

House Bill 499

By: Representatives Powell of the 32nd, Parsons of the 44th, Smyre of the 135th, Kaiser of the 59th, and Rice 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 the nonrenewal and nonissuance of driver's licenses for certain
3 reasons; to provide for the nonrenewal and nonissuance of motor vehicle registrations for
4 certain reasons; to provide for automated traffic enforcement safety devices in school zones;
5 to provide for definitions; to provide for the operation of automated traffic enforcement
6 safety devices by agents or registered or certified peace officers; to provide for automated
7 traffic enforcement safety device testing exceptions and procedures; to provide for automated
8 traffic enforcement safety device use warning signs; to provide for an exception for the ratio
9 of speeding fines to an agency budget; to provide for civil enforcement of violations recorded
10 by automated traffic enforcement safety devices; to provide for rules, regulations, and terms
11 of use for automated traffic enforcement safety devices; to repeal conflicting laws; and for
12 other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
16 amended in Code Section 40-2-29, relating to registration and license plate requirements,
17 by revising the introductory language of subsection (a) as follows:

18 "(a) Except as otherwise provided in this chapter and in Code Section 40-14-18, any person
19 purchasing or acquiring a vehicle shall register and obtain, or transfer, a license plate to
20 operate such vehicle from the county tag agent in ~~their~~ his or her county of residence no
21 later than seven business days after the date of purchase or acquisition of the vehicle by
22 presenting to the county tag agent the following:"

23 **SECTION 2.**

24 Said title is further amended in Code Section 40-5-28, relating to issuance of licenses, by
25 revising subsection (a) as follows:

26 "(a) Except as provided in subsection (c) of this Code section and Code Section 40-14-18,
 27 the department shall, upon payment of the required fee, issue to every applicant qualifying
 28 therefor a driver's license indicating the type or general class of vehicles the licensee may
 29 drive, which license shall be upon a form prescribed by the department and which shall
 30 bear thereon a distinguishing number assigned to the licensee, a color photograph of the
 31 licensee, the licensee's full legal name, either a facsimile of the signature of the licensee or
 32 a space upon which the licensee shall write his or her usual signature with a pen and ink
 33 immediately upon receipt of the license, and such other information or identification as is
 34 required by the department. No license shall be valid until it has been so signed by the
 35 licensee. The department shall not require applicants to submit or otherwise obtain from
 36 applicants any fingerprints or any other biological characteristic or information which
 37 uniquely identifies an individual, including without limitation deoxyribonucleic acid
 38 (DNA) and retinal scan identification characteristics but not including a photograph, by any
 39 means upon application."

40 **SECTION 3.**

41 Said title is further amended in Article 2 of Chapter 14, relating to speed detection devices,
 42 by adding two new Code sections to read as follows:

43 "40-14-1.1.

44 As used in this article, the term:

45 (1) 'Agent' means a person or entity who is authorized by a law enforcement agency or
 46 governing body to administer the procedures contained herein and:

47 (A) Provides services to such law enforcement agency or governing body;

48 (B) Operates, maintains, leases, or licenses an automated traffic enforcement safety
 49 device; or

50 (C) Is authorized by such law enforcement agency or governing body to review and
 51 assemble the recorded images captured by the automated traffic enforcement safety
 52 device for review by a peace officer.

53 (2) 'Automated traffic enforcement safety device' means a speed detection device that:

54 (A) Is capable of producing photographically recorded still or video images, or both,
 55 of the rear of a motor vehicle or of the rear of a motor vehicle being towed by another
 56 vehicle, including an image of such vehicle's rear license plate;

57 (B) Is capable of monitoring the speed of a vehicle as photographically recorded
 58 pursuant to subparagraph (A) of this paragraph; and

59 (C) Indicates on each of the one or more photographically recorded still or video
 60 images produced the date, time, location, and speed of a photographically recorded
 61 vehicle traveling at a speed above the posted speed limit within a marked school zone.

62 (3) 'Owner' means the registrant of a motor vehicle, except that such term shall not
 63 include a motor vehicle rental company when a motor vehicle registered by such
 64 company is being operated by another person under a rental agreement with such
 65 company.

66 (4) 'Recorded images' means still or video images recorded by an automated traffic
 67 enforcement safety device.

68 (5) 'School zone' means any roadway within 2,500 feet of the perimeter of the property
 69 of any public or private elementary school, secondary school, technical school, vocational
 70 school, college, university, or other institution of postsecondary education.

71 40-14-1.2.

72 Nothing in this article shall be construed to mean that an agent is providing or participating
 73 in private investigative services or acting in such a manner as would render such agent
 74 subject to the provisions of Article 4 of Chapter 18 of Title 50."

75 **SECTION 4.**

76 Said article is further amended in Code Section 40-14-2, relating to permit required for use
 77 of speed detection devices, use not authorized where officers paid on fee system, and
 78 operation by registered or certified peace officers, by revising subsection (c) as follows:

79 "(c) A permit shall not be issued by the Department of Public Safety to an applicant under
 80 this Code section unless the applicant provides law enforcement services by certified peace
 81 officers 24 hours a day, seven days a week on call or on duty or allows only peace officers
 82 employed full time by the applicant to operate speed detection devices. Speed detection
 83 devices can only be operated by registered or certified peace officers of the county sheriff,
 84 county, municipality, college, or university to which the permit is applicable; provided,
 85 however, that an automated traffic enforcement safety device may be operated by an agent
 86 or registered or certified peace officers of the county sheriff, county, municipality, college,
 87 or university to which the permit is applicable. Persons operating the speed detection
 88 devices must be registered or certified by the Georgia Peace Officer Standards and Training
 89 Council as peace officers and certified by the Georgia Peace Officer Standards and
 90 Training Council as operators of speed detection devices; provided, however, that agents
 91 may operate automated traffic enforcement safety devices without such registrations or
 92 certifications."

93 **SECTION 5.**

94 Said article is further amended by revising Code Section 40-14-5, relating to testing and
 95 removal of inaccurate radar devices from service, as follows:

96 "40-14-5.

97 (a) Each state, county, municipal, or campus law enforcement officer using a radar device,
98 except for an automated traffic enforcement safety device as provided for under Code
99 Section 40-14-18, shall test the device for accuracy and record and maintain the results of
100 the test at the beginning and end of each duty tour. Each such test shall be made in
101 accordance with the manufacturer's recommended procedure. Any radar unit not meeting
102 the manufacturer's minimum accuracy requirements shall be removed from service and
103 thereafter shall not be used by the state, county, municipal, or campus law enforcement
104 agency until it has been serviced, calibrated, and recertified by a technician with the
105 qualifications specified in Code Section 40-14-4.

106 (b) Each county, municipal, or campus law enforcement officer using a radar device,
107 except for an automated traffic enforcement safety device as provided for under Code
108 Section 40-14-18, shall notify each person against whom the officer intends to make a case
109 based on the use of the radar device that the person has a right to request the officer to test
110 the radar device for accuracy. The notice shall be given prior to the time a citation and
111 complaint or ticket is issued against the person and, if requested to make a test, the officer
112 shall test the radar device for accuracy. In the event the radar device does not meet the
113 minimum accuracy requirements, the citation and complaint or ticket shall not be issued
114 against the person, and the radar device shall be removed from service and thereafter shall
115 not be used by the county, municipal, or campus law enforcement agency until it has been
116 serviced, calibrated, and recertified by a technician with the qualifications specified in
117 Code Section 40-14-4.

118 (c)(1) The law enforcement agency, or agent on behalf of the law enforcement agency,
119 operating an automated traffic enforcement safety device provided for under Code
120 Section 40-14-18 shall maintain a log for the automated traffic enforcement safety device
121 attesting to the performance of such device's self-test at least once every 30 days and the
122 results of such self-test pertaining to the accuracy of the automated traffic enforcement
123 safety device. Such log shall be admissible in any court proceeding for a violation issued
124 pursuant to Code Section 40-14-18.

125 (2) The law enforcement agency, or agent on behalf of the law enforcement agency,
126 operating an automated traffic enforcement safety device shall have performed an
127 independent calibration test on the automated traffic enforcement safety device at least
128 once every 12 months. The results of such calibration test shall be admissible in any
129 court proceeding for a violation issued pursuant to Code Section 40-14-18."

130 **SECTION 6.**

131 Said article is further amended in Code Section 40-14-6, relating to the requirement for
132 warning signs, by adding a new subsection to read as follows:

133 "(c) In addition to the signs required under subsections (a) and (b) of this Code section,
134 each law enforcement agency using an automated traffic enforcement safety device as
135 provided for in Code Section 40-14-18 shall erect signs warning of the use of a stationary
136 speed detection device within the approaching school zone. Such signs shall be at least 24
137 by 30 inches in area, shall be visible plainly from every lane of traffic, shall be viewable
138 in all traffic conditions, and shall not be placed in such a manner that the view of such sign
139 is subject to being obstructed by any other vehicle on such highway. Such signs shall be
140 placed within 500 feet prior to the warning sign announcing the reduction of the speed limit
141 for the school speed zone."

142 **SECTION 7.**

143 Said article is further amended by revising Code Section 40-14-7, relating to the visibility
144 of a vehicle from which a speed detection device is operated, as follows:

145 "40-14-7.

146 Except as provided for in Code Section 40-14-18, no ~~No~~ stationary speed detection device
147 shall be employed by county, municipal, college, or university law enforcement officers
148 where the vehicle from which the device is operated is obstructed from the view of
149 approaching motorists or is otherwise not visible for a distance of at least 500 feet."

150 **SECTION 8.**

151 Said article is further amended in Code Section 40-14-11, relating to investigations by the
152 commissioner of public safety, issuance of order suspending or revoking a permit, and ratio
153 of speeding fines to agency's budget, by revising subsection (d) as follows:

154 "(d) There shall be a rebuttable presumption that a law enforcement agency is employing
155 speed detection devices for purposes other than the promotion of the public health, welfare,
156 and safety if the fines levied based on the use of speed detection devices for speeding
157 offenses are equal to or greater than 40 percent of that law enforcement agency's budget;
158 provided, however, that fines for speeding violations exceeding 17 miles per hour over the
159 established speed limit and fines for speeding violations issued pursuant to Code Section
160 40-14-18 shall not be considered when calculating total speeding fine revenue for the
161 agency."

162 **SECTION 9.**

163 Said article is further amended by adding a new Code section to read as follows:

164 "40-14-18.

165 (a) The speed limit within any school zone established pursuant to the laws of this state
166 and marked pursuant to Code Section 40-14-6 may be enforced by using recorded images
167 for violations which occurred on any day between the hours of 6:00 A.M. and 8:00 P.M.

168 (b) For the purpose of enforcement pursuant to this Code section:

169 (1) The driver of a motor vehicle shall be liable for a civil monetary penalty if such
170 vehicle is found, as evidenced by recorded images, to have been operated in disregard or
171 disobedience of the speed limit within any school zone and such disregard or
172 disobedience was not otherwise authorized by law. The amount of such fine shall be
173 \$125.00, in addition to fees associated with the electronic processing of such fine which
174 shall not exceed \$25.00; provided, however, that for a period of 30 days after an
175 automated traffic enforcement safety device is first introduced within a school zone, other
176 than an automated traffic enforcement safety device replacing a previously used
177 automated traffic enforcement safety device, the driver of a motor vehicle shall not be
178 liable for a civil monetary penalty but shall be issued a civil warning for disregard or
179 disobedience of the speed limit within the school zone;

180 (2) A law enforcement agency authorized to enforce the speed limit of a school zone
181 shall send by regular mail addressed to the owner of the motor vehicle postmarked within
182 30 days after obtaining the name and address of the owner of the motor vehicle but no
183 later than 60 days after the date of the alleged violation:

184 (A) A citation for the alleged violation, which shall include the date and time of the
185 violation, the location of the infraction, the maximum speed at which such motor
186 vehicle was traveling in recorded images, the maximum speed applicable within such
187 school zone, the civil warning or the amount of the civil monetary penalty imposed, and
188 the date by which a civil monetary penalty shall be paid;

189 (B) An image taken from the recorded images showing the vehicle involved in the
190 infraction;

191 (C) A website address where recorded images showing the vehicle involved in the
192 infraction and a duplicate of the information provided for in this paragraph may be
193 viewed;

194 (D) A copy of a certificate sworn to or affirmed by a certified peace officer employed
195 by a law enforcement agency authorized to enforce the speed limit of the school zone
196 and stating that, based upon inspection of recorded images, the owner's motor vehicle
197 was operated in disregard or disobedience of the speed limit in the marked school zone
198 and that such disregard or disobedience was not otherwise authorized by law;

199 (E) A statement of the inference provided by paragraph (4) of this subsection and of
200 the means specified therein by which such inference may be rebutted;

201 (F) Information advising the owner of the motor vehicle of the manner and time in
202 which liability as alleged in the citation may be contested through an administrative
203 hearing; and

204 (G) A warning that failure to pay the civil monetary penalty or to contest liability in
205 a timely manner shall waive any right to contest liability and shall result in the inability
206 to obtain or renew the registration of such motor vehicle pursuant to Chapter 2 of this
207 title for the lawful operation of such motor vehicle on the public roadways of this state
208 and the inability of such person to obtain or renew a driver's license pursuant to Chapter
209 5 of this title until such civil monetary penalty is paid;

210 (3) Proof that a motor vehicle was operated in disregard or disobedience of the speed
211 limit of the marked school zone shall be evidenced by recorded images. A copy of a
212 certificate sworn to or affirmed by a certified peace officer employed by a law
213 enforcement agency and stating that, based upon inspection of recorded images, a motor
214 vehicle was operated in disregard or disobedience of the speed limit in the marked school
215 zone and that such disregard or disobedience was not otherwise authorized by law shall
216 be prima-facie evidence of the facts contained therein; and

217 (4) Liability under this Code section shall be determined based upon a preponderance of
218 the evidence. Prima-facie evidence that the vehicle described in the citation issued
219 pursuant to this Code section was operated in violation of the speed limit of the school
220 zone, together with proof that the defendant was, at the time of such violation, the
221 registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that
222 such owner of the vehicle was the driver of the vehicle at the time of the alleged
223 violation. Such an inference may be rebutted if the owner of the vehicle:

224 (A) Testifies under oath in open court or submits to the court a sworn notarized
225 statement that he or she was not the operator of the vehicle at the time of the alleged
226 violation and identifies the name of the operator of the vehicle at the time of the alleged
227 violation; or

228 (B) Presents to the court a certified copy of a police report showing that the vehicle had
229 been reported to the police as stolen prior to the time of the alleged violation.

230 (c) A violation for which a civil warning or a civil penalty is imposed pursuant to this
231 Code section shall not be considered a moving traffic violation for the purpose of points
232 assessment under Code Section 40-5-57. Such violation shall be deemed noncriminal, and
233 imposition of a civil warning or civil penalty pursuant to this Code section shall not be
234 deemed a conviction and shall not be made a part of the operating record of the person
235 upon whom such liability is imposed, nor shall it be used for any insurance purposes in the
236 provision of motor vehicle insurance coverage.

237 (d)(1) If a person summoned by regular mail fails to pay the penalty for the violation or
238 has not filed a police report or notarized statement pursuant to paragraph (4) of subsection
239 (b) of this Code section, the agent or law enforcement agency shall send to such person
240 by certified mail a final notice of any unpaid civil penalty, except in cases where there
241 is an adjudication that no violation occurred or there is otherwise a lawful determination
242 that no civil penalty shall be imposed. Such final notice shall inform such person that,
243 if such penalty is not paid within 30 days after such final notice was mailed, the agent or
244 law enforcement agency shall send a referral to the Department of Revenue to prevent the
245 renewal or transfer of the registration of such vehicle and a referral to the Department of
246 Driver Services to prevent the obtaining or renewal of any driver's license for such person
247 until such penalty is paid.

248 (2) Upon the expiration of 30 days after a final notice has been mailed pursuant to
249 paragraph (1) of this subsection, the agent or law enforcement agency shall, if the penalty
250 provided for under this Code section remains due and owing, send a referral to the
251 Department of Revenue and the Department of Driver Services. Such referral shall
252 include any information known or available to the agent or law enforcement agency
253 concerning the license plate number, year of registration of the motor vehicle subject to
254 the violation, and the name of the owner of such motor vehicle; the date on which the
255 violation occurred; the date on which the final notice provided for under paragraph (1)
256 of this subsection was mailed; and the seal, logo, emblem, or electronic seal of the law
257 enforcement agency.

258 (3)(A) Upon receiving a referral as provided for under paragraph (2) of this subsection,
259 the Department of Revenue shall refuse to renew the registration of, and to grant any
260 transfer or new registration concerning, the motor vehicle that is subject to the referral
261 until the penalty provided for under this Code section is paid and a withdrawal of the
262 referral is received from the agent or law enforcement agency or proof by such person
263 is offered showing such payment. Within five days of receiving a referral as provided
264 for under paragraph (2) of this subsection, the Department of Revenue shall send by
265 regular mail addressed to the person subject to the referral a notice informing such
266 person that the registration of such motor vehicle will not be permitted to be renewed,
267 or any transfer or new registration permitted, due to the civil penalty owed under this
268 Code section and of the procedure that such person may follow to remove the civil
269 penalty.

270 (B) Upon receiving a referral as provided for under paragraph (2) of this subsection,
271 the Department of Driver Services shall refuse to renew the driver's license of, and to
272 grant any new license to, the person subject to the referral until the penalty provided for
273 under this Code section is paid and a withdrawal of the referral is received from the

274 agent or law enforcement agency or proof by such person is offered showing such
275 payment. Within five days of receiving a referral as provided for under paragraph (2)
276 of this subsection, the Department of Driver Services shall send by regular mail
277 addressed to the person subject to the referral a notice informing such person that his
278 or her license will not be permitted to be renewed or any new license obtained due to
279 the civil penalty owed under this Code section and of the procedure that such person
280 may follow to remove the civil penalty.

281 (e) Any court having jurisdiction over violations of the speed limit in the school zone shall
282 have jurisdiction over cases arising under this Code section and shall be authorized to
283 impose the civil monetary penalty and to make or withdraw the referrals provided by this
284 Code section. The provisions of law governing jurisdiction, procedure, defenses,
285 adjudication, appeal, and payment and distribution of penalties otherwise applicable to
286 violations of the speed limit in the school zone shall apply to enforcement under this Code
287 section, except as otherwise provided in this Code section; provided, however, that any
288 appeal from superior or state court shall be by application in the same manner as that
289 provided by Code Section 5-6-35.

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

292 (g) A civil warning or penalty under this Code section on the owner of a motor vehicle
293 shall not be imposed if the operator of the vehicle was arrested or issued a citation and
294 notice to appear by a peace officer for the same violation."

295 **SECTION 10.**

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