

SENATE BILL 41

R5, L2

(PRE-FILED)

0lr0559
CF HB 50

By: **Senator Lam**

Requested: August 23, 2019

Introduced and read first time: January 8, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County – Vehicle Height Monitoring Systems**

3 FOR the purpose of authorizing the use of certain vehicle height monitoring systems in
4 Baltimore County to enforce certain State and local laws restricting the presence of
5 certain vehicles during certain times; applying to Baltimore County certain
6 provisions of law relating to vehicle height monitoring systems; defining a certain
7 term; making a stylistic and a technical change; making conforming changes;
8 providing for the application of this Act; and generally relating to imposing liability
9 on owners of motor vehicles recorded while being operated in violation of a State or
10 local law restricting the presence of vehicles during certain times.

11 BY repealing and reenacting, without amendments,
12 Article – Courts and Judicial Proceedings
13 Section 7–302(e)
14 Annotated Code of Maryland
15 (2013 Replacement Volume and 2019 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Transportation
18 Section 24–111.3
19 Annotated Code of Maryland
20 (2012 Replacement Volume and 2019 Supplement)

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

23 **Article – Courts and Judicial Proceedings**

24 7–302.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(e) (1) A citation issued pursuant to § 21–202.1, § 21–706.1, § 21–809, § 21–810, or § 24–111.3 of the Transportation Article shall provide that the person receiving the citation may elect to stand trial by notifying the issuing agency of the person’s intention to stand trial at least 5 days prior to the date of payment as set forth in the citation. On receipt of the notice to stand trial, the agency shall forward to the District Court having venue a copy of the citation and a copy of the notice from the person who received the citation indicating the person’s intention to stand trial. On receipt thereof, the District Court shall schedule the case for trial and notify the defendant of the trial date under procedures adopted by the Chief Judge of the District Court.

(2) A citation issued as the result of a vehicle height monitoring system, a traffic control signal monitoring system, or a speed monitoring system, including a work zone speed control system, controlled by a political subdivision or a school bus monitoring camera shall provide that, in an uncontested case, the penalty shall be paid directly to that political subdivision. A citation issued as the result of a traffic control signal monitoring system or a work zone speed control system controlled by a State agency, or as a result of a vehicle height monitoring system, a traffic control signal monitoring system, a speed monitoring system, or a school bus monitoring camera in a case contested in District Court, shall provide that the penalty shall be paid directly to the District Court.

(3) Civil penalties resulting from citations issued using a vehicle height monitoring system, traffic control signal monitoring system, speed monitoring system, work zone speed control system, or school bus monitoring camera that are collected by the District Court shall be collected in accordance with subsection (a) of this section and distributed in accordance with § 12–118 of the Transportation Article.

(4) (i) From the fines collected by a political subdivision as a result of violations enforced by speed monitoring systems or school bus monitoring cameras, a political subdivision:

1. May recover the costs of implementing and administering the speed monitoring systems or school bus monitoring cameras; and

2. Subject to subparagraphs (ii) and (iii) of this paragraph, may spend any remaining balance solely for public safety purposes, including pedestrian safety programs.

(ii) 1. For any fiscal year, if the balance remaining from the fines collected by a political subdivision as a result of violations enforced by speed monitoring systems, after the costs of implementing and administering the systems are recovered in accordance with subparagraph (i)1 of this paragraph, is greater than 10% of the total revenues of the political subdivision for the fiscal year, the political subdivision shall remit any funds that exceed 10% of the total revenues to the Comptroller.

2. The Comptroller shall deposit any money remitted under this subparagraph to the General Fund of the State.

(iii) The fines collected by Prince George's County as a result of violations enforced by speed monitoring systems on Maryland Route 210 shall be remitted to the Comptroller for deposit into the Criminal Injuries Compensation Fund under § 11-819 of the Criminal Procedure Article.

(5) From the fines collected by Baltimore City as a result of violations enforced by vehicle height monitoring systems, Baltimore City may:

(i) Recover the costs of implementing and administering the vehicle height monitoring systems; and

(ii) Spend the remaining balance solely on roadway improvements.

Article – Transportation

24-111.3.

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

(2) **“LOCAL LAW ENFORCEMENT AGENCY” MEANS A LAW ENFORCEMENT AGENCY OF A LOCAL JURISDICTION THAT IS AUTHORIZED TO ISSUE A CITATION FOR A VIOLATION OF THE MARYLAND VEHICLE LAW OR OF LOCAL TRAFFIC LAWS OR REGULATIONS.**

(3) “Owner” means the registered owner of a motor vehicle.

~~[(3)]~~ (4) “Recorded image” means an image recorded by a vehicle height monitoring system:

(i) On:

1. A photograph;

2. A microphotograph;

3. An electronic image;

4. Videotape; or

5. Any other medium; and

(ii) Showing:

1. The front or side of a motor vehicle or combination of vehicles;

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

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

[(4)] (5) “Vehicle height monitoring system” means a device with one or more motor vehicle sensors that is capable of producing recorded images of vehicles whose height exceeds a predetermined limit.

(b) THIS SECTION APPLIES ONLY IN BALTIMORE CITY AND BALTIMORE COUNTY.

(C) (1) A vehicle height monitoring system may be used to record images of vehicles traveling on a highway in **[Baltimore City] A LOCAL JURISDICTION** under this section only if the use of vehicle height monitoring systems is authorized by **[an ordinance] LOCAL LAW** adopted by the **[Baltimore City Council] GOVERNING BODY OF THE LOCAL JURISDICTION** after reasonable notice and a public hearing.

(2) Before **[Baltimore City] A LOCAL JURISDICTION** places or installs a vehicle height monitoring system at a particular location, it shall:

(i) Conduct an analysis to determine the appropriateness of the location; and

(ii) Obtain the approval of the **[Baltimore City Police Commissioner] CHIEF LAW ENFORCEMENT OFFICER OF THE LOCAL LAW ENFORCEMENT AGENCY** or the **[Commissioner’s] CHIEF LAW ENFORCEMENT OFFICER’S** designee.

(3) Before activating a vehicle height monitoring system, **[Baltimore City] A LOCAL JURISDICTION** shall:

(i) Publish notice of the location of the vehicle height monitoring system on its **[Web site] WEBSITE** and in a newspaper of general circulation in the jurisdiction; and

(ii) Ensure that all signs stating restrictions on the presence of certain vehicles during certain times approaching and within the segment of highway on which the vehicle height monitoring system is located include signs that:

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

2. Indicate that a vehicle height monitoring system is in use.

1 **[(c)] (D)** A vehicle height monitoring system operator shall fill out and sign a
2 daily set-up log for a vehicle height monitoring system that:

3 (1) States that the operator successfully performed the
4 manufacturer-specified self-test of the vehicle height monitoring system before producing
5 a recorded image;

6 (2) Shall be kept on file; and

7 (3) Shall be admitted as evidence in any court proceeding for a violation of
8 this section.

9 **[(d)] (E)** (1) Unless the driver of the motor vehicle or combination of vehicles
10 received a citation from a police officer at the time of the violation, the owner of a motor
11 vehicle or combination of vehicles is subject to a civil penalty if the motor vehicle or
12 combination of vehicles is recorded by a vehicle height monitoring system while being
13 operated in violation of a State or local law restricting the presence of certain vehicles
14 during certain times.

15 (2) A civil penalty under this subsection may not exceed:

16 (i) For a second violation by the owner of the motor vehicle, \$250;
17 and

18 (ii) For a third or subsequent violation by the owner of the motor
19 vehicle, \$500.

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

21 (i) A uniform citation form consistent with **[subsection (d)(1)]**
22 **PARAGRAPHS (1) AND (2)** of this **[section] SUBSECTION** and § 7–302 of the Courts Article;
23 and

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

26 **[(e)] (F)** (1) Subject to the provisions of paragraphs (2) and (3) of this
27 subsection, **[the Baltimore City Police Department] A LOCAL LAW ENFORCEMENT**
28 **AGENCY** or, **IN BALTIMORE CITY**, the Baltimore City Department of Transportation shall
29 mail to an owner liable under this section a citation that shall include:

30 (i) The name and address of the registered owner of the motor
31 vehicle;

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

violation;

(iii) The violation charged;

(iv) The location at which the violation occurred;

(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 should be paid;

(viii) A signed statement by a duly authorized law enforcement officer commissioned by the [Baltimore City Police Department] **LOCAL LAW ENFORCEMENT AGENCY** that, based on inspection of the recorded image, the motor vehicle or combination of vehicles was being operated in violation of a State or local law restricting the presence of certain vehicles during certain times;

(ix) A statement that the recorded image is evidence of the violation;

(x) Information advising the owner 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 owner alleged to be liable under this section that failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability.

(2) [The Baltimore City Police Department] **A LOCAL LAW ENFORCEMENT AGENCY** or, **IN BALTIMORE CITY**, the Baltimore City Department of Transportation shall, for a first violation, mail a warning notice instead of a citation to an owner liable under this section.

(3) A citation issued under this section shall be mailed no later than 30 days after the alleged violation.

(4) A person who receives a citation under this section may:

(i) Pay the civil penalty, in accordance with instructions on the citation, directly to [Baltimore City] **THE LOCAL JURISDICTION**; or

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

[(f)] (G) (1) A certificate alleging that a violation of a State or local law restricting the presence of certain vehicles during certain times occurred and that the

requirements under subsections ~~[(b)]~~ **(C)** and ~~[(c)]~~ **(D)** of this section have been affirmed by a duly authorized law enforcement officer commissioned by ~~[the Baltimore City Police Department]~~ **A LOCAL LAW ENFORCEMENT AGENCY**, based on inspection of the recorded image produced by the vehicle height monitoring system, shall be:

(i) Evidence of the facts contained in the certificate; and

(ii) Admissible in a proceeding alleging a violation under this section without the presence or testimony of the vehicle height monitoring system operator.

(2) If a person who received a citation under this section desires the vehicle height monitoring system operator to be present and testify at trial, the person shall notify the court and the State in writing no later than 20 days before trial.

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

~~[(g)]~~ **(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 the 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; and

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

(2) 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 shall submit proof that a police report regarding the stolen motor vehicle or registration plates was filed in a timely manner.

~~[(h)]~~ **(I)** 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;

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

(3) May not be treated as a parking violation for purposes of § 26–305 of this article; and

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

~~[(i)]~~ **(J)** In consultation with the ~~[Baltimore City Police Department]~~ **APPROPRIATE LOCAL LAW ENFORCEMENT AGENCY**, the Chief Judge of the District

1 Court shall adopt procedures for the issuance of citations, the trial of civil violations, and
2 the collection of civil penalties under this section.

3 **[(j)] (K)** (1) **[The Baltimore City Police Department]** **A LOCAL LAW**
4 **ENFORCEMENT AGENCY** or, **IN BALTIMORE CITY**, the Baltimore City Department of
5 Transportation, or a contractor designated by the **[Baltimore City Police Department]**
6 **LOCAL LAW ENFORCEMENT AGENCY** or, **IN BALTIMORE CITY**, the Baltimore City
7 Department of Transportation, shall administer and process civil citations issued under
8 this section in coordination with the District Court.

9 (2) If a contractor operates a vehicle height monitoring system on behalf of
10 **[Baltimore City]** **A LOCAL JURISDICTION**, the contractor's fee may not be contingent on
11 the number of citations issued or paid.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2020.