

Senate Bill 603

By: Senators Cagle of the 49th, Thompson of the 33rd and Bowen of the 13th

AS PASSED SENATE

**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 provide for photographic speed-monitoring systems; to provide for definitions
3 and operating requirements relative to such photographic speed-monitoring systems; to
4 provide for a civil monetary penalty for violations; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

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

7 **SECTION 1.**

8 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
9 amended in Article 9 of Chapter 6 by adding a new Code Section 40-6-189 to read as
10 follows:

11 "40-6-189.

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

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

17 (2) 'Photographic speed-measuring system' means a speed-measuring system that works
18 in conjunction with a photographic, video, or electronic camera to automatically measure
19 the speed and produce photographs, video, or digital images of vehicles violating the
20 speed limit.

21 (3) 'Recorded images' means images recorded by a photographic speed-measuring
22 system on:

23 (A) One or more photographs;

24 (B) One or more microphotographs;

25 (C) One or more electronic images; or

26 (D) Videotape

1 showing the posted speed limit and the actual speed of the vehicle along with the rear of
2 a motor vehicle apparently operated in disregard or disobedience of such speed limit and,
3 on at least one image or portion of tape, clearly revealing the number or other identifying
4 designation of the license plate displayed on the motor vehicle.

5 (b) Code Sections 40-6-181 and 40-6-183 may be enforced as provided in this Code
6 section pursuant to the use of a photographic speed-measuring system in accordance with
7 Article 4 of Chapter 14 of this title.

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

9 (1) The driver of a motor vehicle shall be liable for a civil monetary penalty of not more
10 than \$70.00 if such vehicle is found, as evidenced by recorded images produced by a
11 photographic speed-measuring system, to have been operated in disregard or
12 disobedience of the maximum lawful speed limits in violation of Code Section 40-6-181
13 and such disregard or disobedience was not otherwise authorized by law; and

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

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

20 (B) A copy of the recorded image;

21 (C) A copy of a certificate sworn to or affirmed by a trained law enforcement officer
22 or a technician employed by a law enforcement agency for which such systems are
23 authorized and stating that, based upon inspection of recorded images, the owner's
24 motor vehicle was operated in disregard or disobedience of the maximum lawful speed
25 limit in violation of Code Sections 40-6-181 and 40-6-183 and that such disregard or
26 disobedience was not otherwise authorized by law;

27 (D) A statement of the inference provided by subsection (e) of this Code section and
28 of the means specified therein by which such inference may be rebutted;

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

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

34 provided, however, that only warning notices and not citations for violations shall be sent
35 during the 30 day period commencing with the installation of a photographic
36 speed-measuring system at such location.

1 (d) Proof that a motor vehicle was operated in disregard or disobedience of the maximum
2 lawful speed limit in violation of Code Sections 40-6-181 and 40-6-183 shall be evidenced
3 by recorded images produced by a photographic speed-measuring system authorized
4 pursuant to Article 4 of Chapter 14 of this title. A copy of a certificate sworn to or affirmed
5 by a trained law enforcement officer or a technician employed by a law enforcement
6 agency for which such system is authorized and stating that, based upon inspection of
7 recorded images, a motor vehicle was operated in disregard or disobedience of the
8 maximum lawful speed limits in violation of Code Sections 40-6-181 and 40-6-183 and
9 that such disregard or disobedience was not otherwise authorized by law shall be
10 prima-facie evidence of the facts contained therein.

11 (e) Liability under this Code section shall be determined based upon preponderance of the
12 evidence. Prima-facie evidence that the vehicle described in the citation issued pursuant
13 to this Code section was operated in violation of Code Sections 40-6-181 and 40-6-183,
14 together with proof that the defendant was at the time of such violation the registered
15 owner of the vehicle, shall permit the trier of fact in its discretion to infer that such owner
16 of the vehicle was the driver of the vehicle at the time of the alleged violation. Such an
17 inference may be rebutted if the owner of the vehicle:

18 (1) Testifies under oath in open court that he or she was not the operator of the vehicle
19 at the time of the alleged violation;

20 (2) Presents to the court prior to the return date established on the citation a certified
21 copy of a police report showing that the vehicle had been reported to the police as stolen
22 prior to the time of the alleged violation; or

23 (3) Submits to the court prior to the return date established on the citation a sworn
24 notarized statement identifying the name and address of the operator of the vehicle at the
25 time of the alleged violation.

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

33 (g) If a person summoned by first-class mail fails to appear on the date of return set out
34 in the citation and has not paid the penalty for the violation or filed a police report or
35 affidavit pursuant to paragraph (2) or (3) of subsection (e) of this Code section, the person
36 summoned shall have waived the right to contest the violation and shall be liable for a civil
37 monetary penalty of not more than \$70.00.

1 (h) Any court having jurisdiction over violations of Code Sections 40-6-181 and 40-6-183
 2 or any ordinance adopting the provisions of said Code sections pursuant to Code Section
 3 40-6-372 shall have jurisdiction over cases arising under this Code section and shall be
 4 authorized to impose the civil monetary penalty provided by this Code section. Except as
 5 otherwise provided in this Code section, the provisions of law governing jurisdiction,
 6 procedure, defenses, adjudication, appeal, and payment and distribution of penalties
 7 otherwise applicable to violations of Code Sections 40-6-181 and 40-6-183 shall apply to
 8 enforcement under this Code section; provided, however, that any appeal from superior or
 9 state court shall be by application in the same manner as that provided by Code Section
 10 5-6-35.

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

13 (j) The provisions of this Code section shall not limit law enforcement agencies to the use
 14 of a photographic speed-measuring system in enforcing Code Sections 40-6-181 and
 15 40-6-183; and, when there is evidence obtained from another source or sources which
 16 constitutes a prima-facie case of a violation of Code Sections 40-6-181 and 40-6-183, such
 17 violation may be prosecuted as otherwise provided by law in lieu of, but not in addition to,
 18 enforcement under this Code section."

19 SECTION 2.

20 Said title is further amended in Chapter 14 by adding a new Article 4 to read as follows:

21 "ARTICLE 4

22 40-14-30.

23 As used in this article, the term 'photographic speed-measuring system' means a
 24 speed-measuring system that works in conjunction with a photographic, video, or electronic
 25 camera to automatically measure the speed and produce photographs, video, or digital
 26 images of vehicles violating the speed limit.

27 40-14-31.

28 (a) The law enforcement agency of any county or municipality shall not use a
 29 photographic speed-measuring system unless the chief law enforcement officer of such
 30 county or municipality desires the use of such system and such use is approved by the
 31 governing authority of the county or municipality. A county or municipality may use a
 32 photographic speed-measuring system only in school zones and residential districts. The
 33 governing authority of the county or municipality shall conduct a public hearing on the

1 proposed use of such system prior to entering any contract on or after July 1, 2004, for the
2 use or purchase of such system.

3 (b) No county or municipal governing authority shall be authorized to use a photographic
4 speed-measuring system where any arresting officer or official of the court having
5 jurisdiction of traffic cases is paid on a fee system. This Code section shall not apply to any
6 official receiving a recording fee.

7 (c) If a county or municipality elects to use a photographic speed-measuring system, no
8 portion of any civil monetary penalty collected through the use of such systems may be
9 paid to the manufacturer or vendor of the photographic speed-measuring system. The
10 compensation paid by the county or municipality for such system shall be based on the
11 value of such equipment and shall not be based on the number of citations issued or the
12 revenue generated by such system.

13 (d)(1) A photographic speed-measuring system shall not be used by a law enforcement
14 agency unless the law enforcement agency employs at least one full-time certified peace
15 officer.

16 (2) Failure of a law enforcement agency to continue to meet the standards provided by
17 this Code section shall cause such agency to be ineligible to use the photographic
18 speed-measuring system.

19 (e) A photographic speed-measuring system shall be used only to produce the recorded
20 images as defined in paragraph (2) of subsection (a) of Code Section 40-6-189 and shall
21 not be used to produce any photograph, microphotograph, electronic image, or videotape
22 showing the person operating the motor vehicle.

23 40-14-32.

24 Each county or municipal law enforcement agency using a photographic speed-measuring
25 system shall at its own expense test the system for accuracy at regular intervals and record
26 and maintain the results of each test. Such test results shall be public records subject to
27 inspection as provided by Article 4 of Chapter 18 of Title 50. Each such test shall be made
28 in accordance with the manufacturer's recommended procedure. Any such system not
29 meeting the manufacturer's minimum accuracy requirements shall be removed from
30 service and thereafter shall not be used by the county or municipal law enforcement agency
31 until it has been serviced and calibrated at the expense of the law enforcement agency by
32 a qualified technician.

33 40-14-33.

34 Each county or municipality using a photographic speed-measuring system shall erect signs
35 on every highway which comprises a part of the state highway system at that point on the

1 highway which intersects the jurisdictional limits of the county or municipality. A sign
2 shall be erected also by such entity on each public road on the approach to the next portion
3 of the road on which a photographic speed-measuring system is being utilized. Such signs
4 shall be at least 30 inches by 30 inches in measurement and shall warn approaching
5 motorists that a photographic speed-measuring system is being employed.

6 40-14-34.

7 Each county or municipality using a photographic speed-measuring system shall submit
8 not later than February 1 of each year a report on such use during the preceding calendar
9 year to the Governor, the Lieutenant Governor, and the Speaker of the House of
10 Representatives. Such report shall include, without limitation:

- 11 (1) A description of the locations where a photographic speed-measuring system was
12 used;
- 13 (2) The number of violations recorded at each location and in the aggregate on a monthly
14 basis;
- 15 (3) The total number of citations issued;
- 16 (4) The number of civil monetary penalties and total amount of such penalties paid after
17 citation without contest;
- 18 (5) The number of violations adjudicated and results of such adjudications, including a
19 breakdown of dispositions made;
- 20 (6) The total amount of civil monetary penalties paid; and
- 21 (7) The quality of the adjudication process and its results."

22 **SECTION 3.**

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