

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1130 (Delegate Palakovich Carr)
Environment and Transportation

Vehicle Laws - Noise Abatement Monitoring Systems - Authorization, Use, and Penalties

This bill authorizes local governments to use noise abatement monitoring systems on State and local highways to record violations of State law governing maximum sound limits of motor vehicles. Any such system must be authorized by local law by September 30, 2028. Unless the driver of the motor vehicle received a citation from a police officer at the time of a violation, the owner or driver of a motor vehicle is subject to a civil penalty of up to \$70. However, for a first offense – and during the first 90 days of operation of any system – a warning notice *must* be issued in place of a citation. The bill expands existing statutory provisions governing the collection and disposition of fines collected as a result of automated monitoring systems to apply to noise abatement monitoring systems. If, at the end of September 30, 2028, no governing body of a local jurisdiction has authorized the use of a noise abatement monitoring system in that jurisdiction, the bill abrogates. The State Highway Administration (SHA) must notify the Department of Legislative Services (DLS), by October 5, 2028, as to whether any local jurisdiction has authorized a noise abatement monitoring system.

Fiscal Summary

State Effect: Because the bill is authorizing in nature, the impact on State finances generally depends on the extent to which the systems are deployed, as discussed below. Nevertheless, the District Court must be prepared should any systems be deployed, with programming costs totaling as much as \$75,300 in FY 2024 only, as discussed below. The District Court can likely adopt procedures as required under the bill with existing resources.

Local Effect: The bill is authorizing in nature. The impact on local government finances depends on the extent to which the systems are deployed, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary:

Definitions

“Agency” means (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) for a municipal corporation that does not maintain a police force, an agency established or designated by the municipal corporation to implement a program of noise abatement monitoring systems in accordance with the bill.

“Noise abatement monitoring system” means a mobile or fixed vehicle sensor that works in conjunction with a noise measuring device, such as a decibel reader, that automatically produces two or more photographs, two or more microphotographs, a videotape, or other recorded images of a motor vehicle at the time the motor vehicle is operated during the commission of a violation.

“Owner” means the registered owner of a motor vehicle or a lessee of a motor vehicle under a lease of six months or more. “Owner” does not include a motor vehicle leasing company or a specified holder of a special registration plate.

“Recorded image” means an image recorded by a noise abatement monitoring system on (1) a photograph, microphotograph, electronic image, videotape, or any other medium and (2) showing the rear of a motor vehicle, the decibel level recorded for the motor vehicle at the time of recordation, and (on at least one image or portion of tape) a clear and legible identification of the entire registration plate number of the vehicle.

A “violation” refers to any violation of [§ 22-602 of the Transportation Article](#), which prohibits a person from driving (or permitting to be driven) a motor vehicle on a highway in violation of maximum sound limits established under State law by the Motor Vehicle Administration (MVA).

Issuance of Citations and Collection and Disposition of Fines

The bill expands existing statutory provisions governing the issuance of citations and the collection and disposition of fines collected as a result of automated monitoring systems to apply to noise abatement monitoring systems. Accordingly, the District Court has exclusive original civil jurisdiction in a civil infraction under the bill. In consultation with appropriate local government agencies, the Chief Judge of the District Court must adopt procedures for the issuance of citations, trials for violations, and the collection of civil penalties imposed under the bill. Further, a citation issued as a result of a noise abatement monitoring system

controlled by a political subdivision must provide that, in an uncontested case, the penalty be paid directly to the political subdivision; a citation issued as a result of a noise abatement monitoring system in a case contested in District Court must provide that the penalty be paid directly to the District Court. Civil penalties resulting from citations issued using a noise abatement monitoring system that are collected by the District Court must be collected and distributed in accordance with existing statutory provisions.

A political subdivision is authorized to recover the costs of implementing and administering noise abatement monitoring systems from fines collected by the political subdivision as a result of violations enforced by noise abatement monitoring systems. Additionally, a political subdivision may spend the remaining balance solely for public safety purposes, including pedestrian safety programs, as specified under existing statutory provisions.

Admissibility of Recorded Images as Evidence

Consistent with existing evidentiary provisions pertaining to images recorded by automated monitoring systems, a recorded image of a motor vehicle produced by a noise abatement monitoring system in accordance with the bill is admissible in a proceeding concerning a civil citation issued under the bill for a violation of specified offenses without authentication. In any other judicial proceeding, a recorded image produced by a noise abatement monitoring system is admissible as otherwise provided by law.

Authorized Use of Noise Abatement Monitoring Systems

An agency may use noise abatement monitoring systems (1) in a local jurisdiction (*i.e.*, on a local road) or (2) on State highways, if authorized by SHA. A noise abatement monitoring system may not be used in a local jurisdiction unless its use is authorized by the governing body of the local jurisdiction by local law enacted after reasonable notice and a public hearing. A local jurisdiction that establishes a program must bear any implementation costs.

Required Approval and Notice

Before a county may use a noise abatement monitoring system on State highways located within a municipal corporation, the county must (1) obtain the approval of SHA; (2) notify the municipal corporation of SHA's approval; and (3) grant the municipal corporation 60 days from the date of the county's notice to enact an ordinance authorizing the municipal corporation, instead of the county, to use a noise abatement monitoring system.

Before activating a noise abatement monitoring system, the local jurisdiction must publish notice of the system's location on its website.

Required Signage

A local jurisdiction that uses a noise abatement monitoring system must ensure that each system is proximate to a sign that (1) indicates that noise abatement monitoring systems are in use in the area and (2) conforms with specifications adopted by SHA.

Local Designee and Review of Contested Warnings and Citations

A local jurisdiction that authorizes a program must designate an official or employee to investigate and respond to questions or concerns about the program.

The bill requires a local designee to review contested warning notices or citations (as long as the notice or citation is contested within the appropriate timeframe). The bill establishes several requirements related to how a local designee must handle the contested warning notices or citations. Specifically, the local designee must review the contested warning or citation and, if the designee determines it was erroneously issued, must void it. If the designee determines no error was made, the designee may resend the warning notice or citation *or* void it. MVA must be notified of any such action.

The bill prohibits a local designee from being employed by a system contractor (or from having been involved in any review of a noise abatement monitoring system warning notice or citation, other than the review process noted above).

Upon receipt of a written question or concern from a person, the local designee must provide a written answer or response to the person within a reasonable time. Any such questions or concerns (as well as any subsequent written answers or responses) must be made available for public inspection.

The bill also establishes training requirements for system operators, including the completion of daily logs and the performance of calibration checks as specified by an independent laboratory.

Civil Penalty and Related Penalties

Unless the driver of the motor vehicle received a citation from a police officer at the time of the violation, the owner or driver of a motor vehicle is subject to a civil penalty if recorded by a noise abatement monitoring system during the commission of a violation. For a first offense, a person is subject to a warning notice; for a second or subsequent offense, the person is subject to a civil penalty of up to \$70. However, an agency is generally authorized by the bill to mail a warning notice in lieu of a citation, except during the first 90 days of operation, when *only* warnings may be issued for violations.

The District Court must prescribe a uniform citation form, as specified, and a civil penalty, which must be indicated on the citation, to be paid by persons who choose to prepay the civil penalty without appearing in District Court.

If the citation is not paid and the violation not contested, MVA may refuse to register or reregister or may suspend the registration of the motor vehicle. A violation for which a civil penalty is imposed is not a moving violation for the purpose of points assessment, may not be recorded on the driving record of the owner or driver of the vehicle, and may not be considered in the provision of motor vehicle insurance.

Requirements Related to Agency Issuance and Processing of Citations

Any agency, or an agent or contractor designated by the agency, must administer and process civil citations issued under the bill in coordination with the District Court. A contractor's fee may not be contingent on a pre-ticket basis on the number of citations issued or paid.

An agency generally must mail to the owner liable for a violation recorded by a noise abatement monitoring system a citation that includes specified information in accordance with the bill.

Generally, a citation must be issued within two weeks of the alleged violation (or 30 days after the alleged violation for vehicles registered in another state). A person who receives a citation may pay the civil penalty in accordance with the instructions on the citation or elect to stand trial.

Certifications Alleging a Violation

A certification alleging that a violation occurred, sworn to or affirmed by a duly authorized law enforcement officer employed by (or under contract with) an agency, based on the inspection of recorded images produced by a noise abatement monitoring system, is evidence of the facts contained in the certificate and is admissible in any proceeding concerning the alleged violation. A person who receives a citation may request a system operator to be present and testify at trial, but only if the person notifies the court within 20 days before the trial. Adjudication of liability must be based on a preponderance of the evidence.

Defense of Violations

The District Court may consider in defense of a violation (1) 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; (2) evidence

that the person named in the citation was not operating the vehicle at the time of the violation; (3) that the noise abatement monitoring system was malfunctioning at the time of the violation; or (4) any other issues and evidence that the District Court considers pertinent.

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 specified evidence identifying the person driving the vehicle at the time of the violation, the clerk of the court must provide the agency issuing the citation a copy of any evidence substantiating who was operating the vehicle at the time of the violation. The issuing agency may, within two weeks of receipt of such evidence, issue a citation to the person whom the evidence indicates was operating the vehicle at the time of the violation.

Current Law: A person is prohibited from driving (or permitting to be driven) a motor vehicle on a highway in violation of maximum sound limits established under State law. A violation is a misdemeanor with a maximum \$500 fine. The prepayment penalty is \$60.

State law authorizes the use of various automated monitoring systems, including traffic control system monitoring systems, speed monitoring systems, school bus monitoring systems, vehicle height monitoring systems, and work zone speed control systems.

State Revenues: To the extent the District Court collects fines for citations issued under the bill, general fund revenues increase. Any such impact depends on the extent to which noise abatement monitoring systems are deployed in the State, the amount of the fine established for a violation, and whether citations are contested.

State Expenditures: General fund expenditures for the District Court increase for programming changes necessary to collect payments for citations that may be issued under the bill. Programming-related costs total as much as \$75,300 in fiscal 2024. This estimate includes about 578 hours of reprogramming.

While DLS acknowledges the bill likely requires reprogramming changes, DLS also notes that the District Court may be able to make the programming changes at a lower cost, as District Court reprogramming estimates for previous automated monitoring system legislation were less significant than the above costs.

Local Fiscal Effect: To the extent that local jurisdictions deploy noise abatement monitoring systems, local government expenditures increase as a result of start-up costs, ongoing implementation costs, and for public safety purposes. Local revenues also increase to the extent local jurisdictions collect penalties from citations issued as a result of locally controlled noise abatement monitoring systems.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 229 (Senator Beidle) - Judicial Proceedings.

Information Source(s): Kent, Montgomery, and Worcester counties; Judiciary (Administrative Office of the Courts); Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2023
rh/ljm

Analysis by: Eric F. Pierce

Direct Inquiries to:
(410) 946-5510
(301) 970-5510