

HOUSE BILL 231

R5, L1
HB 564/21 – ENT

2lr0677

By: **Montgomery County Delegation**

Introduced and read first time: January 13, 2022

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County – Automated Traffic Enforcement – Implementing Agency**

3 **MC 18–22**

4 FOR the purpose of authorizing Montgomery County to designate the Montgomery County
5 Department of Transportation instead of a local law enforcement agency as the
6 agency responsible for implementing automated traffic enforcement programs in the
7 county; requiring that an employee of the Montgomery County Department of
8 Transportation, instead of a law enforcement officer, sign a certain required
9 statement on a citation issued through the use of automated traffic enforcement
10 systems in Montgomery County, under certain circumstances; altering the process
11 under certain circumstances for the certification of evidence produced through the
12 use of automated traffic enforcement systems; and generally relating to automated
13 traffic enforcement in Montgomery County.

14 BY repealing and reenacting, without amendments,
15 Article – Transportation
16 Section 21–202.1(a)(1) and (c), 21–809(a)(1), and 21–810(a)(1)
17 Annotated Code of Maryland
18 (2020 Replacement Volume and 2021 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Transportation
21 Section 21–202.1(a)(2), 21–706.1, 21–809(a)(2), (d)(1)(viii), and (e)(1), and
22 21–810(a)(2) and (8), (d)(1) through (3), (e)(1), and (i)
23 Annotated Code of Maryland
24 (2020 Replacement Volume and 2021 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Transportation

21–202.1.

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

(2) “Agency” means:

(i) For a traffic control signal operated and maintained at an intersection under the control of the State, the law enforcement agency primarily responsible for traffic control at that intersection; or

(ii) **1.** For a traffic control signal operated and maintained at an intersection under the control of a political subdivision, a law enforcement agency of the political subdivision that is authorized to issue citations for a violation of the Maryland Vehicle Law or of local traffic laws or regulations; **OR**

2. IN MONTGOMERY COUNTY, FOR A TRAFFIC CONTROL SIGNAL OPERATED AND MAINTAINED AT AN INTERSECTION UNDER THE CONTROL OF THE COUNTY, THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION IF DESIGNATED BY THE COUNTY TO IMPLEMENT THIS SECTION.

(c) This section applies to a violation of § 21–202(h) of this subtitle at an intersection monitored by a traffic control signal monitoring system.

21–706.1.

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

(2) [“Law enforcement agency”] **“AGENCY”** means [a]:

(I) A law enforcement agency of a local political subdivision that is authorized to issue a citation for a violation of the Maryland Vehicle Law or of local traffic laws or regulations; **OR**

(II) IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION IF DESIGNATED BY THE COUNTY TO IMPLEMENT THIS SECTION.

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

(ii) “Owner” does not include:

1. A motor vehicle leasing company; or

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(i) That a report of a violation was made to the [law enforcement] agency and that the report described the owner's vehicle as the vehicle involved in the violation;

(ii) That there is insufficient evidence for the issuance of a citation;

(iii) That the warning does not constitute a finding that the owner is guilty of the violation; and

(iv) The requirements of § 21–706 of this subtitle.

(c) (1) A school bus monitoring camera may not be used in a local jurisdiction under this section unless its use is authorized by the governing body of the local jurisdiction by local law enacted after reasonable notice and a public hearing.

(2) If authorized by the governing body of the local jurisdiction, [a law enforcement] AN agency, in consultation with the county board of education, may place school bus monitoring cameras on school buses in the county.

(d) A recorded image by a school bus monitoring camera under this section indicating that the driver of a motor vehicle has committed a violation shall include:

(1) An image of the motor vehicle;

(2) An image of at least one of the motor vehicle's registration plates;

(3) The time and date of the violation; and

(4) To the extent possible, the location of the violation.

(e) (1) Unless the driver of the motor vehicle received a citation from a police officer at the time of the violation, the owner or, in accordance with subsection (h)(5) of this section, the driver of a motor vehicle is subject to a civil penalty if the motor vehicle is recorded by a school bus monitoring camera during the commission of a violation.

(2) A civil penalty under this subsection may not exceed \$500.

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

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

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

(f) (1) Subject to the provisions of paragraphs (2) through (5) of this

subsection, [a law enforcement] AN agency shall mail to the owner liable under subsection (e) of this section a citation that shall include:

- (i) The name and address of the registered owner of the vehicle;
- (ii) The registration number of the motor vehicle involved in the violation;
- (iii) The violation charged;
- (iv) To the extent possible, the location of the violation;
- (v) The date and time of the violation;
- (vi) A copy of the recorded image;
- (vii) The amount of the civil penalty imposed and the date by which the civil penalty must be paid;
- (viii) A signed statement by a technician employed by the [law enforcement] agency that, based on inspection of recorded images, the motor vehicle was being operated during the commission of a violation;
- (ix) A statement that recorded images are evidence of a violation; and
- (x) Information advising the person alleged to be liable under this section:

1. Of the manner and time in which liability as alleged in the citation may be contested in the District Court; and

2. That failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability and may result in refusal or suspension of the motor vehicle registration.

(2) The [law enforcement] agency may mail a warning notice in place of a citation to the owner liable under subsection (e) of this section.

(3) (i) Before mailing a citation to a motor vehicle rental company liable under subsection (e) of this section, [a law enforcement] AN agency shall mail a notice to the motor vehicle rental company stating that a citation will be mailed to the motor vehicle rental company unless, within 45 days of receiving the notice, the motor vehicle rental company provides the [law enforcement] agency with:

1. A statement made under oath that states the name and last known mailing address of the individual driving or renting the motor vehicle when the

violation occurred;

2. A. A statement made under oath that states that the motor vehicle rental company is unable to determine who was driving or renting the vehicle at the time the violation occurred because the motor vehicle was stolen at the time of the violation; and

B. A copy of the police report associated with the motor vehicle theft claimed under item A of this item; or

3. Payment for the penalty associated with the violation.

(ii) [A law enforcement] AN agency may not mail a citation to a motor vehicle rental company liable under subsection (e) of this section if the motor vehicle rental company complies with subparagraph (i) of this paragraph.

(4) Except as provided in paragraph (3) of this subsection and subsection (h)(5) of this section, a citation issued under this section shall be mailed no later than 2 weeks after the alleged violation.

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

(i) Pay the civil penalty, in accordance with instructions on the citation, directly to the county; or

(ii) Elect to stand trial for the alleged violation.

(g) (1) A certificate alleging that a violation occurred, sworn to or affirmed by a duly authorized agent of [a law enforcement] AN agency, based on inspection of recorded images produced by a school bus monitoring camera shall be evidence of the facts contained in the certificate and shall be admissible in any proceeding concerning the alleged violation.

(2) Adjudication of liability shall be based on a preponderance of evidence.

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

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

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

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

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

(3) To satisfy the evidentiary burden under paragraph (1)(ii) of this subsection, the person named in the citation shall provide to the District Court evidence to the satisfaction of the District Court of who was operating the vehicle at the time of the violation, including, at a minimum, the operator's name and current address.

(4) (i) The provisions of this paragraph apply only to a citation that involves a Class E (truck) vehicle with a registered gross weight of 26,001 pounds or more, Class F (tractor) vehicle, Class G (trailer) vehicle operated in combination with a Class F (tractor) vehicle, or Class P (passenger bus) vehicle.

(ii) To satisfy the evidentiary burden under paragraph (1)(ii) of this subsection, the person named in a citation described under subparagraph (i) of this paragraph may provide to the District Court a letter, sworn to or affirmed by the person and mailed by certified mail, return receipt requested, that:

1. States that the person named in the citation was not operating the vehicle at the time of the violation; and

2. Provides the name, address, and driver's license identification number of the person who was operating the vehicle at the time of the violation.

(5) (i) If the District Court finds that the person named in the citation was not operating the vehicle at the time of the violation or receives evidence under paragraph (4)(ii)2 of this subsection identifying the person driving the vehicle at the time of the violation, the clerk of the court shall provide to the [law enforcement] agency issuing the citation a copy of any evidence substantiating who was operating the vehicle at the time of the violation.

(ii) On the receipt of substantiating evidence from the District Court under subparagraph (i) of this paragraph, the [law enforcement] agency may issue a citation as provided in subsection (f) of this section to the person that the evidence indicates was operating the vehicle at the time of the violation.

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

(i) If the civil penalty is not paid and the violation is not contested, the Administration may refuse to register or reregister or may suspend the registration of the motor vehicle.

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

(1) Is not a moving violation for the purpose of assessing points under § 16–402 of this article and may not be recorded by the Administration on the driving record of the owner or driver of the vehicle;

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

(3) May not be considered in the provision of motor vehicle insurance coverage.

(k) In consultation with [law enforcement] agencies, the Chief Judge of the District Court shall adopt procedures for the issuance of citations, trials for violations, and the collection of civil penalties imposed under this section.

21–809.

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

(2) “Agency” means:

(i) 1. A law enforcement agency of a local political subdivision that is authorized to issue a citation for a violation of the Maryland Vehicle Law or of local traffic laws or regulations; or

2. IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION IF DESIGNATED BY THE COUNTY TO IMPLEMENT THIS SECTION; OR

(ii) For a municipal corporation that does not maintain a police force, an agency established or designated by the municipal corporation to implement this subtitle using speed monitoring systems in accordance with this section.

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

(viii) 1. **[A] EXCEPT AS PROVIDED IN ITEM 2 OF THIS ITEM, A** signed statement by a duly authorized law enforcement officer employed by or under contract with an agency that, based on inspection of recorded images, the motor vehicle was being operated in violation of this subtitle; **OR**

2. IN MONTGOMERY COUNTY, IF THE COUNTY DESIGNATES THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION AS THE AGENCY RESPONSIBLE FOR IMPLEMENTING THIS SECTION IN THE COUNTY, A SIGNED STATEMENT BY AN EMPLOYEE OF THE AGENCY THAT, BASED ON INSPECTION

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

3 (e) (1) (I) [A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
4 PARAGRAPH, A certificate alleging that the violation of this subtitle occurred and the
5 requirements under subsection (b) of this section have been satisfied, sworn to, or affirmed
6 by a duly authorized law enforcement officer employed by or under contract with an agency,
7 based on inspection of recorded images produced by a speed monitoring system, shall be
8 evidence of the facts contained in the certificate and shall be admissible in a proceeding
9 alleging a violation under this section without the presence or testimony of the speed
10 monitoring system operator who performed the requirements under subsection (b) of this
11 section.

12 (II) IN MONTGOMERY COUNTY, IF THE COUNTY DESIGNATES
13 THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION AS THE AGENCY
14 RESPONSIBLE FOR IMPLEMENTING THIS SECTION IN THE COUNTY, A CERTIFICATE
15 ALLEGING THAT THE VIOLATION OF THIS SUBTITLE OCCURRED AND THE
16 REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION HAVE BEEN SATISFIED,
17 SWORN TO OR AFFIRMED BY AN EMPLOYEE OF THE AGENCY, BASED ON INSPECTION
18 OF RECORDED IMAGES PRODUCED BY A SPEED MONITORING SYSTEM, SHALL BE
19 EVIDENCE OF THE FACTS CONTAINED IN THE CERTIFICATE AND SHALL BE
20 ADMISSIBLE IN A PROCEEDING ALLEGING A VIOLATION UNDER THIS SECTION
21 WITHOUT THE PRESENCE OR TESTIMONY OF THE SPEED MONITORING SYSTEM
22 OPERATOR WHO PERFORMED THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS
23 SECTION.

24 21-810.

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

26 (2) "Local [police department]" AGENCY" means:

27 (i) The police department of any municipal corporation;

28 (ii) The police department of any county; [and]

29 (iii) The sheriff's department of any county that has highway traffic
30 patrol responsibilities; AND

31 (IV) IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY
32 DEPARTMENT OF TRANSPORTATION IF DESIGNATED BY THE COUNTY TO
33 IMPLEMENT THIS SECTION.

34 (8) "Work zone speed control system operator" means an individual who
35 has been trained and certified to operate a work zone speed control system and who is:

- (i) A police officer;
- (ii) A representative of a local [police department] AGENCY;
- (iii) A representative of a State police department; or
- (iv) A State Highway Administration contractor.

(d) (1) Subject to the provisions of paragraphs (2) through (4) of this subsection, a local [police department] AGENCY, State police department, or police department contractor shall mail to the owner liable under subsection (c) of this section a citation that shall include:

- (i) The name and address of the registered owner of the vehicle;
- (ii) The registration number of the motor vehicle involved in the violation;
- (iii) The violation charged;
- (iv) The location where the violation occurred;
- (v) The date and time of the violation;
- (vi) At least one recorded image of the vehicle with a data bar imprinted on each image that includes the speed of the vehicle and the date and time the image was recorded;
- (vii) The amount of the civil penalty imposed and the date by which the civil penalty should be paid;

(viii) **1. [A] EXCEPT AS PROVIDED IN ITEM 2 OF THIS ITEM, A** signed statement by a police officer employed by the local police department or State police department that, based on inspection of recorded images, the motor vehicle was being operated in violation of this subtitle; **OR**

2. IN MONTGOMERY COUNTY, IF THE COUNTY DESIGNATES THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION AS THE AGENCY RESPONSIBLE FOR IMPLEMENTING THIS SECTION IN THE COUNTY, A SIGNED STATEMENT BY AN EMPLOYEE OF THE AGENCY THAT, BASED ON INSPECTION OF THE RECORDED IMAGES, THE MOTOR VEHICLE WAS BEING OPERATED IN VIOLATION OF THIS SUBTITLE;

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

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

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

1. Is an admission of liability;
2. May result in the refusal to register the motor vehicle; and
3. May result in the suspension of the motor vehicle registration.

(2) The local [police department] AGENCY or State police department may mail a warning notice instead of a citation to the owner liable under subsection (c) of this section.

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

(e) (1) (I) [A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A certificate alleging that the violation of this subtitle occurred and the requirements under subsection (b) of this section have been satisfied, sworn to, or affirmed by a police officer employed by the local [police department] AGENCY or State police department, based on inspection of recorded images produced by a work zone speed control system, shall be evidence of the facts contained in the certificate and shall be admissible in a proceeding alleging a violation under this section without the presence or testimony of the work zone speed control system operator who performed the requirements under subsection (b) of this section.

(II) IN MONTGOMERY COUNTY, IF THE COUNTY DESIGNATES THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION AS THE AGENCY RESPONSIBLE FOR IMPLEMENTING THIS SECTION IN THE COUNTY, A CERTIFICATE ALLEGING THAT THE VIOLATION OF THIS SUBTITLE OCCURRED AND THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION HAVE BEEN SATISFIED, SWORN TO OR AFFIRMED BY AN EMPLOYEE OF THE AGENCY, BASED ON INSPECTION OF RECORDED IMAGES PRODUCED BY A SPEED MONITORING SYSTEM, SHALL BE EVIDENCE OF THE FACTS CONTAINED IN THE CERTIFICATE AND SHALL BE ADMISSIBLE IN A PROCEEDING ALLEGING A VIOLATION UNDER THIS SECTION WITHOUT THE PRESENCE OR TESTIMONY OF THE SPEED MONITORING SYSTEM OPERATOR WHO PERFORMED THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION.

1 (i) In consultation with local [police departments] **AGENCIES** and State police
2 departments, the Chief Judge of the District Court shall adopt procedures for the issuance
3 of citations, the trial of civil violations, and the collection of civil penalties under this
4 section.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2022.