

Senate Bill 142

By: Senators Loudermilk of the 52nd, Murphy of the 27th, Seabaugh of the 28th, Hill of the 32nd, Jackson of the 24th 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 and
2 traffic, so as to remove provisions relating to traffic-control signal monitoring devices; to
3 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
4 other 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 and traffic, is
8 amended by revising Code Section 40-6-20, relating to obedience to traffic-control devices
9 required, presumptions, and enforcement by traffic-control signal monitoring devices, as
10 follows:

11 "40-6-20.

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

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

23 (c) Whenever official traffic-control devices are placed in position approximately
24 conforming to the requirements of this chapter, such devices shall be presumed to have
25 been so placed by the official act or direction of lawful authority, unless the contrary shall
26 be established by competent evidence.

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

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

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

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

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

42 ~~(i) On:~~

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

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

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

46 ~~(IV) Videotape; and~~

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

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

56 ~~(2) Subsection (a) of this Code section may be enforced as provided in this subsection~~
 57 ~~pursuant to the use of traffic-control signal monitoring devices in accordance with Article~~
 58 ~~3 of Chapter 14 of this title.~~

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

60 ~~(A) The driver of a motor vehicle shall be liable for a civil monetary penalty of not~~
 61 ~~more than \$70.00 if such vehicle is found, as evidenced by recorded images produced~~
 62 ~~by a traffic-control signal monitoring device, to have been operated in disregard or~~
 63 ~~disobedience of a CIRCULAR RED or RED ARROW signal in violation of subsection~~

64 ~~(a) of this Code section and such disregard or disobedience was not otherwise~~
65 ~~authorized by law;~~

66 ~~(B) The law enforcement agency authorized to enforce the provisions of this Code~~
67 ~~section shall send by regular mail addressed to the owner of the motor vehicle~~
68 ~~postmarked not later than ten days after the date of the alleged violation:~~

69 ~~(i) A citation for the alleged violation, which shall include the date and time of the~~
70 ~~violation, the location of the intersection, the amount of the civil monetary penalty~~
71 ~~imposed, and the date by which the civil monetary penalty shall be paid;~~

72 ~~(ii) A copy of the recorded image;~~

73 ~~(iii) A copy of a certificate sworn to or affirmed by a certified peace officer employed~~
74 ~~by a law enforcement agency authorized to enforce this Code section and stating that,~~
75 ~~based upon inspection of recorded images, the owner's motor vehicle was operated~~
76 ~~in disregard or disobedience of a CIRCULAR RED or RED ARROW signal in~~
77 ~~violation of subsection (a) of this Code section and that such disregard or~~
78 ~~disobedience was not otherwise authorized by law;~~

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

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

83 ~~(vi) Warning that failure to pay the civil monetary penalty or to contest liability in a~~
84 ~~timely manner shall waive any right to contest liability and result in a civil monetary~~
85 ~~penalty;~~

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

89 ~~(C) Proof that a motor vehicle was operated in disregard or disobedience of a~~
90 ~~CIRCULAR RED or RED ARROW signal in violation of subsection (a) of this Code~~
91 ~~section shall be evidenced by recorded images produced by a traffic-control signal~~
92 ~~monitoring device authorized pursuant to Article 3 of Chapter 14 of this title. A copy~~
93 ~~of a certificate sworn to or affirmed by a certified peace officer employed by a law~~
94 ~~enforcement agency and stating that, based upon inspection of recorded images, a~~
95 ~~motor vehicle was operated in disregard or disobedience of a CIRCULAR RED or RED~~
96 ~~ARROW signal in violation of subsection (a) of this Code section and that such~~
97 ~~disregard or disobedience was not otherwise authorized by law shall be prima-facie~~
98 ~~evidence of the facts contained therein; and~~

99 ~~(D) Liability under this subsection shall be determined based upon preponderance of~~
100 ~~the evidence. Prima-facie evidence that the vehicle described in the citation issued~~

101 ~~pursuant to this subsection was operated in violation of subsection (a) of this Code~~
102 ~~section, together with proof that the defendant was at the time of such violation the~~
103 ~~registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that~~
104 ~~such owner of the vehicle was the driver of the vehicle at the time of the alleged~~
105 ~~violation. Such an inference may be rebutted if the owner of the vehicle:~~

106 ~~(i) Testifies under oath in open court or submits to the court a sworn notarized~~
107 ~~statement that he or she was not the operator of the vehicle at the time of the alleged~~
108 ~~violation;~~

109 ~~(ii) Presents to the court a certified copy of a police report showing that the vehicle~~
110 ~~had been reported to the police as stolen prior to the time of the alleged violation; or~~

111 ~~(iii) Submits to the court a sworn notarized statement identifying the name of the~~
112 ~~operator of the vehicle at the time of the alleged violation.~~

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

120 ~~(5) If a person summoned by regular mail fails to appear on the date of return set out in~~
121 ~~the citation and has not paid the penalty for the violation or filed a police report or~~
122 ~~notarized statement pursuant to subparagraph (D) of paragraph (3) of this subsection, the~~
123 ~~person shall then be summoned a second time by certified mail with a return receipt~~
124 ~~requested. The second summons shall include all information required in subparagraph~~
125 ~~(B) of paragraph (3) of this subsection for the initial summons and shall include a new~~
126 ~~date of return. If a person summoned by certified mail again fails to appear on the date~~
127 ~~of return set out in the second citation and has failed to pay the penalty or file an~~
128 ~~appropriate document for rebuttal, the person summoned shall have waived the right to~~
129 ~~contest the violation and shall be liable for a civil monetary penalty of not more than~~
130 ~~\$70.00.~~

131 ~~(6) Any court having jurisdiction over violations of subsection (a) of this Code section~~
132 ~~or any ordinance adopting the provisions of said subsection pursuant to Code Section~~
133 ~~40-6-372 shall have jurisdiction over cases arising under this subsection and shall be~~
134 ~~authorized to impose the civil monetary penalty provided by this subsection. Except as~~
135 ~~otherwise provided in this subsection, the provisions of law governing jurisdiction,~~
136 ~~procedure, defenses, adjudication, appeal, and payment and distribution of penalties~~
137 ~~otherwise applicable to violations of subsection (a) of this Code section shall apply to~~

138 ~~enforcement under this subsection; provided, however, that any appeal from superior or~~
139 ~~state court shall be by application in the same manner as that provided by Code Section~~
140 ~~5-6-35.~~

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

143 ~~(8) A governing authority shall not impose a civil penalty under this subsection on the~~
144 ~~owner of a motor vehicle if the operator of the vehicle was arrested or issued a citation~~
145 ~~and notice to appear by a peace officer for the same violation that is recorded by a~~
146 ~~traffic-control signal monitoring device."~~

147 **SECTION 2.**

148 Said title is further amended by repealing Article 3 of Chapter 14, relating to traffic-control
149 signal monitoring devices.

150 **SECTION 3.**

151 This Act shall become effective on July 1, 2011.

152 **SECTION 4.**

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