

House Bill 1678

By: Representative Lim of the 99th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 14 of Title 40 of the Official Code of Georgia Annotated,
2 relating to speed detection devices, so as to provide for the enforcement of speed limit
3 violations through recorded images in certain instances; to provide for warning signs; to
4 provide for procedures, conditions, and limitations upon use of automated traffic
5 enforcement safety devices for the enforcement of speeding violations; to provide for
6 penalties; to revise a definition; to provide for rules and regulations; to provide for related
7 matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 2 of Chapter 14 of Title 40 of the Official Code of Georgia Annotated, relating to
11 speed detection devices, is amended in Code Section 40-14-1.1, relating to definitions, by
12 revising paragraph (2) as follows:

13 "(2) 'Automated traffic enforcement safety device' means a speed detection device that:
14 (A) Is capable of producing photographically recorded still or video images, or both,
15 of the rear of a motor vehicle or of the rear of a motor vehicle being towed by another
16 vehicle, including an image of such vehicle's rear license plate;

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

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

SECTION 2.

Said article is further amended by revising Code Section 40-14-6, relating to warning signs required and signage requirements, as follows:

"40-14-6.

(a)(1) Each county, municipality, college, and university using speed detection devices shall erect signs on every highway which comprises a part of the state highway system at that point on the highway which intersects the corporate limits of the municipality, the county boundary, or the boundary of the college or university campus. Such signs shall be at least 24 by 30 inches in area and shall ~~warn:~~

(A) Warn approaching motorists that speed detection devices are being employed. ~~No such devices shall be used within 500 feet of any such warning sign erected pursuant to this subsection.;~~

~~(b) In addition to the signs required under subsection (a) of this Code section, each county, municipality, college, and university using speed detection devices shall erect speed limit warning signs on every highway which comprises a part of the state highway system at that point on the highway which intersects the corporate limits of the municipality, the county boundary, or the boundary of the college or university campus. Such signs shall be at least 24 by 30 inches in area, shall warn~~

(B) Warn approaching motorists of changes in the speed limit, ~~shall be;~~

(C) Be visible plainly from every lane of traffic, ~~shall be;~~

(D) Be viewable in any traffic conditions, ~~and shall not; and~~

(E) Not be placed in such a manner that the view of such sign is subject to being obstructed by any other vehicle on such highway.

(2) No ~~such~~ speed detection devices shall be used within 500 feet of any such warning sign erected pursuant to this subsection.

~~(c)(b)~~ In addition to the signs required under ~~subsections~~ subsection (a) ~~and (b)~~ of this Code section, each law enforcement agency using an automated traffic enforcement safety device as provided for in Code Section 40-14-18 shall erect signs warning of the use of a stationary speed detection device ~~within the approaching school zone~~. Such signs shall be at least 24 by 30 inches in area, shall be visible plainly from every lane of traffic, shall be viewable in all traffic conditions, and shall not be placed in such a manner that the view of such sign is subject to being obstructed by any other vehicle on such highway. When an automated traffic enforcement safety device is used within a school zone, such ~~Such~~ signs shall be placed within 500 feet prior to the warning sign announcing the reduction of the speed limit for the school speed zone. When an automated traffic enforcement safety device is used outside a school zone, such signs shall be placed at least 200 feet prior to the location of any automated traffic enforcement safety device and at any intersection directly preceding the location of the automated traffic enforcement device in a manner such that any driver of a motor vehicle passing an automated traffic enforcement safety device shall have passed at least one sign prior to passing such device.

~~(c)~~ There shall be a rebuttable presumption that such signs are properly installed pursuant to this ~~subsection~~ Code section at the time of any alleged violation under this article."

SECTION 3.

Said article is further amended by revising Code Section 40-14-18, relating to enforcement of speed limit in school zones with recorded images, civil monetary penalty, and vehicle registration and transfer of title restrictions for failure to pay penalty, as follows:

68 "40-14-18.

69 (a)(1)(A) The speed limit within any school zone ~~as provided for in Code Section~~
70 ~~40-14-8~~ and marked pursuant to Code Section 40-14-6 may be enforced by using
71 photographically recorded images for violations which occurred only on a school day
72 ~~during the time in which instructional classes are taking place and one hour before such~~
73 ~~classes are scheduled to begin and for one hour after such classes have concluded~~ one
74 hour before, during, and one hour after the normal hours of school operation or
75 programs for care and supervision of students before school, after school, or during
76 vacation periods as provided for under Code Section 20-2-65 when such violations are
77 in excess of ten miles per hour over the speed limit.

78 (2)(B) Prior to the placement of a device within a school zone, each school within
79 ~~whose~~ such school zone wherein such automated traffic enforcement safety device is
80 to be placed shall first apply for and secure a permit from the Department of
81 Transportation for the use of such automated traffic enforcement safety device. Such
82 permit shall be awarded based upon need. The Department of Transportation shall
83 promulgate rules and regulations for the implementation of this paragraph.

84 (2)(A) The speed limit upon any arterial street other than a controlled-access highway
85 may be enforced by using photographically recorded images for violations when the
86 automated traffic enforcement safety device is located within any county which has a
87 population of 500,000 or more according to the 2020 United States decennial census
88 or any future such census, provided that such device is not located within 50 feet of an
89 intersection.

90 (B) Prior to the placement of a device in a location otherwise authorized pursuant to
91 subparagraph (A) of this paragraph, a local governing body shall first apply for and
92 secure a permit from the Department of Transportation for the use of such automated
93 traffic enforcement safety device. Such permit shall be awarded based upon need. The

Department of Transportation shall promulgate rules and regulations for the implementation of this paragraph.

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

(1) The owner of a motor vehicle shall be liable for a civil monetary penalty to the governing body of the law enforcement agency provided for in paragraph (2) of this subsection if such vehicle is found, as evidenced by photographically recorded images, to have been operated in disregard or disobedience of the speed limit within any school zone or upon an arterial street and such disregard or disobedience was not otherwise authorized by law. The amount of such civil monetary penalty shall be \$75.00 for a first violation and \$125.00 for a second or any subsequent violation, in addition to fees associated with the electronic processing of such civil monetary penalty which shall not exceed \$25.00; provided, however, that for a period of 30 days after the first automated traffic enforcement safety device is introduced by a law enforcement agency within a school zone or upon an arterial street, the driver of a motor vehicle shall not be liable for a civil monetary penalty but shall be issued a civil warning for disregard or disobedience of the speed limit ~~within the school zone~~;

(2) A law enforcement agency authorized to enforce the speed limit of a school zone or arterial street, or an agent working on behalf of a law enforcement agency or governing body, shall send by first class mail addressed to the owner of the motor vehicle within 30 days after obtaining the name and address of the owner of the motor vehicle from the Department of Revenue but no later than 60 days after the date of the alleged violation:

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

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

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

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

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

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

(G) A warning that failure to pay the civil monetary penalty or to contest liability in a timely manner as provided for in subsection (d) of this Code section shall waive any right to contest liability;

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

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

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

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

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

(d) If a person issued and mailed a citation pursuant to subsection (b) of this Code section fails to pay the civil monetary penalty for the violation or has not filed a police report or notarized statement pursuant to paragraph (4) of subsection (b) of this Code section in no less than 30 nor more than 60 days after such mailing as determined and noticed by the law enforcement agency, the agent or law enforcement agency shall send to such person by first class mail a second notice of any unpaid civil monetary penalty, except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed. The second notice shall

include all information required in paragraph (2) of subsection (b) of this Code section and shall include a new date of return which shall be no less than 30 days after such mailing as determined and noticed by the law enforcement agency. If such person notified by second notice again fails to pay the civil monetary penalty or file a police report or notarized statement pursuant to paragraph (4) of subsection (b) of this Code section by the new date of return, such person shall have waived the right to contest the violation and shall be liable for the civil monetary penalty provided for under this Code section, except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed.

(e) Notices mailed by first class mail pursuant to this Code section shall be adequate notification of the fees and penalties imposed by this Code section. No other notice shall be required for the purposes of this Code section.

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

(g) If a violation has not been contested and the assessed penalty has not been paid, the agent or governing body shall send to the person who is the registered owner of the motor vehicle a final notice of any unpaid civil monetary penalty authorized by this Code section, except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed. The notice shall inform the registered owner that the agent or governing body shall send a

referral to the Department of Revenue if the assessed penalty is not paid within 30 days after the final notice was mailed and such that such referral shall result in the nonrenewal of the registration of such motor vehicle and shall prohibit the title transfer of such motor vehicle within this state.

(h) The agent or governing body shall send a referral to the Department of Revenue not sooner than 30 days after the final notice required under subsection (g) was mailed if a violation of an ordinance or resolution adopted under this ~~article~~ Code section has not been contested and the assessed penalty has not been paid, except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed. The referral to the Department of Revenue shall include the following:

(1) Any information known or available to the agent or governing body concerning the license plate number, year of registration, and the name of the owner of the motor vehicle;

(2) The date on which the violation occurred;

(3) The citation number issued for the violation;

~~(3)~~(4) The date when the notice required under this Code section was mailed; and

~~(4)~~(5) The seal, logo, emblem, or electronic seal of the governing body.

(i) If the Department of Revenue receives a referral under subsection (h) of this Code section, such referral shall be entered into the motor vehicle database within five days of receipt and the Department of Revenue shall refuse to renew the registration of the motor vehicle and shall prohibit the title transfer of such vehicle within this state unless and until the civil monetary penalty plus any late fee is paid to the governing body. The Department of Revenue shall mail a notice to the registered owner informing such owner:

(1) That the registration of the vehicle involved in the violation will not be permitted to be renewed;

(2) That the title of the vehicle involved in the violation will not be permitted to be transferred in this state;

(3) That the aforementioned penalties are being imposed due to the failure to pay the civil monetary penalty and any late fee for an ordinance violation adopted under the authority of this Code section; and

(4) Of the procedure that the person may follow to remove the penalties.

(j) The Department of Revenue shall remove the penalties on a vehicle if any person presents the Department of Revenue with adequate proof that the penalty and any late fee, if applicable, has been paid.

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

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

(m) The money collected and remitted to the governing body pursuant to paragraph (1) of subsection (b) of this Code section shall only be used by such governing body to fund local law enforcement or public safety initiatives. This subsection shall not preclude the appropriation of a greater amount than collected and remitted under this subsection."

SECTION 4.

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