House of Representatives

General Assembly

File No. 620

January Session, 2005

Substitute House Bill No. 5744

House of Representatives, May 2, 2005

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING ENFORCEMENT OF SPEEDING AND TRAFFIC CONTROL SIGNAL VIOLATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (b) of section 14-107 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(b) Whenever there occurs a violation of section 10a-79, 10a-92, 10a-139, 14-218a, 14-219, 14-222, 14-223, 14-224 or 14-253a, **[**or**]** sections 14-275 to 14-281, inclusive, <u>or section 14-299</u> or a violation of an ordinance, bylaw or regulation of any town, city or borough in regard to parking, proof of the registration number of any motor vehicle therein concerned shall be prima facie evidence in any criminal action or in any action based on an infraction that the owner was the operator thereof, except in the case of a leased or rented motor vehicle, such proof shall be prima facie evidence in any criminal action that the lessee was the operator thereof.

14 Sec. 2. (NEW) (*Effective October 1, 2005*) (a) For the purposes of
15 sections 2 to 4, inclusive, of this act, "automated traffic enforcement
16 device" means a device that (1) is designed to automatically record the
17 image of the license plate of a motor vehicle that is (A) traveling at a
18 speed in excess of the speed limit established for a street, road,
19 highway or parking area, or (B) entering an intersection in violation of
20 a traffic control signal, and (2) indicates on the recorded image
21 produced the date, time of day, location of the violation and, if it is a
22 speed enforcement device, the speed of the motor vehicle or, if it is a
23 traffic control signal enforcement device, the traffic control signal.

24 (b) Any municipality may, by ordinance, authorize the use of
25 automated traffic enforcement devices to enforce the provisions of any
26 ordinance regulating the speed of vehicles or of section 14-218a, 14-219
27 or 14-299 of the general statutes, and establish a fine not to exceed one
28 hundred dollars for any violation of such ordinance or said section 14-
29 218a, 14-219 or 14-299 that is detected and recorded by such device.

30 (c) Whenever a violation of an ordinance regulating the speed of
31 motor vehicles or of section 14-218a, 14-219 or 14-299 of the general
32 statutes is detected and recorded by an automated traffic enforcement
33 device, the law enforcement agency shall, not later than five days after
34 the alleged violation, mail a citation to the registered owner of the
35 motor vehicle and a copy of the recorded image or images produced
36 by the device. Proof of the registration number of the motor vehicle
37 therein concerned shall be prima facie evidence that the owner was the
38 operator thereof, except that, in the case of a leased or rented motor
39 vehicle, such proof shall be prima facie evidence that the lessee was the
40 operator thereof, as provided in subsection (b) of section 14-107 of the
41 general statutes, as amended by this act. A citation shall not be issued
42 under this subsection unless a sign was posted on the street, road,
43 highway or parking area where the automated traffic enforcement
44 device was used not less than thirty days prior to such use providing
45 notice to operators of motor vehicles that such device may be used to
46 enforce speeding and traffic control signal laws on such street, road,
47 highway or parking area.

48 (d) Any fine collected by a municipality pursuant to this section
49 shall be deposited into the general fund of the municipality or in any
50 special fund designated by the municipality.

51 Sec. 3. (NEW) (*Effective October 1, 2005*) (a) Any town, city or
52 borough that adopts an ordinance as provided in section 2 of this act
53 shall establish by ordinance a speeding and traffic control signal
54 violation hearing procedure in accordance with this section. The
55 Superior Court shall be authorized to enforce the assessments and
56 judgments provided for under this section.

57 (b) The chief executive officer of the town, city or borough shall
58 appoint one or more speeding and traffic control signal violation
59 hearing officers, other than police officers or persons who work in the
60 police department, to conduct the hearings authorized by this section.

61 (c) A town, city or borough may, not later than twelve months after
62 the expiration of the final period for the uncontested payment of fines,
63 penalties, costs or fees for any alleged violation of an ordinance
64 regulating the speed of motor vehicles or of section 14-218a, 14-219 or
65 14-299 of the general statutes detected and recorded by an automated
66 traffic enforcement device pursuant to section 2 of this act, send notice
67 to the registered owner of the motor vehicle by first class mail at such
68 person's address according to the registration records of the
69 Department of Motor Vehicles. Such notice shall inform the owner: (1)
70 Of the allegations against such person and the amount of the fines,
71 penalties, costs or fees due; (2) that such person may contest such
72 person's liability before a speeding and traffic control signal violations
73 hearing officer by delivering in person or by mail written notice not
74 later than ten days after the date thereof; (3) that if such person does
75 not demand such a hearing, an assessment and judgment shall enter
76 against such person; and (4) that such judgment may issue without
77 further notice.

78 (d) If the person to whom notice is sent pursuant to subsection (c) of
79 this section wishes to admit liability for any alleged violation, such
80 person may, without requesting a hearing, pay, in person or by mail to

an official designated by the town, city or borough the full amount of the fines, penalties, costs or fees admitted to. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing by the tenth day after the date of the first notice provided for in subsection (c) of this section shall be deemed to have admitted liability, and the designated town official shall certify such person's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fines, penalties, costs or fees provided for by the applicable ordinances and shall follow the procedures set forth in subsection (f) of this section.

(e) Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen days nor more than thirty days from the date of the mailing of notice, provided the hearing officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. An original or certified copy of the initial notice of violation shall be filed and retained by the town, city or borough, be deemed to be a business record within the scope of section 52-180 of the general statutes and be evidence of the facts contained therein. A person wishing to contest such person's liability shall appear at the hearing and may present evidence in such person's behalf. A designated town official, other than the hearing officer, may present evidence on behalf of the town. If such person fails to appear, the hearing officer may enter an assessment by default against such person upon a finding of proper notice and liability under the applicable statutes or ordinances. The hearing officer may accept from such person copies of police reports, Department of Motor Vehicles documents and other official documents by mail and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as the hearing officer deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or

116 affirmation. The hearing officer shall announce the hearing officer's
117 decision at the end of the hearing. If the hearing officer determines that
118 the person is not liable, the hearing officer shall dismiss the matter and
119 enter the hearing officer's determination in writing accordingly. If the
120 hearing officer determines that the person is liable for the violation, the
121 hearing officer shall forthwith enter and assess the fines, penalties,
122 costs or fees against such person as provided by the applicable
123 ordinances of that town, city or borough.

124 (f) If such assessment is not paid on the date of its entry, the hearing
125 officer shall send by first class mail a notice of the assessment to the
126 person found liable and shall file, not less than thirty days nor more
127 than twelve months after such mailing, a certified copy of the notice of
128 assessment with the clerk of a superior court facility designated by the
129 Chief Court Administrator within the boundaries of the judicial district
130 in which the town, city or borough is located together with an entry fee
131 of eight dollars. The certified copy of the notice of assessment shall
132 constitute a record of assessment. Within such twelve-month period,
133 assessments against the same person may be accrued and filed as one
134 record of assessment. The clerk shall enter judgment, in the amount of
135 such record of assessment and court costs of eight dollars, against such
136 person in favor of the town, city or borough. Notwithstanding any
137 other provision of the general statutes, the hearing officer's assessment,
138 when so entered as a judgment, shall have the effect of a civil money
139 judgment and a levy of execution on such judgment may issue without
140 further notice to such person.

141 (g) A person against whom an assessment has been entered
142 pursuant to this section is entitled to judicial review by way of appeal.
143 An appeal shall be instituted not later than thirty days after the
144 mailing of notice of such assessment by filing a petition to reopen such
145 assessment, together with an entry fee in an amount equal to the entry
146 fee for a small claims case pursuant to section 52-259 of the general
147 statutes, at a Superior Court facility designated by the Chief Court
148 Administrator, which shall entitle such person to a hearing in
149 accordance with the rules of the judges of the Superior Court.

150 Sec. 4. (NEW) (*Effective October 1, 2005*) Notwithstanding any
151 provision of the general statutes, a violation of section 14-218a, 14-219
152 or 14-299 of the general statutes detected and recorded by an
153 automated traffic enforcement device shall not constitute an infraction
154 or violation, be processed by the Centralized Infractions Bureau, be
155 considered a moving traffic violation, be reported to the Department of
156 Motor Vehicles for inclusion on a person's driving record or cause the
157 assessment of points against the operator's license of the person found
158 to have violated said section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2005*	14-107(b)
Sec. 2	*October 1, 2005*	New section
Sec. 3	*October 1, 2005*	New section
Sec. 4	*October 1, 2005*	New section

Statement of Legislative Commissioners:
In section 3, "within" was changed to "not later than" for statutory consistency.

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 $	FY 07 $
Judicial Dept.	Various Funds - Revenue Loss	Significant	Significant

Municipal Impact:

Municipalities	Effect	FY 06 $	FY 07 $
Various Municipalities	See Below	See Below	See Below

Explanation

Municipal Impact

The bill permits municipalities to authorize the use of automated traffic enforcement devices to enforce the provisions of any municipal ordinance or certain state laws regulating the speed of vehicles. It provides that municipalities may impose a fine of up to $100 for any violation of municipal ordinances or state law that are enforced through the use of automated traffice enforcement devices. Any and all revenues generated under the bill are to be deposited with the municipalities responsible for imposing the fines.

Any muncipality which chooses to adopt these devices would incur potentially significant costs to install and maintain them, as well as to administer the imposition of fines (including the hearing of contested violations). The municipal revenue gain and potential cost savings related to law enforcement are uncertain, subject to management of the programs by the municipalities themselves.

State Impact

The bill would result in a revenue loss to the state as fines imposed

via automated traffic enforcement devices displace those issued by law enforcement officers. Current law requires the entire amount of speeding and traffic control fines imposed by local law enforcement agencies and collected, about $5.3 million annually, to be deposited in to various state Funds. However, the bill provides for one hundred per cent of any similar fine imposed and collected to be deposited in to municipal Funds. The potential revenue loss associated with this provision is uncertain, depending upon the number of devices installed, but is likely to be greater than $100,000 each year.

The Judicial Department would incur a workload increase as a result of the bill, as it authorizes the Superior Court to enforce any municipal assessments or judgments under the bill. It is anticipated that any such increase could be accommodated with budgeted resources.

OLR Bill Analysis
sHB 5744

AN ACT CONCERNING ENFORCEMENT OF SPEEDING AND TRAFFIC CONTROL SIGNAL VIOLATIONS

SUMMARY:
The bill establishes a separate procedure, with generally lower penalties, for violations of certain state motor vehicle laws and local ordinances and redirects the fines that result from the state to the municipalities that use the new enforcement procedure the bill authorizes.

It allows municipalities (towns, cities, and boroughs) by ordinance, to (1) authorize the use of automated traffic enforcement devices to enforce the provisions of any ordinance regulating vehicle speed or state laws regarding speeding, traveling unreasonably fast, or obeying traffic lights, and (2) establish a fine of up to $100 for violations the devices detect and record. It requires that any fine the municipality collects be deposited into the municipality's general fund or in any special fund it designates.

Participating municipalities must establish, by ordinance, a speeding and traffic control signal violation hearing procedure. The Superior Court is authorized to enforce the assessments and judgments arising from the bill.

The bill specifies that a violation detected and recorded by an automated traffic enforcement device

1. does not constitute an infraction or violation,

2. is not processed by the Centralized Infractions Bureau, and

3. may not be considered a moving traffic violation, be reported to the Department of Motor Vehicles (DMV) for inclusion on a person's driving record, or cause the assessment of points against the operator's license of the person found to have violated the law. (Thus, for example, someone who has three speeding violations in two years detected by a police officer

must take a statutorily mandated driver-retraining program administered by the DMV, whereas someone detected and recorded by an automated traffic enforcement device apparently would not.)

The bill makes it prima facie evidence in any enforcement action involving the offense of violating the law regarding traffic lights, that the owner was the operator, or in the case of a leased vehicle, that the lessee was the operator. (Prima facie evidence is evidence that is sufficient to support but not compel a conclusion.)

EFFECTIVE DATE: October 1, 2005

AUTOMATED TRAFFIC ENFORCEMENT DEVICE

Under the bill, an "automated traffic enforcement device" is a device that:

1. is designed to automatically record the image of the license plate of a motor vehicle that is (a) traveling at a speed in excess of the speed limit established for a street, road, highway or parking area, or (b) entering an intersection in violation of a traffic control signal, and

2. indicates on the recorded image produced the date, time of day, and location of the violation and, if it is a speed enforcement device, the speed of the motor vehicle or, if it is a traffic control signal enforcement device, the traffic control signal.

MUNICIPAL ORDINANCE

The bill allows a municipality to authorize by ordinance the use of automated traffic enforcement devices to enforce the provisions of any ordinance regulating the speed of vehicles or of state laws relating to speeding, traveling unreasonably fast, or traffic lights.

Whenever such a violation is detected and recorded by the device, the law enforcement agency must, within five days after the alleged violation, mail a citation to the registered owner and a copy of the recorded image or images the device produces. Proof of the registration number of the motor vehicle is prima facie evidence that the owner was driving, or in the case of a leased or rented motor

vehicle, that the lessee was driving. A citation may not be issued unless a sign was posted on the street, road, highway, or parking area where the automated traffic enforcement device was used at least 30 days before using the device notifying drivers that it may be used there to enforce speeding and traffic control signal laws.

HEARING PROCEDURE

Hearing Officers

The municipality's chief executive must appoint one or more hearing officers, other than police officers or people who work in the police department, to conduct the hearings.

Notice of Violation to Vehicle Owner

The bill requires the municipality within 12 months from the expiration of the final period for the uncontested payment of fines, penalties, costs, or fees to send notice to the vehicle's registered owner by first class mail at the address listed in the DMV registration records. The notice must inform the owner:

1. of the allegations against him and the amount of the fines, penalties, costs, or fees due;

2. that he may contest his liability before a speeding and traffic control signal violations hearing officer by delivering or mailing written notice within 10 days of the notice's date;

3. that if he does not demand a hearing, an assessment and judgment will enter against him; and

4. that the judgment may issue without further notice.

Payment Without Hearing

If the accused wants to admit liability he may, without requesting a hearing, pay the full amount of the fines, penalties, costs, or fees in person or by mail to an official the municipality designates. The payment is inadmissible in any civil or criminal proceeding to establish his conduct or the conduct of any other person making the payment.

Anyone who does not deliver or mail written demand for a hearing

within 10 days of the notice is deemed to have admitted liability, and the designated town official must certify his failure to respond to the hearing officer. The hearing officer must then enter and assess the fines, penalties, costs, or fees provided for by the applicable ordinances and follow the procedures the bill establishes.

Required Hearing

Anyone who requests a hearing must be given written notice of its date, time, and place. The hearing must be held from 15 to 30 days from the date the notice was mailed. But the hearing officer must grant, for good cause, any reasonable request by an interested party for postponement or continuance.

The bill requires an original or certified copy of the initial notice to be filed and retained by the municipality as a business record and be evidence of the facts contained in it. Anyone contesting the charges must appear at the hearing and may present evidence. A designated town official, other than the hearing officer, may present evidence on the town's behalf. If the accused fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes or ordinances. The hearing officer may accept from the accused copies of police reports, DMV documents, and other official documents by mail and may thus determine that his appearance is unnecessary.

The hearing officer must conduct the hearing in the order and form and with whatever methods of proof he deems fair and appropriate. The rules regarding the admissibility of evidence may not be applied strictly, but all testimony must be given under oath or affirmation. The hearing officer must announce his decision at the end of the hearing. If he determines that the accused is not liable, he must dismiss the case and enter his determination in writing. If he determines that the person is liable, he must immediately enter judgment and assess the fines, penalties, costs, or fees as provided by the applicable ordinances.

Unpaid Assessments

If the assessment is not paid on the day he enters judgment, the hearing officer must send the accused a notice by first class mail of the assessment and file, not less than 30 days nor more than 12 months after the mailing, a certified copy of the notice of assessment with the

clerk of a Superior Court facility the chief court administrator designates within the boundaries of the judicial district where the municipality is located together with an $8 entry fee. The certified copy of the notice of assessment constitutes a record of assessment. Within this 12-month period, assessments against the same person may be accrued and filed as one record of assessment. The clerk must enter judgment in the amount of the assessment and the $8 court costs. The hearing officer's assessment, when entered as a judgment, has the effect of a civil money judgment and the violator's property can be attached to collect the judgment without further notice.

COURT REVIEW

A person against whom an assessment has been entered can appeal to court. An appeal must be instituted within 30 days after the notice of assessment was mailed by filing a petition, together with an entry fee equal to the entry fee for a small claims case (currently $35) at a Superior Court facility the chief court administrator designates. This gives the accused the right to a hearing in accordance with Superior Court rule.

BACKGROUND

Failing to Obey Traffic Lights

Failing to obey traffic lights is an infraction. The total amount due is $114 (CGS § 14-299).

Speeding Offenses

There are two types of speeding offenses: (1) traveling unreasonably fast or too fast for conditions; and (2) speeding, which can be either an infraction or a violation depending on factors like vehicle type, road type, and specific speed.

Traveling Unreasonably Fast. Traveling unreasonably fast (CGS § 14-218a) occurs when someone drives at a speed, other than speeding, that is greater than is reasonable. Usually reasonable speed is determined by the speed limit the State Traffic Commission sets for state highways or approves for local roads. But it can also be less than the posted limit when a special hazard exists because of pedestrians, other traffic, or weather conditions. In this instance, a driver is cited for "traveling too fast for conditions" rather than for traveling

unreasonably fast. The amount due for traveling unreasonably fast depends on how much the person's actual speed exceeds the posted limit. It ranges from $93 for one to nine mph above the posted limit to $181 for 23 mph or more over the limit. The amount due for traveling too fast for conditions is a uniform $93.

Speeding. As noted above, speeding can be either an infraction or a violation depending on the attendant conditions (CGS § 14-219). The amount due for a speeding infraction is also determined by a sliding scale based on actual speed above the posted limit, but it is higher than the scale for traveling unreasonably fast because it is subject to one additional fee. It ranges from $113 for one to nine mph above the posted limit to $201 for 23 mph or more above the limit.

The basic fine for speeding violations (driving faster than 70 mph) is $100 to $150. For passenger cars on limited access highways, the additional surcharges and fees result in amounts due of $203 for going 71-75 mph, $244 for going 76 to 80, and $284 for going 81-85. The amount due for driving at a speed that endangers a vehicle's occupant's life is a uniform $203.

Speeding by Trucks. The law treats speeding by trucks differently. All offenses by trucks for going more than 55 mph are treated as violations. Speeds between 56 and 70 mph are subject to a $100-$150 fine. Speeds from 71 to 85 mph are subject to a $150-$200 fine. The additional surcharges and fees make the total amounts due for truck violations as follows: $203 for 56-60 mph, $235 for 61-65 mph, $268 for 66-70 mph, $300 for 71-75 mph, $333 for 76-80 mph, and $365 for 81-85 mph. The amount due for driving at a speed that endangers a vehicle occupant is a uniform $284 for trucks.

Reckless Driving. Reckless driving is a criminal offense. The penalty is a $100-$300 fine, imprisonment for up to 30 days, or both, for a first offense and fine of up to $600, imprisonment for up to one year, or both, for any subsequent offense.

Additional Fees, Surcharges, and Assessments Applicable to Speeding Offenses

Certain other laws subject fines for all types of speeding offenses, as well as most other motor vehicle violations and infractions and some other non-motor-vehicle-related offenses, to (1) a series of special

surcharges, fees, or assessments meant to provide funds for other purposes or defray court costs and (2) a special additional penalty equal to the entire fine when the offenses occur in specifically marked highway construction zones, utility work zones, or school zones (CGS §§ 14-212a, 14-212b).

The special surcharges, fees, and assessments in the first case include:

1. a 50% surcharge on the fine for the Special Transportation Fund (CGS § 13b-70);

2. a fee of $1 for each $8 or fraction thereof of the assessed fine for purposes of providing additional funds for municipal and state police training (CGS § 51-56a);

3. a surcharge of $20 for anyone pleading no contest to, or convicted of, certain offenses, including infractions and speeding violations (CGS § 54-143a);

4. a court cost assessment of $15 for anyone who pleads no contest to, or is convicted of, a speeding violation or infraction, or is convicted of reckless driving (CGS § 54-143(a)); and

5. a $5 assessment on fines for speeding for traumatic brain injury programs. The last assessment does not apply to infractions for traveling unreasonably fast under CGS § 14-218a.

For example, someone driving 70 mph on a limited access highway posted at 55 mph must pay a total of $153. This amount includes:

1. a $60 base fine,

2. a $30 Special Transportation Fund surcharge,

3. an $8 fee for police training assessment,

4. the $35 court cost assessment,

5. the $35 court cost surcharge, and

6. the $5 brain injury program assessment.

If the speeding offense occurs in a construction zone, utility work zone, or school zone, the total amount due increases to $193. If it occurs in a school zone and a construction or utility zone, it becomes $253. While school zones are not likely to exist along limited access highways, the multiplying effect is the same for offenses on other types of roads, although the base fines would differ.

Disposition of Revenue From Fines, Fees, and Surcharges

The fines and the 50% surcharge go to the Special Transportation Fund. The other assessments go to the General Fund for specific purposes such as police training, compensating crime victims, traumatic brain injury programs, and court costs.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 26 Nay 13