

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB623

House of Origin	<input checked="" type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Enrolled

2. Patron: Deeds

3. Committee: Transportation

4. Title: Handheld speed monitoring devices.

5. Summary: Provides that the Department of State Police (VSP) and any local law enforcement agency may use handheld photo speed monitoring devices, as defined in the bill, to measure the speed of motor vehicles in highway work zones. The officer must be physically present in or around the highway work zone where a law enforcement vehicle is present and displaying lighted blue or blue combination lights to record images of vehicles that are traveling at speeds of at least 12 miles per hour above the posted highway work zone speed limit within such highway work zone. The bill requires a conspicuous sign to be placed within 1,000 feet of any highway work zone at which such a device is used, indicating the use of the device.

The operator of such a vehicle is liable for a civil penalty which shall not exceed \$125. Any civil penalties collected pursuant to this section resulting from a summons issued by a law enforcement officer employed by VSP shall be paid into the state treasury and allocated to VSP. For any fiscal year, if the total amount collected from such penalties is greater than 10 percent of VSP's budget after the cost of implementing and administering handheld photo speed monitoring devices are recovered, the state treasury shall allocate such moneys to the Literary Fund.

Civil penalties collected under this section issued by a law enforcement officer employed by a locality shall be paid to the local treasurer of such locality, who shall pay them into the general fund of the locality and allocate them to the relevant law enforcement agency. For any fiscal year, if the total amount collected from the penalties pursuant to this section resulting from summons issued by law enforcement officers employed by the locality is greater than 10 percent of the budget of the local law enforcement agency for the fiscal year, after the costs of implementing and administering handheld photo speed monitoring devices are recovered, the local treasurer shall allocate such moneys to the general fund of the locality. These penalties shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes.

If a handheld photo speed monitoring device is used, proof of such violations shall be evidenced by information obtained from the device. A certificate, or facsimile thereof, sworn to or affirmed by a law enforcement officer, based upon inspection of photographs,

microphotographs, videotapes, or other recorded images produced by the device, shall be prima facie evidence of the facts contained therein. In the prosecution of such violations, such prima facie evidence, together with proof that the defendant was at the time of such violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such person committed the violation. The bill provides for methods by which this presumption may be rebutted.

Summonses for violations of this section shall be executed by mailing first class a copy to the owner, lessee, or renter of the vehicle. The bill provides for the documentation that must be included in such mailing. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed pursuant to this section must provide the person summoned with at least 30 days from the mailing of the summons to inspect information collected by the device in connection with the violation. If a summons is not issued by a law enforcement agency within 14 days from the date of the violation, all information collected pertaining to the suspected violation shall be purged within 16 days from the violation date.

The bill provides that any information collected by such devices shall be limited exclusively to the information that is necessary for the enforcement of highway work zone speeding violations. Such information must be protected in a secure database and only be used for law enforcement purposes against violators of this section. Information must be purged from such database and not retained later than 60 days after the collection of any civil penalties. Any law enforcement agency using such device shall annually certify their compliance with this section and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles (DMV) or his designee. Any person who discloses information in violation of this section is subject to a civil penalty of \$1,000 per disclosure.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Preliminary. See below.

8. Fiscal Implications: The proposed legislation would allow law enforcement officers employed by the Department of State Police (VSP) to use handheld photo speed monitoring devices in highway work zones. Any civil penalties imposed from summonses issued by VSP officers are paid to the state treasury and allocated to VSP, up to 10 percent of the agency's budget in a fiscal year. Amounts that exceed 10 percent of the agency's budget are payable to the state's Literary Fund, after the costs of implementing and administering the devices are recovered by VSP. According to VSP, there is no anticipated fiscal impact on the agency's operations as a result of the provisions of this bill. It is currently not possible to estimate how much funding from civil penalties would be allocated to VSP or the Literary Fund, because it is not possible to determine how many summonses VSP would issue as a result of this legislation.

This bill would also require conspicuous signs to be placed within 1,000 feet of any highway work zone at which a handheld photo speed monitoring device is used, indicating use of the

device. According to the Department of Transportation (VDOT), the agency can absorb any potential additional cost for proper signage in its construction and maintenance budget.

According to the Department of Motor Vehicles (DMV), no impact is expected on the agency's operations as a result of the provisions of the proposed legislation.

This bill would also allow officers employed by local law enforcement agencies to use handheld photo speed monitoring devices in highway work zones in such localities. Any civil penalties imposed from summonses issued by local law enforcement officers are paid to the local treasury and allocated to the employing law enforcement agency, up to 10 percent of the agency's budget in a fiscal year. Amounts that exceed 10 percent of the agency's budget are payable to the general fund of the locality, after the costs of implementing and administering the devices are recovered by the local law enforcement agency. Any potential fiscal impact on local law enforcement agencies is indeterminate at this time. It is not currently possible to estimate how much funding for local law enforcement agencies and localities' general funds would be generated by the provisions of this bill.

- 9. Specific Agency or Political Subdivisions Affected:** Department of State Police, Department of Transportation, Department of Motor Vehicles, Courts, Local law enforcement agencies.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.