

## Article - Transportation

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§21-809.

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

(2) "Agency" means:

(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) 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.

(3) (i) "Erroneous violation" means a potential violation submitted by a speed monitoring system contractor for review by an agency that is apparently inaccurate based on a technical variable that is under the control of the contractor.

(ii) "Erroneous violation" includes a potential violation based on:

1. A recorded image of a registration plate that does not match the registration plate issued for the motor vehicle in the recorded image;

2. A recorded image that shows a stopped vehicle or no progression;

3. An incorrectly measured speed for a motor vehicle;

4. A measured speed of a motor vehicle that is below the threshold speed that would subject the owner to a civil citation under this section;

5. A recorded image that was taken outside of the hours and days that speed monitoring systems are authorized for use in school zones; and

6. A recorded image that was taken by a speed monitoring system with an expired calibration certificate.

(4) (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 rental or leasing company; or

2. A holder of a special registration plate issued under Title 13, Subtitle 9,

Part III of this article.

(5) "Program administrator" means an employee or a representative of the local jurisdiction designated by the local jurisdiction to oversee a contract with a speed monitoring system contractor.

(6) "Recorded image" means an image recorded by a speed 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 rear of a motor vehicle;

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

(7) "School zone" means a designated roadway segment within up to a half-mile radius of a school for any of grades kindergarten through grade 12 where school-related activity occurs, including:

- (i) Travel by students to or from school on foot or by bicycle; or
- (ii) The dropping off or picking up of students by school buses or other vehicles.

(8) "Speed monitoring system" means 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.

(9) "Speed monitoring system operator" means a representative of an agency or contractor that operates a speed monitoring system.

(b) (1) (i) A speed monitoring system 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.

(ii) Before a county may use a speed monitoring system on a State highway at a location within a municipal corporation, the county shall:

- 1. Obtain the approval of the State Highway Administration;
- 2. Notify the municipal corporation of the State Highway Administration's approval of the use of a speed monitoring system at that location; and
- 3. Grant the municipal corporation 60 days from the date of the county's notice to the municipal corporation to enact an ordinance authorizing the municipal corporation instead of the county to use a speed monitoring system at that location.

(iii) 1. This subparagraph applies only in Prince George's County.  
2. In the county, a municipal corporation may implement and use a speed monitoring system consistent with the requirements of this subsection on a county highway at a location within its corporate limits if the municipal corporation:

A. Submits to the county a plan describing the boundary of the applicable school zone and the proposed location of the speed monitoring system; and

B. Requests and receives permission from the county to use the speed monitoring system at the proposed location.

3. If the county fails to respond to the request within 60 days, the municipal corporation may implement and use the speed monitoring system as described in the plan submission.

4. The county may not:

A. Unreasonably deny a request under this subparagraph; or

B. Place exactions, fees, or unreasonable restrictions on the implementation and use of a speed monitoring system under this subparagraph.

5. The county shall state in writing the reasons for any denial of a request under this subparagraph.

6. A municipal corporation may contest in the circuit court a county denial of a request under this subparagraph.

(iv) In Prince George's County, if a municipal corporation has established a school zone that is within one-quarter mile of a school zone established in another municipal corporation, the municipal corporation may not implement or use a speed monitoring system in that school zone unless it has obtained the approval of the other municipal corporation.

(v) An ordinance or resolution adopted by the governing body of a local jurisdiction under this paragraph shall provide that, if the local jurisdiction moves or places a mobile or stationary speed monitoring system to or at a location where a speed monitoring system had not previously been moved or placed, the local jurisdiction may not issue a citation for a violation recorded by that speed monitoring system:

1. Until signage is installed in accordance with subparagraph (vii) of this paragraph; and

2. For at least the first 15 calendar days after the signage is installed.

(vi) This section applies to a violation of this subtitle recorded by a speed monitoring system that meets the requirements of this subsection and has been placed:

1. In Montgomery County, on a highway in a residential district, as defined in § 21–101 of this title, with a maximum posted speed limit of 35 miles per hour, which speed limit was established using generally accepted traffic engineering practices;

2. In a school zone with a posted speed limit of at least 20 miles per hour; or

3. In Prince George's County, on that part of a highway located within the grounds of an institution of higher education as defined in § 10–101(h) of the Education Article, or within one-half mile of the grounds of a building or property used by the institution of higher education where generally accepted traffic and engineering practices indicate that motor vehicle, pedestrian, or bicycle traffic is substantially generated or influenced by the institution of higher education.

(vii) Before activating a speed monitoring system, the local jurisdiction shall:

1. Publish notice of the location of the speed monitoring system on its website and in a newspaper of general circulation in the jurisdiction;

2. Ensure that each sign that designates a school zone is proximate to a sign that:

A. Indicates that speed monitoring systems are in use in the school zone; and

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

3. With regard to a speed monitoring system established based on proximity to an institution of higher education under paragraph (1)(vi)3 of this subsection, ensure that all speed limit signs approaching and within the segment of highway on which the speed monitoring system is located include signs that:

A. 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

B. Indicate that a speed monitoring system is in use.

(viii) A speed monitoring system in a school zone may operate only Monday through Friday between 6:00 a.m. and 8:00 p.m.

(ix) 1. A local jurisdiction that authorizes a program of speed monitoring systems shall designate an official or employee to investigate and respond to questions or concerns about the local jurisdiction's speed monitoring system program.

2. A. The local designee shall review a citation generated by a speed monitoring system if the person who received the citation requests review before the deadline for contesting liability under this section.

B. If the local designee determines that the citation is an erroneous violation, the local designee shall void the citation.

C. If the local designee determines that a person did not receive notice of a citation issued under this section due to an administrative error, the local designee may resend the citation in accordance with subsection (d) of this section or void the citation.

D. A local designee that takes any action described under subparagraph C of this subparagraph shall notify the Administration of the action for the purpose of rescinding any administrative penalties imposed under subsection (g) of this section.

E. A local designee may not determine that a citation is an erroneous violation based solely on the dismissal of the citation by a court.

3. A local designee may not be employed by a speed monitoring system contractor or have been involved in any review of a speed monitoring system citation, other than review of a citation under this subparagraph.

4. On receipt of a written question or concern from a person, the local designee shall provide a written answer or response to the person within a reasonable time.

5. A local jurisdiction shall make any written questions or concerns received under this subparagraph and any subsequent written answers or responses available for public inspection.

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

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

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

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

(i) States that the speed monitoring system operator successfully performed or reviewed and evaluated the manufacturer-specified daily self-test of the speed monitoring system prior to producing a recorded image;

(ii) Shall be kept on file; and

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

(4) (i) A speed monitoring system shall undergo an annual calibration check performed by an independent calibration laboratory that is:

1. Selected by the local jurisdiction; and

2. Unaffiliated with the manufacturer of the speed monitoring system.

(ii) The independent calibration laboratory shall issue a signed certificate of calibration after the annual calibration check that:

1. Shall be kept on file; and

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

(5) If a local jurisdiction authorizes a program of speed monitoring systems under this section:

(i) The local jurisdiction shall designate a program administrator who may not be an employee or representative of the speed monitoring system contractor; and

(ii) The contract with the speed monitoring system contractor shall include the following provisions:

1. For potential violations submitted by a contractor for review by an agency, if more than 5% of the violations in a calendar year are erroneous violations, then the contractor shall be subject to liquidated damages for each erroneous violation equal to at least 50% of the fine amount for the erroneous violation, plus any reimbursements paid by the local jurisdiction; and

2. The local jurisdiction may cancel a contract with a contractor if the contractor violates the contract by submitting erroneous violations to the agency that exceed a threshold specified in the contract or violates the law in implementing the contract.

(6) (i) The Maryland Police Training Commission, in consultation with the State Highway Administration and other interested stakeholders, shall develop a training program concerning the oversight and

administration of a speed monitoring program by a local jurisdiction, including a curriculum of best practices in the State.

(ii) 1. A program administrator shall participate in the training program established under this paragraph before a local jurisdiction initially implements a new speed monitoring program and subsequently at least once every 2 years.

2. A program administrator for a program in existence on June 1, 2014, shall initially participate in the training program on or before December 31, 2014, and subsequently at least once every 2 years.

3. If a local jurisdiction designates a new program administrator, the new program administrator shall participate in the next available training program.

(c) (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 (f)(4) of this section, the driver of a motor vehicle is subject to a civil penalty if the motor vehicle is recorded by a speed monitoring system while being operated in violation of this subtitle.

(2) A civil penalty under this subsection may not exceed \$40.

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

(i) A uniform citation form consistent with subsection (d)(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.

(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:

(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) 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 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;

(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 by the Administration to register the motor vehicle;

and

3. May result in the suspension of the motor vehicle registration.

(2) An agency 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, an agency may not mail a citation to a person who is not an owner.

(4) Except as provided in subsections (b)(1)(ix) and (f)(4) of this section, a citation issued under this section shall be mailed no later than 2 weeks after the alleged violation if the vehicle is registered in this State, and 30 days after the alleged violation if the vehicle is registered in another state.

(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 political subdivision; or

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

(e) (1) 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 duly authorized law enforcement officer employed by or under contract with an 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.

(2) If a person who received a citation under subsection (d) of this section desires the speed 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.

(f) (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;

(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) 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.

(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 a letter, sworn to or affirmed by the person and mailed by certified mail, return receipt requested, that:

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

(ii) Includes any other corroborating evidence.

(4) (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 (3) of this subsection identifying the person driving the vehicle at the time of the violation, the clerk of the court shall provide to the agency issuing the citation a copy of any evidence substantiating who was operating the vehicle at the time of the violation.

(ii) On receipt of substantiating evidence from the District Court under subparagraph (i) of this paragraph, an agency may issue a citation as provided in subsection (d) of this section to the person who 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.

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

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

- (2) May suspend the registration of the motor vehicle cited for the violation.
- (h) 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 or driver of the vehicle;
  - (3) May 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) In consultation with the appropriate local government agencies, the Chief Judge of the District Court shall adopt procedures for the issuance of citations, the trial of civil violations, and the collection of civil penalties under this section.
- (j) (1) An agency or an agent or contractor designated by the agency shall administer and process civil citations issued under this section in coordination with the District Court.
  - (2) If a contractor in any manner operates a speed monitoring system or administers or processes citations generated by a speed monitoring system on behalf of a local jurisdiction, the contractor's fee may not be contingent on a per–ticket basis on the number of citations issued or paid.
- (k) (1) On or before December 31 of each year, the Maryland Police Training Commission shall:
  - (i) Compile and make publicly available a report for the previous fiscal year on each speed monitoring system program operated by a local jurisdiction under this section; and
  - (ii) Submit the report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.
- (2) The report shall include:
  - (i) The total number of citations issued;
  - (ii) The number of citations issued and the number voided as erroneous violations for each camera;
  - (iii) The gross revenue generated by the program;
  - (iv) The expenditures incurred by the program;
  - (v) The net revenue generated by the program;
  - (vi) The total amount of any payments made to a contractor under the program;
  - (vii) A description of how the net revenue generated by the program was used;
  - (viii) The number of employees of the local jurisdiction involved in the program;
  - (ix) The type of speed monitoring system used by the local jurisdiction;
  - (x) The locations at which each speed monitoring system was used in the local jurisdiction;
  - (xi) The activation start and stop dates of each speed monitoring system for each location at which it was used; and
  - (xii) The number of citations issued by each speed monitoring system at each location.
- (3) Each local jurisdiction with a speed monitoring system program shall submit the information required under paragraph (2) of this subsection to the Commission by October 31 of each year and assist the Commission in the preparation of the annual report.

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