge a citation, the case is referred to the District Court having venue. Any fines or penalties collected by the District Court are remitted to the Comptroller and disbursed to various transportation-related funds.

Background: Photo-radar enforcement systems that detect speeders function almost the same as red light cameras. Usually, the photo-radar system is located in a mobile unit. The system has a radar detector and a camera. A speeding vehicle triggers the camera and a photograph is taken of the vehicle. The photos have the date, time, and speed recorded.

In Utah, photo-radar enforcement is limited to school zones and other areas with a speed limit of 30 miles per hour or less, when a police officer is present, and signs are posted for motorists. The radar photograph must accompany a citation. The District of Columbia has an extensive automated enforcement program for speeding and most other moving violations. Arizona, Colorado, and Illinois are other states that allow automated enforcement for speed violations. While Arizona allows automated speed enforcement statewide, Illinois allows automated speed enforcement only in construction zones or on toll roads. In Colorado, this type of enforcement is allowed only in school zones, residential areas, or adjacent to municipal parks. Illinois, Oregon, and Washington are states that authorize automated speed enforcement in highway work zones. Automated speed enforcement systems are used extensively throughout Europe and in Australia.

Some states have limited or banned automated traffic enforcement, while others have considered authorizing or expanding it. Arkansas prohibits automated enforcement unless it occurs in school zones or at rail crossings. An officer must be present to issue a

citation at the time of the violation. Nevada prohibits photographic recording of traffic violations unless the equipment is in use by an officer or is installed at a law enforcement agency. In New Hampshire, a specific statutory authorization is required, otherwise automated enforcement is prohibited. New Jersey, West Virginia, and Wisconsin specifically prohibit any type of photo-radar enforcement. Most states have no provisions related to automated enforcement.

State Fiscal Effect: Under this bill, contested and uncontested penalties from automated systems maintained by a State agency will be paid to the District Court. Those revenues could be either general fund or special fund revenues. Revenues collected from work zone speed control systems beyond that needed to cover implementation and administration costs of SHA would be deposited into the State general fund.

This bill authorizes the State to set up speed monitoring systems and work zone speed control systems. At this time it is unknown whether the State Police or the State Highway Administration will operate speed monitoring systems. However, the State does plan to set up and operate work zone speed control systems. Revenues would not accrue until 12 months after the first system becomes operational, since the bill requires that only warnings be issued for at least 12 months after the first operational unit. Since the bill's effective date is October 1, 2008, the earliest that revenues could begin to accrue is October 1, 2009, assuming that work zone speed systems were operational on October 1, 2008.

For State-run work zone speed control systems only, the bill requires that revenues be paid to the State Highway Administration to cover the costs of implementing and administering the work zone speed control system. Revenues beyond those needed to cover the implementation and administration costs of work zone speed control systems must be remitted to the State general Fund.

SHA has not made any final determinations on how the program will be implemented, but SHA has provided a likely implementation scenario, which assumes that all penalties would be paid at the \$40 maximum.

SHA: SHA could deploy five mobile units at a cost of \$100,000 each at highway work zones, operating one day per week for 40 weeks per year. Along highways with average daily traffic of 25,000 vehicles, the expectation is that 50,000 citations would be issued from the systems per year. This assumes that 10% of the measured vehicles would violate the speed limit and that half of those violators would be confirmed after image analysis.

SHA advises that a contractor to maintain equipment and provide image reading services would cost about \$607,500 in fiscal 2009 and \$810,000 annually. Police manpower for training, field operations, court time, and image review would cost about \$315,000 in fiscal 2009 and \$420,000 annually thereafter. SHA administration would cost about \$67,500 in fiscal 2009 and \$90,000 annually thereafter. In addition, highway sign installation would cost \$20,000 in fiscal 2009. Total estimated TTF expenditures to implement work zone speed system systems in fiscal 2009, accounting for the bill's effective date, would be \$1,510,000. Annualized TTF expenditures, accounting for one-time equipment purchases in fiscal 2009, would be \$1,320,000, but would increase by 2% annually beginning in fiscal 2010.

If 50,000 citations are issued at the maximum civil penalty of \$40, Montgomery County's experience with speed cameras suggests that 98% of those penalties would likely be collected on a prepayment basis. Accounting for accrual of revenues beginning October 1, 2009, the revenue collected would be \$1,470,000 in fiscal 2010, from which SHA expenditures would be covered. The balance would be distributed to the State general fund. Annualized revenue collections would be \$1,960,000.

MVA: TTF revenues would increase due to additional flags attached to licenses for nonpayment of fines. A driver has to pay \$30 to remove a flag. Based on the latest data from red light camera citations in Baltimore City, about 18.7% of issued citations are unpaid and result in a flag. If 98% of the 50,000 work zone speed system citations are prepaid and the remaining are contested or unpaid and 18.7% of those vehicle records receive flags, then it is likely that 187 citations could receive flags. Fiscal 2010 revenues would be \$4,208, accounting for the delayed assessment of revenues required by the bill. Annualized revenue could be \$5,610.

MVA is required to withhold the vehicle registration if there are unpaid citations and suspend the registration for \$1,000 or more of unpaid fines.

Because the vast majority of those receiving fines from automated systems are likely to prepay them, MVA should be able to address nonpayment of fines with existing resources.

Total TTF expenditures in fiscal 2009 could increase by an estimated \$1,510,000, which accounts for the bill's October 1, 2008 effective date. This estimate reflects the cost of purchasing mobile units to monitor speed in highway work zones, a contractor for equipment maintenance and image retrieval, and SHA and police resources to administer the system and verify the issued citations.

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|---|--------------------|
| Mobile Enforcement Units | \$500,000 |
| Signage | 20,000 |
| Mobile Unit Contractor | 607,500 |
| Police Resources | 315,000 |
| SHA Administration | 67,500 |
| Total FY 2009 State Expenditures | \$1,510,000 |

Future year expenditures reflect • 2% annual increases in ongoing operating expenses.

District Court: The District Court would collect fines from all contested citations from all speed monitoring and work zone speed systems implemented by a State or local law enforcement agency and all uncontested citations from State-run speed monitoring and work zone speed control systems.

Special fund revenues could be collected by the District Court beginning in the last quarter of fiscal 2009 from contested citations from locally implemented speed monitoring systems, accounting for the required five-month warning period and assuming that the first speed monitoring systems would be deployed as of October 1, 2008. The extent to which special fund revenues would increase would depend on the extent to which local governments implement speed monitoring systems and the extent to which such citations are contested.

Because the bill requires that local governments remit revenues beyond those needed to cover implementation and administration costs to the Comptroller for distribution to the State general fund, it is anticipated that local governments may limit the number of speed monitoring systems. As a result the additional general fund revenues that may accrue to the State cannot be reliably estimated.

State general fund revenues collected from locally implemented work zone speed control systems could increase, depending on the extent to which local governments implement these systems. It is anticipated that the number of local work zone speed control systems would also be limited since local governments would not be able to retain any excess revenues. The bill is also silent on whether local governments are authorized to recover implementation and administration costs from work zone speed control systems. As a result, the additional general fund revenues that could be generated from locally implemented work zone speed control systems cannot be reliably estimated.

General fund expenditures could significantly increase in the District Court due to the provisions of this bill as of the last quarter of fiscal 2009. Warnings must be issued for at least 5 months after the first speed monitoring system becomes operational and 12 months after the first work zone speed systems become operational, so the operational impact would not begin to occur until the last quarter of fiscal 2009, when the first citations would be issued under this bill. The District Court workload could increase due to additional trials, additional notifications, collection of contested fines from local jurisdictions and all fines from State-run systems, and additional notification to MVA for nonpayment of fines and failure to appear for trial. Since SHA is likely to deploy work zone speed control systems, there will be a significant operational impact on the District Court.

The extent to which locally implemented speed monitoring and work zone speed control systems impact the work of the District Court would depend, however, on the extent to which local jurisdictions would choose to set up these systems. Each local jurisdiction would be required to pass a law or ordinance before implementing any of the systems authorized in this bill.

The District Court advises that \$2.4 million would be needed to create a new civil citation data system and to hire a contractor to manage speed and work zone enforcement systems. Legislative Services advises, however, because a speeding citation issued under automated enforcement • is not considered a moving violation for the purpose of assessing points against a driver's license; • may not be considered in the provision of insurance coverage; and • carries a maximum penalty of \$40, there is a much greater likelihood that violators will choose to pay the fine rather than appear in court.

Local Effect: To the extent that local governments implement speed monitoring systems, it is expected that they would be able to recover implementation and administration expenditures beginning in the last quarter of fiscal 2009, assuming that the first systems become operational on October 1, 2008 and accounting for the five-month mandatory warning period. Before the last quarter of fiscal 2009, implementing local governments would incur additional expenditures for enforcement units, personnel, and signage. The provision that allows residential arterial roads with a maximum speed limit of 45 miles per hour to be covered would expand the existing program in Montgomery County. Montgomery County would retain excess revenues from speed monitoring systems until September 30, 2008. As of October 1, 2008, the effective date of the bill, excess revenues would have to be remitted to the Comptroller for deposit into the State general fund.

For work zone speed control systems, local governments would have to cover the costs of the first year of implementation. Beginning in fiscal 2010, the bill requires excess

revenues from these systems to be deposited into the State general fund. The bill is also silent on whether local governments are authorized to recover implementation and administration expenditures, so the extent to which local governments would be willing to implement work zone systems is unknown.

Charles County indicated that start-up costs for a speed camera program would be about \$170,000, with the expectation that costs would be recouped from paid citations.

The City of Laurel responded that two full-time staff might be needed to monitor the program. The city estimates that 50 violations would be captured daily and about half of those paid, assuming that one camera was installed, for fine revenue of \$342,187, beginning in fiscal 2010. Annual expenditures would be about \$86,309 beginning in fiscal 2009.

Frederick County indicated that the bill would have no fiscal impact. Somerset County indicated that any revenues generated would be minimal. The Town of La Plata indicated there would be no fiscal impact as there are no local speeding laws within that jurisdiction.

Additional Comments: If speeding cameras replace a significant number of police-issued tickets, according to the Maryland Automobile Insurance Fund, insurance carriers would have reduced information regarding the level of risk for those drivers. The level of risk is one of the factors used in setting insurance premiums.

Additional Information

Prior Introductions: A similar bill, SB 455 of 2003 passed the General Assembly, but was vetoed by the Governor.

Cross File: HB 364 (The Speaker, *et al.*)(By Request – Administration) – Environmental Matters.

Information Source(s): Town of Sykesville, City of Greenbelt, City of Hagerstown, City of Laurel, Town of La Plata, Baltimore County, Frederick County, Somerset County, Montgomery County, Prince George's County, Charles County, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Insurance Administration, Maryland Automobile Insurance Fund, Maryland Department of Transportation, Department of Legislative Services

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