
CITY OF BALTIMORE

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Mayor



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March 17, 2022

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 22-0192 – Transit and Traffic – Impoundment or
Immobilization – Chronic Offenders

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 22-0192 for form and legal sufficiency. This bill is for the purpose of authorizing the Baltimore City Police Commissioner to impound or immobilize the vehicle of a person that qualifies under the law as a “chronic offender.”

The City is authorized to enforce certain parking violations through citation and impoundment. Md. Code Ann., Trans. § 26-301 (b) (authorizing the City to regulate parking and provide for citation and impoundment of vehicles in violation of those regulations). There is no similar authority to impound for moving, as opposed to parking, violations. The state enabling legislation for the speed monitoring cameras provides for civil penalties for a violation to be either prepaid or challenged in district court. Md. Code Ann., Trans. § 21-809 (c). Significantly, the law limits the impact of the violation on the driver in several ways. First, the laws provide that a violation will not be treated as a moving violation for the purpose of assessing points. § 21-809 (h)(1). Second, the violations will not appear on the record of the driver. § 21-809(h)(2). Third, the violation may be considered a parking violation “FOR PURPOSES OF 26-305” which is the mechanism by which the violation, if not paid, can be grounds to refuse to register the vehicle, which is a penalty described in section (g) of the law. § 21-809(h)(3). Finally, it further limits the liability of the violation by providing that it may not be considered in the provision of auto insurance. § 21-809 (h) (4).

Taken as a whole, this section of the state law evidences intent to lessen the impact of these violations on a driver, presumably due to the often-challenged reliability of the camera system.

Section (h)(3) of the state law implementing speed cameras says that violations “may be treated as a parking violation **for purposes of 26-305 of this article**” (failure to pay could result in the refusal to register the vehicle). The inclusion of “for the purposes of 26-305” requires that the violations be treated as parking violations only with regard to that section of state law dealing with registration penalties. This rule of “*inclusio unius est exclusio alterius*” (inclusion of one is

the exclusion of another) is a basic rule of statutory construction used by Maryland courts. *See, e.g., Guardian Life Ins. Co. of America v. U.S. Tower Services LTD.*, 122 Md. App. 550 (1998). Any other interpretation would render the language “for the purposes of 26-305” surplus and meaningless.

Therefore, violations of the speed monitoring law cannot be treated as a “parking” violations for purposes of our local law and the state law implementing speed camera systems in the City does not grant authority to the City to tow or boot for outstanding moving violations.

If the bill were amended to only include parking violations, although it would be similar to the state law, it would not be identical or duplicative (because it would not include moving violations nor would it impact vehicle registrations) and would be authorized by the City’s power to “regulate or prohibit the parking, standing and stopping of vehicles” through impoundment and citation and would therefore be approved if so amended. *See* COMAR 11.15.21.01 (defining chronic offender as the owner of a vehicle that has accumulated \$1,000 or more in parking violations in terms of its effect on vehicle registrations, incorporated to include speed camera violations through 21-809 (h)(3)) and 93 Md. Op. Atty. Gen. 31 (2008) (local laws that are duplicative of the Maryland vehicle law are preempted).

Very truly yours,



Ashlea Brown
Chief Solicitor

cc: James L. Shea, City Solicitor
Nina Themelis, Mayor’s Office of Government Relations
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Hilary Ruley, Chief Solicitor