

The Senate Transportation Committee offered the following substitute to SB 444:

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 provide for definitions; to provide for the notification of the use of speed detection and
3 enforcement devices; to provide for the use of speed detection and enforcement devices; to
4 provide for the issuance of citations for violating speed limits in safety zones; to provide for
5 civil penalties; to provide for notification of alleged violations; to provide for the use of
6 recorded images from safety zone speed detection and enforcement devices as evidence in
7 proceedings; to provide for procedural requirements; to provide for jurisdiction; to provide
8 for the establishment of rules and regulations regarding safety zone speed detection and
9 enforcement devices; to provide for an effective date; to provide for related matters; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

12 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended
13 by revising Code Section 40-6-188, relating to reduction of speed in highway work zones and
14 signage, as follows:
15

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

17 (1) 'Highway work zone' means a segment of any highway, road, or street where the
18 Department of Transportation, a county, a municipality, or any contractor for any of the
19 foregoing is engaged in constructing, reconstructing, or maintaining the physical structure
20 of the roadway or its shoulders or features adjacent to the roadway, including without
21 limitation underground or overhead utilities or highway appurtenances, or any other type
22 of work related thereto.

23 (2) 'Recorded images' means images recorded by a safety zone speed detection and
24 enforcement device in an electronic format such as a digital photograph or video.

25 (3) 'Safety zone' means the area in or around a highway work zone.

26 (4) 'Safety zone speed detection and enforcement device' means a device designed to
 27 measure the speed or velocity of a motor vehicle and produce recorded images of motor
 28 vehicles exceeding the speed limit within a safety zone.

29 (5) 'Safety zone speed detection and enforcement device operator' means an individual
 30 trained to operate a safety zone speed detection and enforcement device system and is:

31 (A) A state or local law enforcement officer;

32 (B) An employee of the Department of Transportation; or

33 (C) A contractor of the Department of Transportation.

34 (6) 'Work zone personnel' means employees of the Department of Transportation, a
 35 county, a municipality, or any contractor for any of the foregoing.

36 (b)(1) The Department of Transportation, any county, or any municipality may designate
 37 any segment of a highway, road, or street under its jurisdiction as a highway work zone.

38 (2) Whenever a highway work zone is designated pursuant to paragraph (1) of this
 39 subsection, there shall be erected or posted signage of adequate size at the beginning
 40 point of such highway work zone designating the zone and warning the traveling public
 41 that increased penalties for speeding violations are in effect for the highway work zone,
 42 and there shall be erected or posted at the end of such highway work zone adequate
 43 signage indicating the end of such zone and that increased penalties for speeding
 44 violations are no longer in effect.

45 (c)(1) The Department of Transportation or the governing authority of any county or
 46 municipal corporation is authorized to establish a temporary reduction in the maximum
 47 speed limit through any highway work zone located on or adjacent to any street or
 48 highway under its ~~respective~~ jurisdiction. The commissioner of transportation or the local
 49 governing authority shall not be required to conduct any engineering and traffic
 50 investigation in order to establish a reduced speed limit in a highway work zone pursuant
 51 to this paragraph.

52 (2) Whenever reduced speed zones are established pursuant to paragraph (1) of this
 53 subsection, there shall be erected or posted signage of adequate size at the beginning
 54 point of such speed zone designating the zone and the speed limit to be observed therein;
 55 and warning the traveling public that the speed zone may be monitored by a safety zone
 56 speed detection and enforcement device. ~~there~~ There shall be erected or posted at the end
 57 of such speed zone adequate signage indicating the end of such speed zone, ~~which~~
 58 ~~signage shall also indicate~~ and such different speed limit as may then be observed. Signs
 59 indicating such reduced speed limit shall be spaced not further than one mile apart
 60 throughout the highway work zone. Where the speed limit established pursuant to
 61 paragraph (1) of this subsection is at least ten miles per hour less than the established
 62 speed limit on the street or highway, there shall be erected at least 600 feet in advance of

63 the beginning of the speed zone a sign of adequate size which shall bear the legend
64 'Reduced Speed Ahead.' Whenever any signage is required by this paragraph, the same
65 shall be in addition to the signage requirements of paragraph (2) of subsection (b) of this
66 Code section.

67 (d)(1) Any signage required by this Code section shall conform to applicable provisions
68 of the Manual on Uniform Traffic Control Devices; provided, however, that nothing in
69 this Code section shall prohibit the use of movable or portable speed limit signs in
70 highway work zones.

71 (2) Any existing regulatory signage conflicting with signage erected or posted pursuant
72 to this Code section shall be removed, covered, folded, or turned so as not to be readable
73 by oncoming motorists.

74 (e)(1) Safety zone speed detection and enforcement devices set up by an authorized
75 safety zone speed detection and enforcement device operator may be used in a highway
76 work zone to capture recorded images of motor vehicles exceeding the speed limit within
77 a highway work zone. Such images may be entered into evidence during a proceeding
78 arising out of acts alleged to have been committed by any person in violation of this Code
79 section.

80 (2) For the purpose of enforcement pursuant to this subsection:

81 (A) The driver of a motor vehicle shall be liable for a civil monetary penalty of not less
82 than \$100.00 and not more than \$400.00 if such vehicle is found to have been
83 exceeding the speed limit within a safety zone and such speed was not otherwise
84 authorized by law;

85 (B) The law enforcement agency authorized to enforce the provisions of this Code
86 section shall send addressed to the owner of the motor vehicle by regular mail
87 postmarked not later than 14 days after the date of the alleged violation the following:

88 (i) A citation for the alleged violation, which shall include the date and time of the
89 violation, the location of the safety zone, the amount of the civil monetary penalty
90 imposed, and the date by which the civil monetary penalty shall be paid;

91 (ii) A copy of the recorded image;

92 (iii) A copy of a certificate sworn to or affirmed by a certified peace officer employed
93 by a law enforcement agency authorized to enforce this Code section and stating that,
94 based upon inspection of recorded images, the owner's motor vehicle was exceeding
95 the speed limit within a safety zone in violation of this Code section and that such
96 speed was not otherwise authorized by law;

97 (iv) Information advising the owner of the motor vehicle of the manner and time in
98 which liability as alleged in the citation may be contested in court; and

99 (v) A warning that failure to pay the civil monetary penalty or to contest liability in
 100 a timely manner shall waive any right to contest liability and result in a civil monetary
 101 penalty;

102 provided, however, that only warning notices and not citations for violations shall be
 103 sent during the 30 day period commencing with the installation of a safety zone speed
 104 detection and enforcement device at such location;

105 (C) In any proceeding arising out of acts alleged to have been committed by any person
 106 in violation of this Code section, the trier of fact, in its discretion, may infer that a
 107 vehicle was operated in violation of this Code section if the following is entered into
 108 evidence:

109 (i) Recorded images produced by a safety zone speed detection and enforcement
 110 device of a motor vehicle in a safety zone;

111 (ii) A copy of a certificate sworn to or affirmed by a certified peace officer employed
 112 by a law enforcement agency that states, based upon inspection of recorded images,
 113 such motor vehicle was exceeding the speed limit in a safety zone in violation of this
 114 Code section and that such speed was not otherwise authorized by law;

115 (iii) Documentation evidencing that the signage as required by this Code section was
 116 in place at the time of the alleged offense; and

117 (iv) Documentation evidencing that, at the time the alleged violation occurred, work
 118 zone personnel or barriers, on-site vehicles, or shoulder or pavement dropoffs that
 119 constitute a hazard to the traveling public were present; and

120 (D) Liability under this Code section shall be determined based upon preponderance
 121 of the evidence. Evidence that the vehicle described in the citation issued pursuant to
 122 this paragraph was operated in violation of this Code section, together with proof that
 123 the defendant was at the time of such violation the registered owner of the vehicle, shall
 124 permit the trier of fact, in its discretion, to infer that the owner of the vehicle was the
 125 driver of the vehicle at the time of the alleged violation; provided, however, that such
 126 inference may be rebutted if the owner of the vehicle:

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

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

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

134 (3) A violation for which a civil penalty is imposed pursuant to this subsection shall not
 135 be considered a moving traffic violation for the purpose of points assessment under Code

136 Section 40-5-57. Such violation shall be deemed noncriminal, and imposition of a civil
137 penalty pursuant to this subsection shall not be deemed a conviction and shall not be
138 made a part of the operating record of the person upon whom such liability is imposed,
139 nor shall it be used for any insurance purposes in the provision of motor vehicle insurance
140 coverage.

141 (4) If a person summoned by regular mail fails to appear on the date of return set out in
142 the citation and has not paid the penalty for the violation or filed a police report or
143 notarized statement pursuant to subparagraph (D) of paragraph (2) of this subsection, the
144 person shall then be summoned a second time by certified mail, return receipt requested.
145 The second summons shall include all information required in subparagraph (B) of
146 paragraph (2) of this subsection for the initial summons and shall include a new date of
147 return. If a person summoned by certified mail again fails to appear on the date of return
148 set out in the second citation and has failed to pay the penalty or file an appropriate
149 document for rebuttal, the person summoned shall have waived the right to contest the
150 violation and shall be liable for a civil monetary penalty of not less than \$100.00 but not
151 more than \$400.00.

152 (5) Any court having jurisdiction over violations of this Code section shall have
153 jurisdiction over cases arising under this subsection and shall be authorized to impose the
154 civil monetary penalty provided by this subsection. Except as otherwise provided in this
155 subsection, the provisions of law governing jurisdiction, procedure, defenses,
156 adjudication, appeal, and payment and distribution of penalties otherwise applicable to
157 violations of this Code section shall apply to enforcement under this subsection;
158 provided, however, that any appeal from superior or state court shall be by application
159 in the same manner as that provided by Code Section 5-6-35.

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

162 (7) A governing authority shall not impose a civil penalty under this subsection on the
163 owner of a motor vehicle if the operator of the vehicle was arrested or issued a citation
164 and notice to appear by a peace officer for the same violation that is recorded by a safety
165 zone speed detection and enforcement device.

166 (f)(1) In order for a person to be cited or convicted for exceeding a speed limit, reduced
167 or otherwise, in any highway work zone as provided in paragraph (2) of this subsection,
168 there must be present in the highway work zone at the time of the offense the signage
169 required by this Code section and either:

170 (A) Work zone personnel; or

171 (B) Barriers, on-site work vehicles, or shoulder or pavement drop offs that constitute
172 a hazard to the traveling public.

173 (2) Except as otherwise provided in subsection (e) of this Code section, a ~~A~~ person
 174 convicted of exceeding the speed limit, reduced or otherwise, in any highway work zone
 175 ~~designated pursuant to this Code section~~ shall be guilty of a misdemeanor of a high and
 176 aggravated nature and shall be punished by a fine of not less than \$100.00 nor more than
 177 \$2,000.00 or by imprisonment for a term not to exceed 12 months, or both.

178 ~~(f)~~(g) Whenever the Department of Transportation finds it necessary to designate a
 179 highway work zone within a county or municipality, the Department of Transportation
 180 shall be required to notify the county or municipality of the work activity; provided,
 181 however, that the failure of the Department of Transportation to give such notice shall not
 182 be a defense to any charge of violating the speed limit in any highway work zone."

183 SECTION 2.

184 Said title is further amended in Chapter 14, relating to use of speed detection and
 185 traffic-control signal monitoring devices, by adding a new Code section to read as follows:

186 "40-14-18.

187 (a) As used in this Code section, the terms 'safety zone speed detection and enforcement
 188 device' and 'safety zone speed detection and enforcement device operators' shall have the
 189 same meanings as provided by Code Section 40-6-188.

190 (b) The Department of Transportation shall establish the rules and regulations necessary
 191 for:

192 (1) The authorization, certification, and training of safety zone speed detection and
 193 enforcement device operators;

194 (2) The establishment of a record-keeping system for locations of active safety zone
 195 speed detection and enforcement devices; and

196 (3) The calibration of safety zone speed detection and enforcement devices.

197 (c) In determining whether a safety zone speed detection and enforcement device shall be
 198 used, the Department of Transportation's primary consideration shall be the need for
 199 increasing lifesaving safety measures of an area, but the possible revenue generated by the
 200 use of such device shall not be considered."

201 SECTION 3.

202 This Act shall become effective upon its approval by the Governor or upon its becoming law
 203 without such approval.

204 SECTION 4.

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