

House Bill 294

By: Representatives Miller of the 106th, Benfield of the 85th, Day of the 163rd, Smith of the 129th, and Mumford of the 95th

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 enforcement; to provide
5 for related matters; to repeal 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 electronic or digital images of vehicles
20 violating the 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 or digital 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 \$100.00 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 system is authorized 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 one or more of the recorded images;

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 a preponderance of
12 the 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 an affidavit
21 stating that the vehicle was reported to the police as stolen prior to the time of the alleged
22 violation and a copy of a police report showing that the vehicle had been reported to the
23 police as stolen prior to the time of the alleged violation; or

24 (3) Submits to the court prior to the return date established on the citation a sworn
25 notarized statement that he or she was not the operator of the vehicle at the time of the
26 alleged violation and identifying the name and address of the operator of the vehicle at
27 the time of the alleged violation.

28 (f) A violation for which a civil penalty is imposed pursuant to this Code section shall not
29 be considered a moving traffic violation for the purpose of points assessment under Code
30 Section 40-5-57. Such violation shall be deemed noncriminal and imposition of a civil
31 penalty pursuant to this Code section shall not be deemed a conviction and shall not be
32 made a part of the operating record of the person upon whom such liability is imposed.

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 complied with paragraph (2)
35 or (3) of subsection (e) of this Code section, the person summoned shall have waived the
36 right to contest the violation and shall be liable for a civil monetary penalty of not more
37 than \$100.00.

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

17 SECTION 2.

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

19 "ARTICLE 4

20 40-14-30.

21 As used in this article, the term:

22 (1) 'Photographic speed-measuring system' means a speed-measuring system that works
 23 in conjunction with a photographic, video, or electronic camera to automatically measure
 24 the speed and produce photographs, video, or digital images of vehicles violating the
 25 speed limit.

26 (2) 'Vendor' means a company or manufacturer contracted by a county or municipality
 27 to install and maintain a photographic speed-measuring system.

28 40-14-31.

29 (a)(1) The law enforcement agency of any county or municipality shall not use a
 30 photographic speed-measuring system unless the chief law enforcement officer of such
 31 county or municipality desires the use of such system and such use is approved by the
 32 governing authority of the county or municipality.

1 (2) A county or municipality may use a photographic speed-measuring system only in
2 school zones and only up to one hour before, during, and up to one hour after normal
3 hours of school operation on days when school is in session.

4 (3) The governing authority of the county or municipality shall conduct a public hearing
5 on the proposed use of such system prior to entering any contract on or after July 1, 2005,
6 for the use or purchase of such system.

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

11 (c) The compensation paid by the county or municipality to a vendor for a photographic
12 speed-measuring system shall be based only on the value of such equipment or the services
13 provided. Compensation for services or equipment is not to be based on the number of
14 traffic citations issued or the revenue generated by the system.

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

18 (e) A photographic speed-measuring system shall be used only to produce the recorded
19 images as defined in paragraph (3) of subsection (a) of Code Section 40-6-189 and shall
20 not be used to produce any photograph, microphotograph, electronic image, or videotape
21 showing the person operating the motor vehicle.

22 40-14-32.

23 Each county or municipal law enforcement agency using a photographic speed-measuring
24 system shall at its own expense test the system 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 system 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 40-14-33.

33 Each county or municipality using a photographic speed-measuring system shall erect signs
34 warning all approaching motorists that a photographic speed-measuring system is being
35 employed on each public road on which a photographic speed-measuring system is being

1 utilized. Such warning signs shall be at least 30 inches by 30 inches in measurement and
2 shall be placed no less than 500 feet from the photographic speed-measuring devices.

3 40-14-34.

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

8 (1) A description of the locations where a photographic speed-measuring system was
9 used;

10 (2) The number of violations recorded at each location on a monthly basis;

11 (3) The total number of citations issued;

12 (4) The number of civil monetary penalties and total amount of such penalties paid after
13 citation without contest;

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

16 (6) The total amount of civil monetary penalties paid.

17 40-14-35.

18 Failure of a law enforcement agency, county, or municipality to meet the requirements of
19 this article shall cause such agency, county, or municipality to be ineligible to use the
20 photographic speed-measuring system for a period of at least 90 days commencing upon
21 the date such failure was discovered and until such requirements are met. Resumption of
22 eligibility and use shall be treated the same as initial installation for purposes of paragraph
23 (2) of subsection (c) of Code Section 40-6-189."

24 **SECTION 3.**

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