

House Bill 77

By: Representatives Franklin of the 43rd, Scott of the 2nd, Loudermilk of the 14th, Lunsford of the 110th, Mumford of the 95th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, so
2 as to repeal provisions relating to traffic-control signal monitoring devices; to correct
3 cross-references; to provide for related matters; to repeal conflicting laws; and for other
4 purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended
8 by repealing Article 3 of Chapter 14, relating to traffic-control signal monitoring devices.

9 style="text-align:center">**SECTION 2.**

10 Said title is further amended by revising Code Section 40-6-20, relating to enforcement by
11 traffic-control signal monitoring devices, as follows:

12 "40-6-20.

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

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

24 (c) Whenever official traffic-control devices are placed in position approximately
25 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) On:~~

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 citation for the violation, which shall include the date and time of the violation,~~
 9 ~~the location of the intersection, the amount of the civil monetary penalty imposed, and~~
 10 ~~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~~

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

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

10 ~~(i) Testifies under oath in open court that he or she was not the operator of the vehicle~~
11 ~~at the time of the alleged violation;~~

12 ~~(ii) Presents to the court prior to the return date established on the citation a certified~~
13 ~~copy of a police report showing that the vehicle had been reported to the police as~~
14 ~~stolen prior to the time of the alleged violation; or~~

15 ~~(iii) Submits to the court prior to the return date established on the citation a sworn~~
16 ~~notarized statement identifying the name of the operator of the vehicle at the time of~~
17 ~~the alleged violation.~~

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

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

30 ~~(6) Any court having jurisdiction over violations of subsection (a) of this Code section~~
31 ~~or any ordinance adopting the provisions of said subsection pursuant to Code Section~~
32 ~~40-6-372 shall have jurisdiction over cases arising under this subsection and shall be~~
33 ~~authorized to impose the civil monetary penalty provided by this subsection. Except as~~
34 ~~otherwise provided in this subsection, the provisions of law governing jurisdiction,~~
35 ~~procedure, defenses, adjudication, appeal, and payment and distribution of penalties~~
36 ~~otherwise applicable to violations of subsection (a) of this Code section shall apply to~~
37 ~~enforcement under this subsection; provided, however, that any appeal from superior or~~

1 ~~state court shall be by application in the same manner as that provided by Code Section~~
2 ~~5-6-35.~~
3 ~~(7) Recorded images made for purposes of this subsection shall not be a public record~~
4 ~~for purposes of Article 4 of Chapter 18 of Title 50.~~
5 ~~(8) The provisions of this subsection shall not limit law enforcement agencies to the use~~
6 ~~of traffic-control signal monitoring devices in enforcing subsection (a) of this Code~~
7 ~~section; and, when there is evidence obtained from another source or sources which~~
8 ~~constitutes a prima-facie case of a violation of subsection (a) of this Code section, such~~
9 ~~violation may be prosecuted as otherwise provided by law in lieu of, but not in addition~~
10 ~~to, enforcement under this subsection."~~

11 **SECTION 3.**

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