

The House Committee on Public Safety offers the following substitute to HB 182:

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
2 traffic, so as to improve enforcement of Uniform Rules of the Road; to regulate use of traffic
3 law compliance monitoring devices in enforcing certain such rules; to provide for the
4 misdemeanor of intentionally covering, concealing, or altering a license plate to evade
5 prosecution; to provide for related inspection of motor vehicle registration records; to provide
6 that certain maximum speeding fine limitations shall not apply to speeding in a school speed
7 zone; to change certain provisions relating to required observance of Uniform Rules of the
8 Road; to change certain provisions relating to obedience to traffic-control devices
9 requirements, presumptions, and enforcement by traffic-control signal monitoring devices;
10 to change certain provisions relating to traffic-control signal monitoring devices; to repeal
11 conflicting laws; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
15 amended by inserting a new Code section to read as follows:

16 "40-1-1.1.

17 (a) As used in this Code section, the term:

18 (1) 'Owner' means the registrant of a motor vehicle, except that such term shall not
19 include a motor vehicle rental company when a motor vehicle registered by such
20 company is being operated by another person under a rental agreement with such
21 company.

22 (2) 'Recorded images' means images recorded by a traffic-control signal monitoring
23 device:

24 (A) On:

25 (i) Two or more photographs;

26 (ii) Two or more microphotographs;

(iii) Two or more electronic images; or

(iv) Videotape; and

(B) Showing the view from the rear only of a motor vehicle apparently operated in disregard or disobedience of a CIRCULAR RED or RED ARROW traffic-control signal at any location or a maximum speed limit in a school zone and, on at least one such image or portion of tape, clearly revealing the number or other identifying designation of the license plate displayed on the rear of such motor vehicle.

(3) 'Traffic law compliance monitoring device' means a device with one or more motor vehicle sensors used to produce recorded images of motor vehicles being operated in disregard or disobedience of a CIRCULAR RED or RED ARROW traffic-control signal or a maximum speed limit in a school zone.

(b) Provisions of this chapter governing obedience to CIRCULAR RED or RED ARROW traffic-control signals may be enforced at any location as provided in this Code section, and provisions of this chapter governing maximum speed limits may be enforced in school zones up to one hour before, during, and up to one hour after normal hours of school operation on days when school is in session as provided in this Code section, pursuant to the use of traffic law compliance monitoring devices in accordance with Article 3 of Chapter 14 of this title.

(c) For the purpose of enforcement pursuant to this Code section:

(1) The driver of a motor vehicle shall be liable for a civil monetary penalty not to exceed \$100.00 if such vehicle is found, as evidenced by recorded images produced by a traffic law compliance monitoring device, to have been operated in disregard or disobedience of a CIRCULAR RED or RED ARROW traffic-control signal in violation of Code Section 40-6-20 or of a maximum speed limit in a school zone established by or pursuant to Article 9 of this chapter and such disregard or disobedience was not otherwise authorized by law;

(2) The law enforcement agency for which such device is permitted shall send by first-class mail addressed to the owner of the motor vehicle postmarked not later than ten days after the date of the alleged violation:

(A) A citation for the violation, which shall include the date and time of the violation, the location of the violation, the amount of the civil monetary penalty imposed, and the date by which the civil monetary penalty shall be paid;

(B) A copy of the recorded image;

(C) A copy of a certificate sworn to or affirmed by a trained law enforcement officer or a technician employed by a law enforcement agency for which such device is authorized and stating that, based upon inspection of recorded images, the owner's motor vehicle was operated in disregard or disobedience of a CIRCULAR RED or RED

1 ARROW traffic-control signal in violation of Code Section 40-6-20 or of a maximum
2 speed limit in a school zone established by or pursuant to Article 9 of this chapter and
3 that such disregard or disobedience was not otherwise authorized by law;

4 (D) A statement of the inference provided by paragraph (4) of this subsection and of
5 the means specified therein by which such inference may be rebutted;

6 (E) Information advising the owner of the motor vehicle of the manner and time in
7 which liability as alleged in the citation may be contested in court; and

8 (F) Warning that failure to pay the civil monetary penalty or to contest liability in a
9 timely manner shall waive any right to contest liability and result in a civil monetary
10 penalty;

11 provided, however, that only warning notices and not complaints for violations shall be
12 sent during the 30 day period commencing with the installation of a traffic law
13 compliance monitoring device at such location;

14 (3) Proof that a motor vehicle was operated in disregard or disobedience of a
15 CIRCULAR RED or RED ARROW traffic-control signal in violation of Code Section
16 40-6-20 or of a maximum speed limit in a school zone established by or pursuant to
17 Article 9 of this chapter shall be evidenced by recorded images produced by a traffic law
18 compliance monitoring device authorized pursuant to Article 3 of Chapter 14 of this title.
19 A copy of a certificate sworn to or affirmed by a trained law enforcement officer or a
20 technician employed by a law enforcement agency for which such device is authorized
21 and stating that, based upon inspection of recorded images, a motor vehicle was operated
22 in disregard or disobedience of a CIRCULAR RED or RED ARROW traffic-control
23 signal in violation of Code Section 40-6-20 or of a maximum speed limit in a school zone
24 established by or pursuant to Article 9 of this chapter and that such disregard or
25 disobedience was not otherwise authorized by law shall be prima-facie evidence of the
26 facts contained therein; and

27 (4) Liability under this Code section shall be determined based upon preponderance of
28 the evidence. Prima-facie evidence that the vehicle described in the complaint issued
29 pursuant to this Code section was operated in disregard or disobedience of a CIRCULAR
30 RED or RED ARROW traffic-control signal in violation of Code Section 40-6-20 or of
31 a maximum speed limit in a school zone established by or pursuant to Article 9 of this
32 chapter, together with proof that the defendant was at the time of such violation the
33 registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that
34 such owner of the vehicle was the driver of the vehicle at the time of the alleged
35 violation. Such an inference may be rebutted if the owner of the vehicle:

36 (A) Testifies under oath in open court that he or she was not the operator of the vehicle
37 at the time of the alleged violation;

1 (B) Presents to the court prior to the return date established on the complaint a certified
2 copy of a police report showing that the vehicle had been reported to the police as
3 stolen prior to the time of the alleged violation; or

4 (C) Submits to the court prior to the return date established on the complaint a sworn
5 notarized statement identifying the name of the operator of the vehicle at the time of
6 the alleged violation.

7 (d) A violation for which a civil penalty is imposed pursuant to this Code section shall not
8 be considered a moving traffic violation for the purpose of points assessment under Code
9 Section 40-5-57. Such violation shall be deemed noncriminal, and imposition of a civil
10 penalty pursuant to this Code section shall not be deemed a conviction and shall not be
11 made a part of the operating record of the person upon whom such liability is imposed, nor
12 shall it be used for any insurance purposes in the provision of motor vehicle insurance
13 coverage.

14 (e) If a person summoned by first-class mail fails to appear on the date of return set out in
15 the citation and has not paid the penalty for the violation or filed a police report or affidavit
16 pursuant to subparagraph (c)(4)(B) or (c)(4)(C) of this Code section, the person summoned
17 shall have waived the right to contest the violation and shall be liable for a civil monetary
18 penalty in an amount fixed by ordinance of the county or municipality having jurisdiction
19 over the offense.

20 (f) Except as otherwise provided in this Code section, the provisions of law governing
21 jurisdiction, procedure, defenses, adjudication, appeal, and payment and distribution of
22 penalties otherwise applicable to violations of this chapter shall apply to enforcement under
23 this Code section; provided, however, that any appeal from superior or state court shall be
24 by application in the same manner as that provided by Code Section 5-6-35.

25 (g) Recorded images made for purposes of this Code section shall not be a public record
26 for purposes of Article 4 of Chapter 18 of Title 50.

27 (h) The provisions of this Code section shall not limit law enforcement agencies to the use
28 of traffic law compliance monitoring devices in enforcing any provision of Code Section
29 40-6-20 or Article 9 of this chapter; and, when there is evidence obtained from another
30 source or sources which constitutes a prima-facie case of a violation of Code Section
31 40-6-20 or Article 9 of this chapter, such violation may be prosecuted as otherwise
32 provided by law in lieu of, but not in addition to, enforcement under this Code section.

33 (i) It shall be a misdemeanor for a driver of a motor vehicle to intentionally cover, conceal,
34 or alter his or her license plate for purposes of evading prosecution under this Code
35 section."

SECTION 2.

Said title is further amended in Code Section 40-2-130, relating to records of certificates of registration, by striking paragraph (1) of subsection (c) and inserting in lieu thereof the following:

"(1) Any law enforcement officer for official law enforcement investigations or for the purpose of identifying the registrant of a motor vehicle when operating a traffic law compliance monitoring device pursuant to Code Section 40-1-1.1, as certified by the commanding officer of the law enforcement agency making such request;"

SECTION 3.

Said title is further amended in Code Section 40-6-1, relating to required observance of rules of the road, punishment for violations generally, and maximum fines for certain offenses, by adding a new subsection (c) of said Code section to read as follows:

"(c) The fine limitations contained in subsection (b) of this Code section shall not apply to speeding violations committed in school speed zones properly marked in accordance with Article 9 of this chapter within one hour before, during, or within one hour after normal hours of school operation."

SECTION 4.

Said title is further amended by striking Code Section 40-6-20, relating to obedience to traffic-control devices required, presumptions, and enforcement by traffic-control signal monitoring devices, and inserting in lieu thereof the following:

"40-6-20.

(a) The driver of any vehicle shall obey the instructions of an official traffic-control device applicable thereto, placed in accordance with this chapter, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter. A violation of this subsection shall be a misdemeanor, ~~except as otherwise provided by subsection (f) of this Code section.~~

(b) No provisions of this chapter which require official traffic-control devices shall be enforced against an alleged violator if at the time and place of the alleged violation an official device was not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular Code section does not state that official traffic-control devices are required, such Code section shall be effective even though no devices are erected or in place.

(c) Whenever official traffic-control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have

1 been so placed by the official act or direction of lawful authority, unless the contrary shall
2 be established by competent evidence.

3 (d) Any official traffic-control device placed pursuant to this chapter and purporting to
4 conform to the lawful requirements pertaining to such devices shall be presumed to comply
5 with the requirements of this chapter, unless the contrary shall be established by competent
6 evidence.

7 (e) The disregard or disobedience of the instructions of any official traffic-control device
8 or signal placed in accordance with the provisions of this chapter by the driver of a vehicle
9 shall be deemed prima-facie evidence of a violation of law, without requiring proof of who
10 and by what authority such sign or device has been erected.

11 (f)(1) As used in this subsection, the term:

12 (A) ~~'Owner' means the registrant of a motor vehicle, except that such term shall not~~
13 ~~include a motor vehicle rental company when a motor vehicle registered by such~~
14 ~~company is being operated by another person under a rental agreement with such~~
15 ~~company.~~

16 (B) ~~'Recorded images' means images recorded by a traffic-control signal monitoring~~
17 ~~device:~~

18 (i) ~~Or:~~

19 (I) ~~Two or more photographs;~~

20 (II) ~~Two or more microphotographs;~~

21 (III) ~~Two or more electronic images; or~~

22 (IV) ~~Videotape; and~~

23 (ii) ~~Showing a traffic-control signal displaying a CIRCULAR RED or RED ARROW~~
24 ~~signal along with the rear of a motor vehicle apparently operated in disregard or~~
25 ~~disobedience of such signal and, on at least one image or portion of tape, clearly~~
26 ~~revealing the number or other identifying designation of the license plate displayed~~
27 ~~on the motor vehicle.~~

28 (C) ~~'Traffic-control signal monitoring device' means a device with one or more motor~~
29 ~~vehicle sensors working in conjunction with a traffic-control signal to produce recorded~~
30 ~~images of motor vehicles being operated in disregard or disobedience of a CIRCULAR~~
31 ~~RED or RED ARROW signal.~~

32 (2) ~~Subsection (a) of this Code section may be enforced as provided in this subsection~~
33 ~~pursuant to the use of traffic-control signal monitoring devices in accordance with Article~~
34 ~~3 of Chapter 14 of this title.~~

35 (3) ~~For the purpose of enforcement pursuant to this subsection:~~

36 (A) ~~The driver of a motor vehicle shall be liable for a civil monetary penalty of not~~
37 ~~more than \$70.00 if such vehicle is found, as evidenced by recorded images produced~~

1 by a traffic-control signal monitoring device, to have been operated in disregard or
2 disobedience of a CIRCULAR RED or RED ARROW signal in violation of subsection
3 (a) of this Code section and such disregard or disobedience was not otherwise
4 authorized by law;

5 (B) The law enforcement agency for which such device is permitted shall send by
6 first-class mail addressed to the owner of the motor vehicle postmarked not later than
7 ten days after the date of the alleged violation:

8 (i) A uniform traffic citation for the violation, which shall include the date and time
9 of the violation, the location of the intersection, the amount of the civil monetary
10 penalty imposed, and the date by which the civil monetary penalty shall be paid;

11 (ii) A copy of the recorded image;

12 (iii) A copy of a certificate sworn to or affirmed by a trained law enforcement officer
13 or a technician employed by a law enforcement agency for which such device is
14 authorized and stating that, based upon inspection of recorded images, the owner's
15 motor vehicle was operated in disregard or disobedience of a CIRCULAR RED or
16 RED ARROW signal in violation of subsection (a) of this Code section and that such
17 disregard or disobedience was not otherwise authorized by law;

18 (iv) A statement of the inference provided by subparagraph (D) of this paragraph and
19 of the means specified therein by which such inference may be rebutted;

20 (v) Information advising the owner of the motor vehicle of the manner and time in
21 which liability as alleged in the citation may be contested in court; and

22 (vi) Warning that failure to pay the civil monetary penalty or to contest liability in a
23 timely manner shall waive any right to contest liability and result in a civil monetary
24 penalty;

25 provided, however, that only warning notices and not citations for violations shall be
26 sent during the 30 day period commencing with the installation of a traffic-control
27 signal monitoring device at such location;

28 (C) Proof that a motor vehicle was operated in disregard or disobedience of a
29 CIRCULAR RED or RED ARROW signal in violation of subsection (a) of this Code
30 section shall be evidenced by recorded images produced by a traffic-control signal
31 monitoring device authorized pursuant to Article 3 of Chapter 14 of this title. A copy
32 of a certificate sworn to or affirmed by a trained law enforcement officer or a technician
33 employed by a law enforcement agency for which such device is authorized and stating
34 that, based upon inspection of recorded images, a motor vehicle was operated in
35 disregard or disobedience of a CIRCULAR RED or RED ARROW signal in violation
36 of subsection (a) of this Code section and that such disregard or disobedience was not

otherwise authorized by law shall be prima facie evidence of the facts contained therein; and

(D) Liability under this subsection shall be determined based upon preponderance of the evidence. Prima facie evidence that the vehicle described in the citation issued pursuant to this subsection was operated in violation of subsection (a) of this Code section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that such owner of the vehicle was the driver of the vehicle at the time of the alleged violation. Such an inference may be rebutted if the owner of the vehicle:

- (i) Testifies under oath in open court that he or she was not the operator of the vehicle at the time of the alleged violation;
- (ii) Presents to the court prior to the return date established on the citation a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation; or
- (iii) Submits to the court prior to the return date established on the citation a sworn notarized statement identifying the name of the operator of the vehicle at the time of the alleged violation.

(4) A violation for which a civil penalty is imposed pursuant to this subsection shall not be considered a moving traffic violation, for the purpose of points assessment under Code Section 40-5-57. Such violation shall be deemed noncriminal, and imposition of a civil penalty pursuant to this subsection shall not be deemed a conviction and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall it be used for any insurance purposes in the provision of motor vehicle insurance coverage.

(5) If a person summoned by first-class mail fails to appear on the date of return set out in the summons and has not paid the penalty for the violation or filed a police report or affidavit pursuant to division (3)(D)(ii) or (3)(D)(iii) of this subsection, the person summoned shall have waived the right to contest the violation and shall be liable for a civil monetary penalty of not more than \$70.00.

(6) Except as otherwise provided in this subsection, the provisions of law governing jurisdiction, procedure, defenses, adjudication, appeal, and payment and distribution of penalties otherwise applicable to violations of subsection (a) of this Code section shall apply to enforcement under this subsection; provided, however, that any appeal from superior or state court shall be by application in the same manner as that provided by Code Section 5-6-35.

(7) Recorded images made for purposes of this subsection shall not be a public record for purposes of Article 4 of Chapter 18 of Title 50.

1 (8) The provisions of this subsection shall not limit law enforcement agencies to the use
2 of traffic-control signal monitoring devices in enforcing subsection (a) of this Code
3 section; and, when there is evidence obtained from another source or sources which
4 constitutes a prima-facie case of a violation of subsection (a) of this Code section, such
5 violation may be prosecuted as otherwise provided by law in lieu of, but not in addition
6 to, enforcement under this subsection."

SECTION 5.

8 Said title is further amended by striking Article 3 of Chapter 14, relating to traffic-control
9 signal monitoring devices, and inserting in lieu thereof the following:

"ARTICLE 3

11 40-14-20.

12 As used in this article, the term:

13 (1) 'Recorded images' has the meaning provided in subparagraph (f)(1)(B) of Code
14 Section 40-6-20 Code Section 40-1-1.1.

(2) 'Traffic-control signal Traffic law compliance monitoring device' has the meaning provided in subparagraph (f)(1)(C) of Code Section 40-6-20 Code Section 40-1-1.1.

40-14-20.1.

18 Traffic law compliance monitoring devices shall be subject to the provisions of this chapter.
19 Such devices used to enforce maximum speed limits in school zones shall not be subject
20 to the provisions of Article 2 of this chapter.

21 40-14-21.

(a) The law enforcement agency of any county or municipality shall not use traffic-control signal traffic law compliance monitoring devices unless the chief law enforcement officer of such county or municipality desires the use of such devices and such use is approved by the governing authority of the county or municipality. The governing authority of the county or municipality shall conduct a public hearing on the proposed use of such devices prior to entering any contract on or after July 1, 2001, for the use or purchase of such devices.

(b) No county or municipal governing authority shall be authorized to use traffic-control signal traffic law compliance monitoring devices where any arresting officer or official of the court having jurisdiction of traffic cases is paid on a fee system. This subsection shall not apply to any official receiving a recording fee.

1 (c) If a county or municipality elects to use ~~traffic-control signal~~ traffic law compliance
2 monitoring devices, no portion of any ~~fine~~ civil penalty collected through the use of such
3 devices may be paid to the manufacturer or vendor of the ~~traffic-control signal~~ traffic law
4 compliance monitoring devices. The compensation paid by the county or municipality for
5 such devices shall be based on the value of such equipment and shall not be based on the
6 number of traffic citations issued or the revenue generated by such devices.

7 (d)(1) A ~~traffic-control signal~~ traffic law compliance monitoring device shall not be used
8 by a law enforcement agency unless the law enforcement agency employs at least one
9 full-time certified peace officer and unless the fines levied based on the use of such
10 devices amount to less than 40 percent of the law enforcement agency's budget; provided,
11 however, that fines for speeding violations in school zones exceeding 17 miles per hour
12 over the established limit shall not be considered when calculating total speeding fine
13 revenue for the agency.

14 (2) Failure of a law enforcement agency to continue to meet the standards provided by
15 this subsection shall cause such agency to be ineligible to use ~~traffic-control signal~~ traffic
16 law compliance monitoring devices.

17 40-14-22.

18 The timing of any traffic-control signal which is being monitored by a ~~traffic-control signal~~
19 traffic law compliance monitoring device shall conform to regulations promulgated by the
20 Department of Transportation pursuant to Code Section 32-6-50. Traffic law compliance
21 monitoring devices used to enforce maximum speed limits in school zones shall conform
22 to regulations promulgated by the Department of Public Safety. Each county or municipal
23 law enforcement agency using a ~~traffic-control signal~~ traffic law compliance monitoring
24 device shall at its own expense test the device for accuracy at regular intervals and record
25 and maintain the results of each test. Such test results shall be public records subject to
26 inspection as provided by Article 4 of Chapter 18 of Title 50. Each such test shall be made
27 in accordance with the manufacturer's recommended procedure. Any such device not
28 meeting the manufacturer's minimum accuracy requirements shall be removed from
29 service and thereafter shall not be used by the county or municipal law enforcement agency
30 until it has been serviced and calibrated at the expense of the law enforcement agency by
31 a qualified technician.

32 40-14-23.

33 Each county or municipality using ~~traffic-control signal~~ traffic law compliance
34 monitoring devices shall erect signs on every highway which comprises a part of the state
35 highway system at that point on the highway which intersects the jurisdictional limits of

the county or municipality. A sign shall be erected also by such entity on each public road on the approach to the next traffic-control signal or school speed zone for such road when a traffic-control signal traffic law compliance monitoring device is monitoring such next signal or school speed zone for such road. No traffic law compliance monitoring device shall be used for enforcement of any maximum speed limit in any school speed zone at any location which is less than 500 feet from such a warning sign. Such signs shall be at least 30 inches by 30 inches in measurement and shall warn approaching motorists that traffic-control signal traffic law compliance monitoring devices are being employed and, in the case of school speed zones, shall give notice of the hours when such devices are in use.

11 40-14-24.

12 Each county or municipality using any traffic-control signal traffic law compliance
13 monitoring device shall submit not later than February 1 of each year a report on such use
14 during the preceding calendar year to the Governor, the Lieutenant Governor, and the
15 Speaker of the House of Representatives. Such report shall include, without limitation:

- 16 (1) A description of the locations where traffic-control signal traffic law compliance
17 monitoring devices were used;

18 (2) The number of violations recorded at each location and in the aggregate on a
19 monthly basis;

20 (3) The total number of citations issued;

21 (4) The number of fines and total amount of fines paid after citation without contest;

22 (5) The number of violations adjudicated and results of such adjudications, including
23 a breakdown of dispositions made;

24 (6) The total amount of fines paid; and

25 (7) The quality of the adjudication process and its results."

SECTION 6.

27 All laws and parts of laws in conflict with this Act are repealed.