

Bill No.: _____
Requested: _____
Committee: _____

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By: **Howard County Delegation**

A BILL ENTITLED

1 AN ACT concerning

2 **Howard County – Vehicle Laws – Speed Monitoring Systems**
Ho. Co. 06-09

3 FOR the purpose of adding Howard County as a county authorized to use certain
4 speed monitoring systems to enforce highway speed laws under certain
5 standards and procedures; limiting the use of speed monitoring systems in
6 Howard County to certain highways; establishing a certain maximum fine for a
7 violation of law enforced by means of a speed monitoring system in Howard
8 County; requiring the Chief Judge of the District Court to consult with a certain
9 Howard County agency in adopting certain procedures; restricting the use of
10 certain revenues generated by this Act; providing for the application of this Act;
11 providing that existing obligations or contract rights may not be impaired by
12 this Act; requiring Howard County to report on the effectiveness of speed
13 monitoring systems to the General Assembly on or before a certain date;
14 altering a certain definition; prohibiting the Howard County Police Department
15 from utilizing more than a certain number of speed monitoring systems for a
16 certain purpose; requiring the Howard County Police Department, during a
17 certain period, to issue only warning citations to certain motorists and to
18 conduct a public education and awareness campaign regarding the use of speed
19 monitoring systems in Howard County; requiring the Howard County Police
20 Department to submit a certain annual report to the Howard County Delegation
21 to the General Assembly; requiring the Howard County Council to submit a
22 certain report to the General Assembly by a certain date; providing for the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



23 termination of this Act; and generally relating to imposition of liability on
24 certain persons recorded by speed monitoring systems violating certain laws
25 regarding the operation of motor vehicles in excess of certain speed limits.

26 BY repealing and reenacting, without amendments,
27 Article – Courts and Judicial Proceedings
28 Section 4–401(13), 7–301(a), 7–302(e), and 10–311
29 Annotated Code of Maryland
30 (2006 Replacement Volume and 2008 Supplement)

31 BY repealing and reenacting, without amendments,
32 Article – Insurance
33 Section 11–215(e) and 11–318(e)
34 Annotated Code of Maryland
35 (2003 Replacement Volume and 2008 Supplement)

36 BY repealing and reenacting, without amendments,
37 Article – State Government
38 Section 10–616(o)
39 Annotated Code of Maryland
40 (2004 Replacement Volume and 2008 Supplement)

41 BY repealing and reenacting, with amendments,
42 Article – Transportation
43 Section 21–809
44 Annotated Code of Maryland
45 (2006 Replacement Volume and 2008 Supplement)

46 BY repealing and reenacting, without amendments,
47 Article – Transportation
48 Section 26–305(a) and 26–401
49 Annotated Code of Maryland
50 (2006 Replacement Volume and 2008 Supplement)

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

53 **Article – Courts and Judicial Proceedings**

54 4-401.

55 Except as provided in § 4-402 of this subtitle, and subject to the venue
56 provisions of Title 6 of this article, the District Court has exclusive original civil
57 jurisdiction in:

58 (13) A proceeding for a civil infraction under § 21-202.1, § 21-704.1, or
59 § 21-809 of the Transportation Article or § 10-112 of the Criminal Law Article;

60 7-301.

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

76 7-302.

77 (e) (1) A citation issued pursuant to § 21-202.1 or § 21-809 of the
78 Transportation Article shall provide that the person receiving the citation may elect to
79 stand trial by notifying the issuing agency of the person's intention to stand trial at
80 least 5 days prior to the date of payment as set forth in the citation. On receipt of the
81 notice to stand trial, the agency shall forward to the District Court having venue a
82 copy of the citation and a copy of the notice from the person who received the citation
83 indicating the person's intention to stand trial. On receipt thereof, the District Court

84 shall schedule the case for trial and notify the defendant of the trial date under
85 procedures adopted by the Chief Judge of the District Court.

86 (2) A citation issued as the result of a traffic control signal monitoring
87 system or speed monitoring system controlled by a political subdivision shall provide
88 that, in an uncontested case, the penalty shall be paid directly to that political
89 subdivision. A citation issued as the result of a traffic control signal monitoring system
90 controlled by a State agency or a speed monitoring system, in a case contested in
91 District Court, shall provide that the penalty shall be paid directly to the District
92 Court.

93 (3) Civil penalties resulting from citations issued using traffic control
94 signal monitoring systems or speed monitoring systems that are collected by the
95 District Court shall be collected in accordance with subsection (a) of this section and
96 distributed in accordance with § 12–118 of the Transportation Article.

97 10–311.

98 (a) A recorded image of a motor vehicle produced by a traffic control signal
99 monitoring system in accordance with § 21–202.1 of the Transportation Article is
100 admissible in a proceeding concerning a civil citation issued under that section for a
101 violation of § 21–202(h) of the Transportation Article without authentication.

102 (b) A recorded image of a motor vehicle produced by a speed monitoring
103 system in accordance with § 21–809 of the Transportation Article is admissible in a
104 proceeding concerning a civil citation issued under that section for a violation of Title
105 21, Subtitle 8 of the Transportation Article without authentication.

106 (c) In any other judicial proceeding, a recorded image produced by a traffic
107 control signal monitoring system or speed monitoring system is admissible as
108 otherwise provided by law.

109 **Article – Insurance**

110 11–215.

111 (e) For purposes of reclassifying an insured in a classification that entails a
112 higher premium, an insurer under an automobile insurance policy may not consider a

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 11–318.

119 (e) For purposes of reclassifying an insured in a classification that entails a
120 higher premium, an insurer under an automobile insurance policy may not consider a
121 probation before judgment disposition of a motor vehicle law offense, a civil penalty
122 imposed pursuant to § 21–202.1 or § 21–809 of the Transportation Article, or a first
123 offense of driving with an alcohol concentration of 0.08 or more under § 16–205.1 of the
124 Transportation Article on record with the Motor Vehicle Administration, as provided
125 in § 16–117(b) of the Transportation Article.

126 **Article – State Government**

127 10–616.

128 (o) (1) In this subsection, “recorded images” has the meaning stated in §
129 21–202.1 or § 21–809 of the Transportation Article.

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

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

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

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

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

143 **Article – Transportation**

144 21–809.

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

146 (2) “Local police department” means:

147 (i) **THE HOWARD COUNTY POLICE DEPARTMENT;**

148 (ii) The Montgomery County Department of Police; and

149 [(ii)] (iii) The police department of any municipal corporation in
150 Montgomery County.

151 (3) (i) “Owner” means the registered owner of a motor vehicle or a
152 lessee of a motor vehicle under a lease of 6 months or more.

153 (ii) “Owner” does not include:

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

155 2. A holder of a special registration plate issued under
156 Title 13, Subtitle 9, Part III of this article.

157 (4) “Recorded image” means an image recorded by a speed monitoring
158 system:

159 (i) On:

160 1. A photograph;

161 2. A microphotograph;

- 162 3. An electronic image;
- 163 4. Videotape; or
- 164 5. Any other medium; and

165 (ii) Showing:

- 166 1. The rear of a motor vehicle;
- 167 2. At least two time-stamped images of the motor
168 vehicle that include the same stationary object near the motor vehicle; and
- 169 3. On at least one image or portion of tape, a clear
170 identification of the registration plate number of the motor vehicle.

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

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

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

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

- 181 1. With a maximum posted speed limit of 35 miles per
182 hour; and
- 183 2. That has a speed limit that was established using
184 generally accepted traffic engineering practices; [or]

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

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

188 **2. THAT HAS A SPEED LIMIT THAT WAS**
189 **ESTABLISHED USING GENERALLY ACCEPTED TRAFFIC ENGINEERING**
190 **PRACTICES; OR**

191 **(III) IN HOWARD COUNTY OR MONTGOMERY COUNTY IN a**
192 **school zone established under § 21–803.1 of this subtitle.**

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

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

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

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

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

205 (ii) Shall be kept on file; and

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

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

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

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

215 (c) (1) Unless the driver of the motor vehicle received a citation from a

216 police officer at the time of the violation, the owner or, in accordance with subsection

217 (f)(4) of this section, the driver of a motor vehicle is subject to a civil penalty if the

218 motor vehicle is recorded by a speed monitoring system while being operated in

219 violation of this subtitle.

220 (2) A civil penalty under this subsection may not [exceed \$40]

221 **EXCEED:**

222 (I) **\$40 FOR A VIOLATION THAT OCCURRED IN HOWARD**

223 **COUNTY; OR**

224 (II) **\$40 FOR A VIOLATION THAT OCCURRED IN**

225 **MONTGOMERY COUNTY.**

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

227 (i) A uniform citation form consistent with subsection (d)(1) of

228 this section and § 7-302 of the Courts Article; and

229 (ii) A civil penalty, which shall be indicated on the citation, to be

230 paid by persons who choose to prepay the civil penalty without appearing in District

231 Court.

232 (d) (1) Subject to the provisions of paragraphs (2) through (4) of this

233 subsection, the local police department shall mail to the owner, liable under subsection

234 (c) of this section, a citation that shall include:

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

236 (ii) The registration number of the motor vehicle involved in the

237 violation;

- 238 (iii) The violation charged;
- 239 (iv) The location where the violation occurred;
- 240 (v) The date and time of the violation;
- 241 (vi) A copy of the recorded image;
- 242 (vii) The amount of the civil penalty imposed and the date by
243 which the civil penalty should be paid;
- 244 (viii) A signed statement by a duly authorized agent of the local
245 police department that, based on inspection of recorded images, the motor vehicle was
246 being operated in violation of this subtitle;
- 247 (ix) A statement that recorded images are evidence of a violation
248 of this subtitle;
- 249 (x) Information advising the person alleged to be liable under
250 this section of the manner and time in which liability as alleged in the citation may be
251 contested in the District Court; and
- 252 (xi) Information advising the person alleged to be liable under
253 this section that failure to pay the civil penalty or to contest liability in a timely
254 manner:
- 255 1. Is an admission of liability;
 - 256 2. May result in the refusal by the Administration to
257 register the motor vehicle; and
 - 258 3. May result in the suspension of the motor vehicle
259 registration.
- 260 (2) The local police department may mail a warning notice instead of a
261 citation to the owner liable under subsection (c) of this section.

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

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

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

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

273 (ii) Elect to stand trial in the District Court for the alleged
274 violation.

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

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

286 (3) Adjudication of liability shall be based on a preponderance of
287 evidence.

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

289 (i) Subject to paragraph (2) of this subsection, that the motor
290 vehicle or the registration plates of the motor vehicle were stolen before the violation

291 occurred and were not under the control or possession of the owner at the time of the
292 violation;

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

296 (iii) Any other issues and evidence that the District Court deems
297 pertinent.

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

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

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

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

312 (iii) Includes any other corroborating evidence.

313 (4) (i) If the District Court finds that the person named in the
314 citation was not operating the vehicle at the time of the violation or receives evidence
315 under paragraph (3) of this subsection identifying the person driving the vehicle at the
316 time of the violation, the clerk of the court shall provide to the local police department
317 a copy of any evidence substantiating who was operating the vehicle at the time of the
318 violation.

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

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

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

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

330 (2) May suspend the registration of the motor vehicle cited for the
331 violation.

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

333 (1) Is not a moving violation for the purpose of assessing points under
334 § 16–402 of this article;

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

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

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

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

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

349 26–305.

350 (a) The Administration may not register or transfer the registration of any
351 vehicle involved in a parking violation under this subtitle, a violation under any
352 federal parking regulation that applies to property in this State under the jurisdiction
353 of the U.S. government, a violation of § 21–202(h) of this article as determined under §
354 21–202.1 of this article or Title 21, Subtitle 8 of this article as determined under §
355 21–809 of this article, or a violation of the State litter control law or a local law or
356 ordinance adopted by Baltimore City relating to the unlawful disposal of litter as
357 determined under § 10–112 of the Criminal Law Article, if:

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

361 (i) Pay the fine for the violation by the date specified in the
362 citation; or

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

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

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

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

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

373 26–401.

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

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

379 (1) beginning in fiscal year 2010 and each fiscal year thereafter,
380 Howard County shall use the revenues generated from the enforcement of speed limit
381 laws as authorized under this Act solely to increase local expenditures for related
382 public safety purposes, including pedestrian safety programs; and

383 (2) related public safety expenditures required under this section shall
384 be used to supplement and may not supplant existing local expenditures for the same
385 purpose.

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

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

392 SECTION 5. AND BE IT FURTHER ENACTED, That, at any given time, the
393 Howard County Police Department may not utilize more than 10 speed monitoring
394 systems, whether fixed or mobile, to be used on designated highways and in school
395 zones in accordance with the provisions of this Act.

396 SECTION 6. AND BE IT FURTHER ENACTED, That, for 90 days immediately
397 after deployment of the first speed monitoring system in Howard County as authorized
398 by this Act, the Howard County Police Department:

399 (1) may issue only a warning citation to a motorist for a violation
400 enforced by a speed monitoring system; and

401 (2) shall implement or continue, as the case may be, an extensive
402 public education and awareness campaign about the use of speed monitoring systems
403 in the county.

404 SECTION 7. AND BE IT FURTHER ENACTED, That the Howard County
405 Police Department shall submit a written report to the Howard County Delegation to
406 the General Assembly on or before September 30 each year covering enforcement
407 activity, driver behavior, financial matters, and other relevant issues in the
408 immediately preceding fiscal year related to the use of speed monitoring systems as
409 authorized by this Act.

410 SECTION 8. AND BE IT FURTHER ENACTED, That the Howard County
411 Council shall report to the General Assembly on or before December 31, 2013, in
412 accordance with § 2-1246 of the State Government Article, on the effectiveness of
413 speed monitoring systems in Howard County.

414 SECTION 9. AND BE IT FURTHER ENACTED, That this Act shall take effect
415 October 1, 2009. It shall remain effective for a period of 5 years and, at the end of
416 September 30, 2014, with no further action required by the General Assembly, this Act
417 shall be abrogated and of no further force and effect.