

Senate Bill 458

By: Senators Tippins of the 37th, Black of the 8th, Albers of the 56th, Sims of the 12th and Martin of the 9th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 14 of Title 40 of the Official Code of Georgia Annotated, relating to use
2 of speed detection devices and red light cameras, so as to provide for the use of speed
3 detection devices by law enforcement officers employed for the patrol of an elementary or
4 secondary school; to repeal and reserve provisions related to definitions; to provide for
5 definitions; to provide for application for a permit to operate speed detection devices; to
6 provide for compliance and certification of speed detection devices; to provide for testing
7 and removal of inaccurate devices from service; to provide for warning signs when speed
8 detection devices are in use; to provide for visibility from vehicles from which such devices
9 are operated; to provide for inadmissibility in certain instances; to provide for unlawful use
10 of such devices; to allow for investigations by the commissioner of public safety; to provide
11 for suspension and revocation of a permit to operate a device and administrative and judicial
12 hearings upon such suspension or revocation; to provide for reissuance of a permit under
13 certain circumstances; to provide for reporting restrictions; to amend Code Section 40-5-57
14 of the Official Code of Georgia Annotated, relating to suspension or revocation of license
15 of habitually negligent or dangerous drivers and point system, so as to provide for the
16 removal of points assessed upon determination that a speed detection device was used in
17 violation of Chapter 14 of Title 40; to provide for related matters; to repeal conflicting laws;
18 and for other purposes.

19 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

20 **SECTION 1.**

21 Chapter 14 of Title 40 of the Official Code of Georgia Annotated, relating to use of speed
22 detection devices and red light cameras, is amended by repealing and revising Code
23 Section 40-14-1, relating to definitions.

24

SECTION 2.

25 Said chapter is further amended by revising Code Section 40-14-1.1, relating to definitions,
26 as follows:

27 "40-14-1.1.

28 As used in this article, the term:

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

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

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

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

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

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

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

43 (C) Indicates on each photographically recorded still or video image produced the date,
44 time, location, and speed of a photographically recorded vehicle traveling at a speed
45 above the posted speed limit within a marked school zone.

46 (3) 'Campus' means the grounds owned or occupied by a college or university.

47 (4) 'Campus law enforcement agency' means the agency at a college or university
48 charged with the enforcement of the laws of this state.

49 (5) 'College or university' means an accredited public or private educational institution
50 of higher learning.

51 (6) 'Local board of education' means the superintendent or governing authority of a board
52 of education of a county or an independent board of education of a municipality.

53 ~~(3)~~(7) 'Owner' means the registrant of a motor vehicle, except that such term shall not
54 include a motor vehicle rental company when a motor vehicle registered by such
55 company is being operated by another person under a rental agreement with such
56 company.

57 ~~(4)~~(8) 'Recorded images' means still or video images recorded by an automated traffic
58 enforcement safety device.

59 (9) 'School' means the grounds occupied by a public or private elementary or secondary
60 school.

61 (10) 'School security personnel' means a law enforcement officer employed by a local
 62 board of education or a county or municipal law enforcement agency for patrol of a
 63 school who is certified by the Georgia Peace Officer Standards and Training Council as
 64 having met the qualifications and having completed the basic training requirements for
 65 a peace officer under Chapter 8 of Title 35.

66 ~~(5)(11)~~ 'School zone' means the area within 1,000 feet of the boundary of any ~~public or~~
 67 ~~private elementary or secondary~~ school.

68 (12) 'Speed detection device' means, unless otherwise indicated, that particular device
 69 designed to measure the speed or velocity of a motor vehicle and marketed under the
 70 name 'Vascar' or any similar device operating under the same or similar principle and any
 71 devices for the measurement of speed or velocity based upon the Doppler principle of
 72 radar or the speed timing principle of laser. All such devices must meet or exceed the
 73 minimum performance specifications established by the Department of Public Safety."

74 **SECTION 3.**

75 Said chapter is further amended by revising Code Section 40-14-2, relating to permit required
 76 for use of speed detection devices, unauthorized use, and operation by a registered or
 77 certified peace officer, as follows:

78 "40-14-2.

79 (a) The law enforcement officers of the various counties, municipalities, local boards of
 80 education, colleges, and universities may use speed detection devices only if the sheriffs
 81 of such counties, or the governing authorities of such counties, or the governing authorities
 82 of such municipalities, or such local boards of education, or the president of such college
 83 or university shall approve of and desire the use of such devices and shall apply to the
 84 Department of Public Safety for a permit to use such devices in accordance with this
 85 chapter.

86 (b) No county sheriff, county or municipal governing authority, local board of education,
 87 college, or university shall be authorized to use speed detection devices where any arresting
 88 officer or official of the court having jurisdiction of traffic cases is paid on a fee system.
 89 This subsection shall not apply to any official receiving a recording fee.

90 (c) A permit shall not be issued by the Department of Public Safety to an applicant under
 91 this Code section unless the applicant provides law enforcement services by certified peace
 92 officers 24 hours a day, seven days a week on call or on duty or allows only peace officers
 93 employed full time by the applicant to operate speed detection devices. Speed detection
 94 devices can only be operated by registered or certified peace officers of the county sheriff,
 95 county, municipality, local board of education, college, or university to which the permit
 96 is applicable; provided, however, that an automated traffic enforcement safety device may

97 be operated by an agent or registered or certified peace officers of the county sheriff,
 98 county, or municipality to which the permit is applicable. Persons operating the speed
 99 detection devices must be registered or certified by the Georgia Peace Officer Standards
 100 and Training Council as peace officers and certified by the Georgia Peace Officer
 101 Standards and Training Council as operators of speed detection devices; provided,
 102 however, that agents may operate automated traffic enforcement safety devices without
 103 such registrations or certifications."

104 **SECTION 4.**

105 Said chapter is further amended in Code Section 40-14-3, relating to application for a permit
 106 for speed detection device operation and use of such device while application is pending, by
 107 revising subsection (a) as follows:

108 "(a)(1) A county sheriff, county or municipal governing authority, local board of
 109 education, or the president of a college or university may apply to the Department of
 110 Public Safety for a permit to authorize the use of speed detection devices for purposes of
 111 traffic control within such counties, municipalities, schools zones of the local board of
 112 education, colleges, or universities on streets, roads, and highways, provided that such
 113 application shall name the street or road on which the device is to be used and the speed
 114 limits on such street or road shall have been approved by the Office of Traffic Operations
 115 of the Department of Transportation.

116 (2) An application by a local board of education for permitted use of speed detection
 117 devices shall be approved for use only in school zones:

118 (A) As identified in an existing master state order or local ordinance;

119 (B) For a time period from 45 minutes prior and through 15 minutes after the
 120 scheduled start of daily instruction at a school; and

121 (C) For a time period from 15 minutes prior and through 45 minutes after scheduled
 122 dismissal from daily instruction at a school.

123 Law enforcement agencies are authorized to use speed detection devices on streets and
 124 roads for which an application is pending as long as all other requirements for the use of
 125 speed detection devices are met. Nothing in this subsection shall be construed to affect
 126 the provisions of Code Section 40-14-9."

127 **SECTION 5.**

128 Said chapter is further amended by revising Code Section 40-14-4, relating to compliance
 129 with rules of the Federal Communications Commission and certification of devices, as
 130 follows:

131 "40-14-4.
 132 A law enforcement officer operating a speed detection device shall be employed by a
 133 campus law enforcement agency, a local board of education, or a law enforcement agency
 134 of the state, a county, or a municipality which ~~No state, county, municipal, or campus law~~
 135 ~~enforcement agency may use speed detection devices unless the agency possesses a license~~
 136 ~~in compliance with Federal Communications Commission rules, and unless each device,~~
 137 ~~before being.~~ Before each device is placed in service and annually after being placed in
 138 service, is certified for compliance by a technician possessing a certification as required by
 139 the Department of Public Safety shall certify the device for compliance."

140 **SECTION 6.**

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

143 "40-14-5.

144 (a) Each state, county, ~~municipal~~, or municipal law enforcement officer, all school security
 145 personnel, and each officer employed by a campus law enforcement officer agency using
 146 a ~~radar~~ speed detection device, except for an automated traffic enforcement safety device
 147 as provided for under Code Section 40-14-18, shall test the device for accuracy and record
 148 and maintain the results of the test at the beginning and end of each duty tour. Each such
 149 test shall be made in accordance with the manufacturer's recommended procedure. Any
 150 ~~radar unit~~ speed detection device not meeting the manufacturer's minimum accuracy
 151 requirements shall be removed from service and thereafter shall not be used by the state,
 152 county, ~~municipal~~ municipality, local board of education, or campus law enforcement
 153 agency until it has been serviced, calibrated, and recertified by a technician with the
 154 qualifications specified in Code Section 40-14-4.

155 (b) Each county, ~~municipal~~, or municipal law enforcement officer, all school security
 156 personnel, and each officer employed by a campus law enforcement officer agency using
 157 a ~~radar device~~ speed detection device which uses radio wavelengths or radar to determine
 158 velocity, except for an automated traffic enforcement safety device as provided for under
 159 Code Section 40-14-18, shall notify each person against whom the officer intends to make
 160 a case based on the use of ~~the radar~~ such device that the person has a right to request the
 161 officer to test ~~the radar~~ such device for accuracy. The notice shall be given prior to the
 162 time a citation and complaint or ticket is issued against the person and, if requested to make
 163 a test, the officer shall test the ~~radar device~~ speed detection device which uses radio
 164 wavelengths or radar to determine velocity for accuracy. In the event ~~the radar~~ such device
 165 does not meet the minimum accuracy requirements, the citation and complaint or ticket
 166 shall not be issued against the person, and ~~the radar~~ such device shall be removed from

167 service and thereafter shall not be used by the county, ~~municipal~~ municipality, local board
 168 of education, or campus law enforcement agency until it has been serviced, calibrated, and
 169 recertified by a technician with the qualifications specified in Code Section 40-14-4.

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

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

182 **SECTION 7.**

183 Said chapter is further amended by revising Code Section 40-14-6, relating to warning signs
 184 when speed detection devices are in use, as follows:

185 "40-14-6.

186 (a)(1) Each county, municipality, college, and university using speed detection devices
 187 shall erect signs on every highway which comprises a part of the state highway system
 188 at that point on the highway which intersects the corporate limits of the municipality, the
 189 county boundary, or the boundary of the college or university campus. Such signs shall
 190 be at least 24 by 30 inches in area and shall warn approaching motorists that speed
 191 detection devices are being employed. No such devices shall be used within 500 feet of
 192 any such warning sign erected pursuant to this subsection.

193 (2) Each local board of education using speed detection devices shall erect signs on
 194 every highway which comprises a part of the state highway system at that point on the
 195 highway which intersects the boundary of a school zone. Such signs shall be at least 24
 196 by 30 inches in area and shall warn approaching motorists that speed detection devices
 197 are being employed. No such devices shall be used within 500 feet of any such warning
 198 sign erected pursuant to this subsection.

199 (b) In addition to the signs required under subsection (a) of this Code section, ~~each:~~

200 (1) Each county, municipality, college, and university using speed detection devices shall
 201 erect speed limit warning signs on every highway which comprises a part of the state
 202 highway system at that point on the highway which intersects the corporate limits of the

203 municipality, the county boundary, or the boundary of the college or university campus.
 204 Such signs shall be at least 24 by 30 inches in area, shall warn approaching motorists of
 205 changes in the speed limit, shall be visible plainly from every lane of traffic, shall be
 206 viewable in any traffic conditions, and shall not be placed in such a manner that the view
 207 of such sign is subject to being obstructed by any other vehicle on such highway. No
 208 such devices shall be used within 500 feet of any such warning sign erected pursuant to
 209 this subsection; and

210 (2) Each local board of education using speed detection devices shall erect speed limit
 211 warning signs on every highway which comprises a part of the state highway system at
 212 that point on the highway which intersects the boundary of a school zone. Such signs
 213 shall be at least 24 by 30 inches in area, shall warn approaching motorists of changes in
 214 the speed limit, shall be visible plainly from every lane of traffic, shall be viewable in any
 215 traffic conditions, and shall not be placed in such a manner that the view of such sign is
 216 subject to being obstructed by any other vehicle on such highway. No such devices shall
 217 be used within 500 feet of any such warning sign erected pursuant to this subsection.

218 (c) In addition to the signs required under subsections (a) and (b) of this Code section,
 219 each law enforcement agency using an automated traffic enforcement safety device as
 220 provided for in Code Section 40-14-18 shall erect signs warning of the use of a stationary
 221 speed detection device within the approaching school zone. Such signs shall be at least 24
 222 by 30 inches in area, shall be visible plainly from every lane of traffic, shall be viewable
 223 in all traffic conditions, and shall not be placed in such a manner that the view of such sign
 224 is subject to being obstructed by any other vehicle on such highway. Such signs shall be
 225 placed within 500 feet prior to the warning sign announcing the reduction of the speed limit
 226 for the school ~~speed~~ zone. There shall be a rebuttable presumption that such signs are
 227 properly installed pursuant to this subsection at the time of any alleged violation under this
 228 article."

229 **SECTION 8.**

230 Said chapter is further amended by revising Code Section 40-14-7, relating to visibility from
 231 vehicle from which device is operated, as follows:

232 "40-14-7.

233 Except as provided for in Code Section 40-14-18, no stationary speed detection device
 234 shall be used by a law enforcement officer employed by a county, ~~municipal, college, or~~
 235 university law enforcement officers municipality, local board of education, or campus law
 236 enforcement agency where the vehicle from which the device is operated is obstructed from
 237 the view of approaching motorists or is otherwise not visible for a distance of at least 500
 238 feet."

239

SECTION 9.

240 Said chapter is further amended by revising Code Section 40-14-9, relating to evidence
 241 obtained in certain areas inadmissible and use of device on a hill, as follows:

242 "40-14-9.

243 Evidence obtained by county or municipal law enforcement officers in using speed
 244 detection devices within 300 feet of a reduction of a speed limit inside an incorporated
 245 municipality or school zone or within 600 feet of a reduction of a speed limit outside an
 246 incorporated municipality or consolidated city-county government shall be inadmissible
 247 in the prosecution of a violation of any municipal ordinance, county ordinance, or state law
 248 regulating speed; nor shall such evidence be admissible in the prosecution of a violation
 249 as aforesaid when such violation has occurred within 30 days following a reduction of the
 250 speed limit in the area where the violation took place, except that this 30 day limitation
 251 shall not apply to a speeding violation within a highway work zone, as defined in Code
 252 Section 40-6-188, or in an area with variable speed limits, as ~~defined in~~ authorized pursuant
 253 to Code Section 40-6-182. No speed detection device shall be used by a law enforcement
 254 officer employed by a county, municipal, or campus law enforcement officers municipality,
 255 local board of education, or campus law enforcement agency on any portion of any
 256 highway which has a grade in excess of 7 percent."

257

SECTION 10.

258 Said chapter is further amended by revising Code Section 40-14-10, relating to unlawful use
 259 of devices generally, as follows:

260 "40-14-10.

261 It shall be unlawful for speed detection devices to be used in any county or municipality,
 262 in any school zone, or on any campus for which a permit authorizing such use has not been
 263 issued or for which a permit authorizing such use has been suspended or revoked and not
 264 reissued. It shall be unlawful for any official of such county, municipality, local board of
 265 education, college, or university to order such speed detection devices to be used. It shall
 266 be unlawful for any law enforcement officer of any such county, municipality, local board
 267 of education, college, or university to use any such speed detection devices. Any such
 268 official or law enforcement officer violating this Code section shall be guilty of a
 269 misdemeanor."

270

SECTION 11.

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

274 "(a) Upon a complaint being made to the commissioner of public safety that any county,
 275 municipality, local board of education, college, or university is employing speed detection
 276 devices for purposes other than the promotion of the public health, welfare, and safety or
 277 in a manner which violates this chapter or violates its speed detection device permit, the
 278 commissioner or the commissioner's designee is authorized and empowered to conduct an
 279 investigation into the acts and practices of such county, municipality, local board of
 280 education, college, or university with respect to speed detection devices. If, as a result of
 281 this investigation, the commissioner or the commissioner's designee finds that there is
 282 probable cause to suspend or revoke the speed detection device permit of such county,
 283 municipality, local board of education, college, or university, he or she shall issue an order
 284 to that effect."

285

SECTION 12.

286 Said chapter is further amended by revising Code Section 40-14-12, relating to
 287 administrative hearing upon permit suspension or revocation, as follows:

288 "40-14-12.

289 Upon issuance by the commissioner of public safety or such commissioner's designee of
 290 an order suspending or revoking the speed detection device permit of any county,
 291 municipality, local board of education, college, or university, the county, municipality,
 292 local board of education, college, or university affected shall be afforded a hearing, to be
 293 held within ten days of the effective date of the order. The hearing shall be held before the
 294 commissioner or deputy commissioner of public safety, and, following the hearing, the
 295 county, municipality, local board of education, college, or university affected shall be
 296 served with a written decision announcing whether the permit shall remain revoked or
 297 whether it shall be reinstated."

298

SECTION 13.

299 Said chapter is further amended by revising Code Section 40-14-13, relating to
 300 administrative and judicial appeal of decision suspending or revoking permit, as follows:

301 "40-14-13.

302 Any county, municipality, local board of education, college, or university aggrieved by a
 303 decision of the commissioner or deputy commissioner of public safety suspending or
 304 revoking its speed detection device permit may appeal that decision within 30 days of its
 305 effective date to the Board of Public Safety, which shall schedule a hearing with respect
 306 thereto before the board. Following a hearing before the board, the county, municipality,
 307 local board of education, college, or university affected shall be served with a written
 308 decision announcing whether the permit shall remain revoked or whether it shall be

309 reinstated. An adverse decision of the board may be appealed by the county, municipality,
 310 local board of education, college, or university to the superior court with appropriate
 311 jurisdiction, but the municipality, county, local board of education, college, or university
 312 shall be denied the use of the speed detection device until after such appeal is decided by
 313 the court."

314 **SECTION 14.**

315 Said chapter is further amended by revising Code Section 40-14-14, relating to petition for
 316 reconsideration following permit suspension or revocation, as follows:

317 "40-14-14.

318 At the expiration of six months following the suspension or revocation of a speed detection
 319 device permit by the Board of Public Safety or, if no appeal was taken, by the
 320 commissioner or deputy commissioner of public safety, the governing authority of any such
 321 county or municipality, or a local board of education, or the president of any such college
 322 or university may, upon a change of circumstances being shown to the commissioner,
 323 petition the commissioner for a reconsideration of whether such county, municipality, local
 324 board of education, college, or university should be permitted to use speed detection
 325 devices within their respective jurisdictions."

326 **SECTION 15.**

327 Said chapter is further amended by revising Code Section 40-14-15, relating to rehearing or
 328 restoration of permit at direction of the Governor, as follows:

329 "40-14-15.

330 The Governor, in his or her discretion, may direct the commissioner of public safety, or his
 331 or her delegate, to inquire into such change of circumstances and report the same to him
 332 or her together with any recommendations he or she might have. The Governor, in his or
 333 her discretion, may order a new hearing on the matter before the Board of Public Safety or
 334 may, without hearing, issue his or her order directing the commissioner to grant a permit
 335 to such a county, municipality, local board of education, college, or university to use speed
 336 detection devices. If a county, municipality, local board of education, college, or university
 337 shall not be granted a permit to use such devices, it shall not apply for a rehearing until the
 338 expiration of six months."

339 **SECTION 16.**

340 Said chapter is further amended by revising Code Section 40-14-16, relating to restrictions
 341 on suspension or revocation of drivers' licenses and reports to the Department of Driver
 342 Services to specify speed, as follows:

343 "40-14-16.
 344 No speeding violation of less than ten miles per hour above the legal speed limit in the
 345 county or municipality, in a school zone, or on a ~~college or university~~ campus in which a
 346 person is given a speeding ticket shall be used by the Department of Driver Services for the
 347 purpose of suspending or revoking the driver's license of the violator. No speeding
 348 violation report by a county, municipality, ~~or college or university campus~~ local board of
 349 education, or campus law enforcement agency to the Department of Driver Services which
 350 fails to specify the speed of the violator shall be used by the Department of Driver Services
 351 to revoke the driver's license of a violator."

352 **SECTION 17.**

353 Code Section 40-5-57 of the Official Code of Georgia Annotated, relating to suspension or
 354 revocation of license of habitually negligent or dangerous drivers and point system, is
 355 amended by revising paragraph (2) of subsection (c) as follows:

356 "(2) Any points assessed against an individual for exceeding the speed limit shall be
 357 deducted from that individual's accumulated violation point count and the uniform traffic
 358 citation issued therefor shall be removed from the individual's record if:

359 (A) The points were assessed based on the use of a ~~radar~~ speed detection device by a
 360 county, ~~or municipality~~, local board of education, or campus law enforcement agency
 361 during a period of time when the commissioner has determined that such county, ~~or~~
 362 municipality, local board of education, or campus law enforcement agency was
 363 operating a ~~radar~~ speed detection device in violation of Chapter 14 of this title, relating
 364 to the use of ~~radar~~ speed detection devices; and

365 (B) The commissioner has suspended or revoked the ~~radar~~ speed detection device
 366 permit of such county, ~~or municipality~~, local board of education, or campus law
 367 enforcement agency pursuant to Code Section 40-14-11."

368 **SECTION 18.**

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