



Senate

General Assembly

File No. 419

January Session, 2011

Substitute Senate Bill No. 706

Senate, April 6, 2011

The Committee on Transportation reported through SEN. MAYNARD of the 18th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING MUNICIPAL AUTOMATED TRAFFIC CONTROL SAFETY DEVICES AT CERTAIN INTERSECTIONS.

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

1 Section 1. (NEW) (*Effective October 1, 2011*) As used in this section
2 and sections 2 to 4, inclusive, of this act:

3 (1) "Automated traffic enforcement safety device" means a device
4 that (A) is capable of producing a photographically recorded still or
5 video image, or combination thereof, of the rear of a motor vehicle or a
6 motor vehicle being drawn by another motor vehicle, including an
7 image of the vehicle's rear license plate; and (B) indicates on one or
8 more of any such image produced, the date and time, and the location
9 of violation and the traffic control signal;

10 (2) "Owner" means a person or persons in whose name a motor
11 vehicle is registered under title 14 of the general statutes, or under the
12 laws of another state or country; and

13 (3) "Vendor" means a person who: (A) Provides services to a
14 municipality under sections 2 to 4, inclusive, of this act; (B) operates,
15 maintains, leases or licenses an automated traffic enforcement safety
16 device; or (C) is authorized to review and assemble the recorded
17 images captured by the automated traffic enforcement safety device,
18 provided none of these activities shall be construed by the state or a
19 traffic authority as providing or participating in private investigative
20 services.

21 Sec. 2. (NEW) (*Effective October 1, 2011*) (a) A municipality with a
22 population greater than sixty thousand, with the authorization of its
23 chief executive officer and legislative body, may authorize the use of
24 automated traffic enforcement safety devices to enforce the provisions
25 of section 14-299 of the general statutes, within such municipality.

26 (b) Before enforcing an ordinance adopted under this section, the
27 municipality shall install advance warning signs along all approaches
28 of the roadways preceding the intersection at which an automated
29 traffic enforcement safety device is located. The advance warning signs
30 shall notify motorists of the existence of the automated traffic
31 enforcement safety device.

32 (c) Any ordinance adopted under this section shall specify the
33 following: (1) That the owner of a motor vehicle commits a violation of
34 the ordinance if the automated traffic enforcement safety device
35 produces a recorded image or images of a motor vehicle, or a motor
36 vehicle being drawn by another motor vehicle proceeding through an
37 intersection in violation of the provisions of section 14-299 of the
38 general statutes; (2) that the owner of a motor vehicle establishes a
39 defense if the person identified as having the care, custody or control
40 of the motor vehicle, or identified as the operator of the motor vehicle
41 at the time of the violation, is not the owner; (3) that payment of a
42 penalty and associated costs and fees imposed for a violation of an
43 ordinance adopted under this section may be made by electronic
44 means; and (4) that a local police officer or a designated employee of a
45 vendor shall review and approve the recorded image or images before

46 the notices referred to in subsection (e) of this section are mailed to the
47 owner of the motor vehicle, or the motor vehicle being drawn by
48 another motor vehicle.

49 (d) An ordinance adopted under this section: (1) Shall impose a civil
50 penalty equal to the greater of one hundred twenty-four dollars or the
51 maximum penalty permitted for a violation of an ordinance adopted
52 under this section; (2) may impose fees associated with the electronic
53 processing of the payment of the civil penalty imposed for a violation
54 of such ordinance; and (3) shall provide that the civil penalty imposed
55 for a violation of such ordinance may be applied to defray the costs of
56 the installation, operation and maintenance of the automated traffic
57 enforcement safety device and program and that the remaining funds
58 shall be distributed as follows: (A) Seventy per cent shall be deposited
59 in the general fund of the municipality or in any special fund or
60 account of the municipality, as determined by the chief executive
61 officer and legislative body, (B) fifteen per cent shall be paid to the
62 State Treasurer for deposit in the General Fund and shall be credited to
63 the appropriation for the Department of Social Services, for Services
64 for Persons with Disabilities, Traumatic Brain Injury, and (C) fifteen
65 per cent shall be paid to the State Treasurer for deposit in the Special
66 Transportation Fund.

67 (e) The municipality or its authorized agent shall mail to the owner
68 of a motor vehicle or a motor vehicle being drawn by another motor
69 vehicle, committing a violation of an ordinance adopted under this
70 section, notice of the ordinance violation by first class mail postmarked
71 not later than thirty days after obtaining the name and address of the
72 owner of the motor vehicle, but not more than sixty days after the date
73 of the alleged violation. The notice shall include the following: (1) The
74 name and address of the owner of the motor vehicle, or the motor
75 vehicle being drawn by another motor vehicle; (2) the license plate
76 number of the motor vehicle or the motor vehicle being drawn by
77 another motor vehicle; (3) the violation charged; (4) the location of the
78 intersection and the date and time of the violation; (5) a copy of or
79 information on how to view, through electronic means, the recorded

80 image described in this section; (6) a statement or electronically-
81 generated affirmation by a designated employee of a vendor, or local
82 police officer, who has reviewed the recorded image described in this
83 section and determined that the motor vehicle violated the ordinance;
84 (7) the amount of the civil penalty imposed for the violation; and (8)
85 the date by which the civil penalty shall be paid if the owner of the
86 vehicle does not choose to contest the violation, and chooses to avoid
87 paying court costs. The date by which the civil penalty shall be paid
88 shall not be more than thirty days after the issuance date of the
89 violation, if a defense described in this section does not apply, or forty-
90 five days after the issuance date of the violation if a defense described
91 in this section requires the notice to be sent to another person.

92 (f) Any challenge to the implementation of an automated traffic
93 enforcement safety device or adoption of an ordinance under this
94 section shall be brought within thirty days of passage of the ordinance.

95 (g) It is a defense in a proceeding to enforce an ordinance adopted
96 under this section if the owner provides to the municipality, or agent
97 for the municipality, an affidavit signed under the penalties of perjury
98 which: (1) Establishes that, at the time of the alleged violation, the
99 owner was engaged in the business of renting or leasing motor
100 vehicles under written agreements; (2) establishes that, at the time of
101 the alleged violation, the motor vehicle was in the care, custody or
102 control of a person other than the owner or an employee of the owner
103 of the motor vehicle or the vehicle being drawn by another motor
104 vehicle, under a written agreement for the rental or lease of the motor
105 vehicle or the vehicle being drawn by another motor vehicle, for a
106 period of not more than sixty days; and (3) provides to the traffic
107 authority, court or agent for the municipality the name and address of
108 the person who was renting or leasing the motor vehicle or the vehicle
109 being drawn by another motor vehicle at the time of the alleged
110 violation.

111 (h) If the owner of a motor vehicle or a vehicle being drawn by
112 another motor vehicle meets the requirements of subsection (g) of this

113 section, the traffic authority, court or agent for the local municipality
114 shall mail, or electronically transfer, a notice of the citation to the
115 person identified as having the care, custody or control of the motor
116 vehicle or the vehicle being drawn by another motor vehicle at the
117 time of the violation. The proof required under said subsection (g) of
118 this section creates a rebuttable presumption that the person having
119 the care, custody or control of the motor vehicle or the vehicle being
120 drawn by another motor vehicle at the time of the violation was the
121 operator of the motor vehicle at the time of the violation. The notice
122 required under this subsection shall contain the following: (1) The
123 information described in subsection (e) of this section; (2) a statement
124 that the person receiving the notice was identified by the owner of the
125 motor vehicle or the vehicle being drawn by another motor vehicle as
126 the person having the care, custody or control of the motor vehicle at
127 the time of the violation; and (3) a statement that a person may offer a
128 defense as described in this subsection, or in subsection (g) or (i) of this
129 section.

130 (i) It is a defense to a proceeding to enforce an ordinance adopted
131 under this section if the owner provides to the traffic authority or court
132 an affidavit signed under penalty of perjury stating either of the
133 following: (1) That the owner was not operating the motor vehicle or
134 the motor vehicle drawing another vehicle at the time of the alleged
135 violation and provides the name and address of the person operating
136 the motor vehicle or the motor vehicle drawing a vehicle at the time of
137 the alleged violation; or (2) that either: (A) The motor vehicle, or (B) the
138 license plate of the motor vehicle or the vehicle being drawn by
139 another motor vehicle, was stolen before the alleged violation occurred
140 and was not under the control or possession of the owner at the time of
141 the alleged violation. In addition to such affidavit, the owner shall
142 submit proof that a police report was filed concerning the stolen motor
143 vehicle or stolen license plate.

144 (j) If the owner of a motor vehicle or a vehicle being drawn by
145 another motor vehicle submits the evidence required under subsection
146 (i) of this section, the traffic authority, court or agent for the local

147 municipality shall mail a notice of the citation to the person identified
148 as the person operating the motor vehicle at the time of the violation.
149 The proof required under subsection (i) of this section creates a
150 rebuttable presumption that the person identified in the affidavit
151 required under subsection (i) of this section was the operator of the
152 motor vehicle at the time of the violation. The notice required under
153 this subsection shall contain the following: (1) The information
154 described in subsection (e) of this section; and (2) a statement that the
155 person receiving the notice was identified by the owner of the motor
156 vehicle as the person operating the motor vehicle at the time of the
157 violation.

158 (k) It is a defense to a proceeding to enforce an ordinance adopted
159 under this section if any of the following apply: (1) A person operating
160 an authorized emergency vehicle may proceed past a red traffic control
161 signal or traffic control device after slowing down as necessary for safe
162 operation; (2) the traffic signal lights are not operating, and such is able
163 to be observed on the recorded image; (3) the operator was complying
164 with a lawful order or direction of a law enforcement officer, and such
165 is able to be observed on the recorded image; (4) the operator was
166 yielding right-of-way to an authorized emergency vehicle, and such is
167 able to be observed on the recorded image; (5) the vehicle was
168 participating in a funeral procession, and such is able to be observed
169 on the recorded image; or (6) a traffic citation was issued to the
170 operator of the motor vehicle for the violation by a state or local police
171 officer.

172 (l) A designated employee or local police officer is not liable for any
173 loss while acting within the scope of the employment of the designated
174 employee or local police officer under this section or an ordinance
175 adopted under this section.

176 (m) If it appears from the records of the local authority that has
177 jurisdiction to enforce an ordinance adopted under this section that a
178 person has failed to pay a violation before the deadlines established by
179 this section without notification of an intent to contest the violation,

180 the local authority shall send a notice to the person who is the
181 registered owner of the motor vehicle or the vehicle being drawn by
182 another motor vehicle. The notice shall inform the registered owner of
183 the following: (1) That the local authority will send a referral to the
184 Department of Motor Vehicles if the violation is not paid within thirty
185 days after the notice was mailed; and (2) that the referral will result in
186 the nonrenewal of the registration of the motor vehicle or the vehicle
187 being drawn by another motor vehicle, if the violation is not paid.

188 (n) A local authority shall send a referral to the Department of
189 Motor Vehicles not later than thirty days after the notice required
190 under this section was mailed if a violation of an ordinance adopted
191 under this section has not been contested and has not been paid. The
192 referral to the Department of Motor Vehicles shall include the
193 following: (1) Any information known or available to the local
194 authority concerning the license plate number and year of registration
195 and the name of the owner of the motor vehicle or the vehicle being
196 drawn by another motor vehicle; (2) the date on which the violation
197 occurred; (3) the date when the notice required under this section was
198 mailed; and (4) the seal of the local authority.

199 (o) If the Department of Motor Vehicles receives a referral under
200 subsection (n) this section, the department shall refuse to renew the
201 registration of the motor vehicle or the vehicle being drawn by another
202 motor vehicle and shall mail a notice to the person in whose name the
203 vehicle is registered that: (1) Informs the person that the registration of
204 the vehicle will not be renewed and that the reason for the refusal to
205 renew was the failure to pay an ordinance violation adopted under the
206 authority of this section; and (2) explains what the person is required
207 to do to have the registration reinstated.

208 (p) The Department of Motor Vehicles shall reinstate the registration
209 of a vehicle that is not renewed under this section if any person
210 presents the Department of Motor Vehicles with adequate proof that
211 the violation has been paid and a reinstatement fee has been paid, if
212 applicable.

213 (q) The chief executive officer of a municipality shall appoint one or
214 more traffic control signal violation hearing officers, other than police
215 officers or persons who work in the police department, to conduct the
216 hearings authorized by this section.

217 (r) Any person who asserts a defense authorized by this section and
218 who requests a hearing shall be given written notice of the date, time
219 and place for the hearing. Such hearing shall be held not less than
220 fifteen days or more than thirty days after the date of the mailing of
221 notice, provided the hearing officer shall grant upon good cause
222 shown any reasonable request by any interested party for
223 postponement or continuance. An original or certified copy of the
224 initial notice of violation shall be filed and retained by the
225 municipality, be deemed to be a business record within the scope of
226 section 52-180 of the general statutes and be evidence of the facts
227 contained therein. A person wishing to contest such person's liability
228 shall appear at the hearing and may present evidence in such person's
229 behalf. The presence of the police officer who authorized the issuance
230 of the citation shall be required at the hearing if such person so
231 requests. A designated municipal official, other than the hearing
232 officer, may present evidence on behalf of the municipality. If the
233 person who requested the hearing fails to appear, the hearing officer
234 may enter an assessment by default against such person upon a
235 finding of proper notice and liability under the applicable ordinance or
236 statute. The hearing officer may accept from such person copies of
237 police reports, documents of the Department of Motor Vehicles and
238 other official documents by mail and may determine thereby that the
239 appearance of such person is unnecessary. The hearing officer shall
240 conduct the hearing in the order and form and with such methods of
241 proof as the hearing officer deems fair and appropriate. The rules
242 regarding the admissibility of evidence shall not be strictly applied,
243 but all testimony shall be given under oath or affirmation. The hearing
244 officer shall announce the hearing officer's decision at the end of the
245 hearing. If the hearing officer determines that the person is not liable,
246 the hearing officer shall dismiss the matter and enter the hearing
247 officer's determination in writing accordingly. If the hearing officer

248 determines that the person is liable for the violation, the hearing officer
249 shall forthwith enter and assess the fines, penalties, costs or fees
250 against such person as provided by the applicable ordinances of the
251 municipality.

252 Sec. 3. (NEW) (*Effective October 1, 2011*) Notwithstanding any
253 provision of the general statutes, a violation of section 14-299 of the
254 general statutes detected and recorded by an automated traffic control
255 signal enforcement device pursuant to section 2 of this act shall not: (1)
256 Constitute an infraction or violation; (2) be processed by the
257 Centralized Infractions Bureau; (3) be considered a moving traffic
258 violation; (4) be reported to the Department of Motor Vehicles for
259 inclusion on a person's driving record; or (5) cause the assessment of
260 points against the operator's license of the person found to have
261 violated section 14-299 of the general statutes, provided the failure of
262 the person determined to have been the operator of the motor vehicle
263 or the vehicle being drawn by another motor vehicle at the time of the
264 violation, to pay the civil penalty shall be reported to the Department
265 of Motor Vehicles and the department shall refuse to renew the
266 registration of the vehicle operated in violation of section 14-299 of the
267 general statutes.

268 Sec. 4. (NEW) (*Effective October 1, 2011*) Not later than October 1,
269 2012, or twelve months following the date of implementation of an
270 automated traffic enforcement safety device program by a
271 municipality, each municipality that has installed such a device and
272 has been operating such a program shall submit a report to the
273 committee on Legislative Program Review and Investigations. Such
274 report shall include a comparison and analysis of: (1) The number of
275 violations of section 14-299 of the general statutes that occurred at the
276 intersections where such automated traffic control signal enforcement
277 devices were used, prior to and during the use of such enforcement
278 devices; (2) the number and type of related traffic violations and
279 accidents that occurred at such intersections prior to and during the
280 use of such devices; and (3) the number of violations of section 14-299
281 of the general statutes and related violations and accidents that

282 occurred at intersections where such control signal enforcement
 283 devices were used and at similar intersections where such automated
 284 traffic control signal enforcement devices were not used. The report
 285 shall also describe situations in which (A) camera results could not be
 286 used or were not used; (B) the number of leased, out-of-state or other
 287 vehicles, including trucks, where enforcement efforts were
 288 unsuccessful; (C) the amount of revenue from fines retained by the
 289 municipality; (D) the cost of such program to the municipality; and (E)
 290 such other data or comparisons deemed of interest or importance by
 291 the municipality.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	New section
Sec. 2	October 1, 2011	New section
Sec. 3	October 1, 2011	New section
Sec. 4	October 1, 2011	New section

Statement of Legislative Commissioners:

Technical changes were made for accuracy and clarity.

TRA *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Department of Motor Vehicles	TF - None	See Below	See Below
Social Services, Dept.	GF - Potential Revenue Gain	See Below	See Below
Department of Transportation	TF - Potential Revenue Gain	See Below	See Below

Note: TF=Transportation Fund; GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 12 \$	FY 13 \$
Various Municipalities	Potential Revenue Gain/Cost	See Below	See Below

Explanation

The bill authorizes any municipality having a population greater than 60,000 (thirteen as of 2010 census¹) to implement an automated traffic enforcement safety device (aka "red-light camera") program.

The bill sets forth duties that must be met by a municipality choosing to institute a red-light camera program; establishes fines and authorizes the assessment of other fees; directs fine revenues to municipal and state budgets; establishes a mandatory hearings process; and prohibits motor vehicle registration renewal in certain instances. Associated fiscal impacts are as follows:

Municipal Costs/Savings

Costs incurred by a municipality choosing to institute a red-light

¹ Bridgeport, Bristol, Danbury, Greenwich, Hamden, Hartford, Meriden, New Britain, New Haven, Norwalk, Stamford, Waterbury, and West Hartford.

camera program would include:

- \$75-\$125 per advance warning sign, to be installed on all approaches preceding an intersection with a camera;
- \$50,000-\$75,000 per camera per year for installation/maintenance, including sensors;
- \$30,000-\$40,000 per camera per year for (a) a police officer or contracted vendor to review and approve recorded images; (b) staff time to issue violation notices, monitor fine collection, provide data on a regular basis to the Department of Motor Vehicles, conduct hearings, and compile an annual report; and (c) other expenses, such as for postage and supplies.

Additional local costs may be incurred for legal services, should challenges be brought within thirty days of passage of an ordinance establishing a red-light camera system.

Minimal law enforcement savings may be experienced, because use of a red-light camera system may preclude some time now devoted by police officers to issuing citations. A 2006 study² quantified the averted law enforcement costs at \$1,859 per intersection. Savings would only be experienced to the extent that the work hours saved are not redeployed to other police functions, and may be further mitigated to the extent that the bill may require police officers to appear at additional hearings.

Municipal Revenues

A revenue gain to participating communities would result, as the bill establishes a civil penalty of at least \$124³. Actual revenues would depend upon the number of violation notices issued and the collection rate. *Note: Please see section entitled "State Revenue Impact" below for a*

² University of Wisconsin-Madison, School of Public Affairs.

³ The bill states that the civil penalty is to be the greater of \$124 or "the maximum penalty permitted for a violation of an ordinance adopted under this act." The meaning of the latter reference is unclear.

description of the purposes to which these revenues must be applied.

Once the initial use phase is over, the number of daily violations per camera has been identified in various publications as between 10 to 40. Assuming collection percentages of 70, 80 or 90%⁴, potential annual revenue generated from 10, 20, 30 and 40 violations per day would be as shown below.

Payment Rate:	Annual Revenue per Camera @ \$124/violation		
	70%	80%	90%
Daily Violations Per Camera			
10	\$ 316,820	\$ 362,080	\$ 407,340
20	\$ 633,640	\$ 724,160	\$ 814,680
30	\$ 950,460	\$ 1,086,240	\$ 1,222,020
40	\$ 1,267,280	\$ 1,448,320	\$ 1,629,360

Additional local revenues may be generated to the extent that a municipality elects to utilize the discretionary authority provided in the bill to impose fees associated with electronic fine payment.

State Revenue Impact

Enactment may result in a revenue loss to the state as some of the violations that would be enforced via the red-light camera system would displace citations currently issued by law enforcement officers.

Fines associated with violations of CGS Sec. 14-299 (failure to obey control signal) average \$124 per violation. Payments are deposited to the General Fund as unrestricted revenues⁵. An additional \$10 surcharge per violation is collected and remitted to the municipality in which the violation occurred.

⁴ In FY 10, 30.56% of disposed offenses under CGS Sec. 14-299 were contested and subsequently nolle/dismitted/found not guilty. About 26% of red-light camera tickets issued in Broward County, FL have been challenged, with an unknown percentage having the ticket subsequently nullified. While in Casselberry, FL, only 18 of 1,038 infractions were contested in the first year of operation.

⁵ In FY 10, a total of \$1,120,063 was collected from fines due to violations of CGS Sec. 14-299. An estimated \$350,000 was attributable to the thirteen cities with populations over 60,000, based on their aggregate share of the number of statewide motor vehicle violations in the same year.

The bill specifies that the municipality may instead apply fine revenues to defray the costs of installation, operation and maintenance of the camera system. Any collections exceeding these costs would be divided as follows: 70% would be retained by the municipality; the remaining 30% would be equally split between the Special Transportation Fund and the Department of Social Services (for traumatic brain injury services).

The potential General Fund revenue loss associated with the bill would depend upon the number of devices installed. A loss in excess of \$100,000 would be expected if a large scale program is implemented.

Department of Motor Vehicles

There is no fiscal impact anticipated to the Special Transportation Fund since the Department of Motor Vehicles (DMV) currently does not charge any fees on registration renewal with proof of settlement of municipal fines and delinquent property taxes. Proof of settlement is indicated by a stamp on the DMV registration form issued by the town clerk.

Every two years, within 60 days of the expiration date of registration, DMV mails out a renewal notice to motor vehicle owners. Included in the notice are any compliance issues that must be resolved such as delinquent property taxes, emissions test, insurance coverage, and unpaid parking tickets otherwise DMV will not process the registration renewal. Late registration renewals are subject to a \$10 fee.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and trends in traffic violations.

Sources: U.S. Census Bureau (2010).

*FY 10 Disposition by Statute and Statewide Imposed Revenues by Statute,
Connecticut Judicial Department.*

Transportation Research Board, "Traffic-Control Devices for Passive Railroad-Highway Grade Crossings," (2002).

"South City Red-Light Cameras May Get Ax," *San Francisco Examiner*, 3/20/10.

"An Analysis of a Red-Light Camera Program in the City of Milwaukee," *University of Wisconsin-Madison's Workshop in Public Affairs* (2006).

"Red Light Cameras," www.siliconimaging.com, (date unknown).

"Losses mount for Escondido's red-light camera program," *The North County Times*, 4/1/11.

"Red Light Cameras Results at W. Tennessee Street/Capital Circle NW Intersection," *WCTV Eyewitness News*, 3/14/11.

"Cost of Red-Light Cameras," *Orlando Sentinel ePaper*, 2/26/11.

"Automated Red Light Enforcement" (Powerpoint), *City of Casselberry, Florida*, 1/24/11.

OLR Bill Analysis**sSB 706*****AN ACT CONCERNING MUNICIPAL AUTOMATED TRAFFIC CONTROL SAFETY DEVICES AT CERTAIN INTERSECTIONS.*****SUMMARY:**

This bill authorizes municipalities with a population of more than 60,000 to use “automated traffic enforcement safety devices” (red light cameras) to record vehicles that illegally drive through red lights. These cameras must be capable of recording a still photograph, video image, or combination of these, of the rear of a motor vehicle, or a vehicle being towed by another vehicle, including an image of the rear license plate. The cameras also must indicate on at least one image the date, time, and place where the action occurred.

The bill specifies how towns may operate and enforce a red light camera program, establishes legal defenses to charges based on images the cameras record, bars the use of these images for certain purposes, and requires that towns report data they collect to the Program Review and Investigations Committee (PRI).

EFFECTIVE DATE: October 1, 2011

ORDINANCES ESTABLISHING CAMERA PROGRAMS

Under the bill, a municipality with more than 60,000 people may, on the approval of its chief executive officer and legislative body, adopt an ordinance authorizing the use of red light cameras to enforce traffic control laws. The bill prescribes the form municipal ordinances must take and requires municipalities, before enforcing red light camera ordinances, to install signs warning of the cameras at intersections where they are installed.

The ordinance must specify that:

1. a motor vehicle owner (the person to whom the vehicle is registered) violates the ordinance if a red light camera produces a recorded image or images of a motor vehicle (apparently the owner's) or of a vehicle towing another vehicle, driving through a red light;
2. the vehicle owner may claim as a defense that he or she was not
 - (a) the person having care, custody, or control of the vehicle or
 - (b) identified as the driver, at the time the violation occurred;
3. violators may pay the penalty and associated fees electronically, and;
4. a local police officer or designated employee of a vendor must review and approve the recorded images before a notice of violation can be mailed to a vehicle owner. Under the bill, a vendor is someone who (1) provides services to a municipality under the bill; (2) operates, maintains, leases, or licenses red light camera systems; or (3) is authorized to review and assemble the recorded images the cameras take. The bill specifically bars the state or any traffic authority from regarding a vendor as providing or taking part in private investigative services. It is not clear what effect this provision has.

Penalties

The ordinance must impose a civil penalty of at least \$124 and may impose fees for the electronic processing of the penalty. Under the ordinance, a municipality may use revenue from the penalty to defray the costs of installing, operating, and maintaining red light cameras. It must distribute any remaining funds as follows:

1. 70% to be deposited in the municipality's general fund or another municipal fund the chief executive officer and legislative body determine and
2. 30% to be paid to the state treasurer.

The treasurer must deposit half the amount she receives (15% of the total) in the General Fund, to be credited to the Department of Social Services for services for people with traumatic brain injury, and the remaining half (15% of the total) in the Special Transportation Fund.

Under the bill, a legal challenge to implementation of a red light camera program or adoption of an ordinance must be filed within 30 days of the ordinance's passage (see COMMENT).

NOTIFICATION AND PAYMENT PROCEDURE

The municipality or its authorized agent must notify a vehicle owner of a violation by first class mail, postmarked no more than (1) 30 days after it obtains the vehicle owner's name and address and (2) 60 days after the date of the alleged violation. The notice of violation must include:

1. the owner's name and address;
2. the vehicle's license plate number;
3. the violation charged;
4. the date, time and intersection location where the violation occurred;
5. a copy of the recorded image or information on how to view the recorded image electronically;
6. a statement or electronically generated affirmation by a designated employee of a vendor or local police officer who has reviewed the image and determined that a violation occurred;
7. the amount of the penalty; and
8. the deadline for paying the penalty if the owner (a) elects not to contest the violation and (b) chooses to avoid paying court costs.

The bill does not explicitly require the notice to inform the recipient or his or her right to request a hearing (see below).

Under the bill, the owner must pay the penalty no more than (1) 30 days after the “issuance date of the violation,” (apparently the date notice of violation was mailed) if he or she is not raising a defense to the charge or (2) 45 days after this date if such a defense requires that the notice be sent to someone else. It is unclear how a defense could “require” that notice be sent to someone else. This may mean that the recipient claims that he or she was not the driver or did not have care, custody, or control of the vehicle. But if the defense is valid, it is unclear why the recipient would have to pay a penalty.

DEFENSES TO AN ALLEGED VIOLATION

Operation by a Lessee as a Defense

Under the bill, it is a defense to an alleged violation if the owner provides the municipality or its agent an affidavit, signed under penalty of perjury, that:

1. establishes him or her as the owner of a motor vehicle renting or leasing business at the time of the alleged violation;
2. establishes that someone other than the owner or the owner’s employee had custody of the vehicle under a rental contract of 60 days or less at such time; and
3. gives the traffic authority, court, or municipal agent the name and address of the lessee (see COMMENT).

It is unclear whether the requirement for owners to “establish” the fact in numbers 1 and 2, above, constitutes more proof than an assertion of these facts, which is what most affidavits require.

Under the bill, the affidavit creates a rebuttable presumption that the lessee was operating the vehicle at the time the violation occurred. The municipal traffic authority, court, or municipal agent must mail or electronically send the lessee a notice of the citation (apparently the same as a notice of violation). The notice must contain (1) the information included in the original notice sent to the vehicle owner, (2) a statement that the owner has identified the recipient as the person

in control or custody of the vehicle at the time of the violation, and (3) a statement that the recipient may also claim, in his or her defense, that someone else had custody or control of the vehicle when the violation occurred.

Theft as a Defense

The owner can also defend against the charge by giving the traffic authority or court an affidavit, signed under penalty of perjury, that (1) he or she was not operating the vehicle at the time of the alleged violation and providing the name and address of the driver at the time or (2) either the vehicle or its license plate was stolen before the alleged violation occurred. The owner also must submit proof that a police report has been filed concerning the theft.

Under the bill, proving the above factors establishes a rebuttable presumption that the person identified in the affidavit was operating the vehicle at the time the violation occurred. The municipal traffic authority, court, or municipal agent must mail a notice of the citation to that person. The notice must contain all the information included in the original notice and a statement that the owner has identified the notice's recipient as the person driving the vehicle at the time of the violation. It is not clear how this would apply in the event of a stolen vehicle or license plate where the thief's identity is unknown.

Other Defenses

The following are also defenses to allegations of violating a red light camera ordinance, provided the camera's recording verifies it:

1. the traffic signals were not working properly; or
2. the driver was (a) obeying a lawful order or direction from a law enforcement officer, (b) yielding the right of way to an emergency vehicle, or (c) taking part in a funeral procession.

A driver of an authorized emergency vehicle may also claim as a defense that he or she drove through a red light only after slowing down as necessary to operate safely. Finally, a driver may claim as a

defense that a police officer has issued the driver a citation for the same violation for which he or she received notice under the bill.

The bill indemnifies a designated employee (presumably, of the vendor) or local police officer for any loss while acting in the scope of his or her employment with regard to the bill or any ordinance enacted under it. The bill is silent on the type of loss to which it refers, and the indemnification appears more sweeping than is generally provided in law. By law, municipalities must indemnify municipal officers and employees from financial loss, including legal fees and costs arising from claims of negligence or infringement of civil rights by the officer or employee in the discharge of his or her duties. Indemnification does not extend to employees who act maliciously, wantonly, or willfully (§ 7-101a).

REFERRALS TO DEPARTMENT OF MOTOR VEHICLES

Under the bill, if a person to whom notice of violation has been sent has neither paid the violation (apparently, the penalty) by the applicable deadline nor announced his or her intention to contest the charge, a municipality must send the vehicle owner notice that (1) it will notify the Department of Motor Vehicles (DMV) if the penalty is not paid within 30 days and (2) DMV will not renew his or her registration if the owner does not pay the penalty. By law, registrations are valid for two years. Thus, in some cases, it could take nearly two years before a refusal to renew a registration takes effect.

The municipality must send DMV the referral no later than 30 days after sending the owner the above notice if the penalty has still not been paid or the violation contested. The referral must include

1. information concerning the motor vehicle's license plate number and year of registration, and the name of the vehicle owner;
2. the date of the violation;
3. the date when notice was mailed to the owner; and

4. the seal of the local authority.

DMV must refuse to renew the registration. It must notify the vehicle owner why it is not renewing it and of the steps the owner must take to reinstate it. DMV must reinstate the registration upon (1) proof that the violation notice (apparently the penalty) has been paid and (2) payment of a reinstatement fee, if applicable. By law, DMV does not charge a registration reinstatement fee.

HEARING PROCESS

The municipality's chief executive officer must appoint at least one traffic control signal violation hearing officer to conduct hearings. A hearing officer cannot be a police officer or police department employee.

Anyone asserting a defense and requesting a hearing must receive written notice of the hearing's date, time, and place. (The bill does not specify how someone asserts a defense or requests a hearing.) A hearing must be held between 15 and 30 days after the hearing notice is mailed, but the hearing officer may continue it at the reasonable request of an interested party. A defendant seeking to contest his or her liability must appear at the hearing and may present evidence on his or her behalf. But the bill also allows a hearing officer to accept copies of police reports, DMV records, and other official documents by mail from the alleged violator and to determine whether it is necessary for the alleged violator to appear.

The bill deems an original or certified copy of the initial notice of violation a business record for evidentiary purposes and requires the town to file and retain it. The police officer who authorized issuance of the citation must attend the hearing if requested. However, the bill does not require a police officer to authorize a citation. It allows a police officer or designated employee of the vendor to (1) review and approve the camera's recorded image before notice can be mailed and (2) review the image and determine that the motor vehicle violated the ordinance.

A town official, other than the hearing officer, may present evidence on the town's behalf. If the alleged violator does not appear, the hearing officer may enter an assessment by default against him or her after finding that he or she was properly notified and committed the violation. The hearing officer must conduct the hearing as he or she deems appropriate and fair. Rules of evidence do not strictly apply, but all testimony must be given under oath or affirmation. The hearing officer must announce the result at the end of the hearing. If the hearing officer finds the alleged violator is not liable, he or she must dismiss the matter and enter that finding in writing. If the hearing officer finds the person liable, the hearing officer must assess the fines, penalties, costs, or fees as provided by applicable ordinances.

Under the bill, a traffic violation captured by a red light camera is neither an infraction, moving violation, nor a violation; the Centralized Infraction Bureau cannot process it, nor can it be reported to DMV for inclusion on a driver's record. It cannot be counted towards points on a person's driving record.

REPORTING REQUIREMENT

By October 1, 2012, or 12 months after implementing a red light camera program, each municipality doing so must submit a report to PRI. The report must include a comparison and analysis of the number:

1. of red light violations that occurred at intersections where red light cameras were used, before and after they were installed;
2. and type of related traffic violations and accidents at these intersections, before and after the cameras were installed; and
3. of traffic violations and related violations and accidents occurring at the intersections where cameras were used and at intersections where they were not used.

The report must also describe:

1. situations where camera results could not be, or were not, used;
2. the number of leased, out-of-state, or other vehicles, including trucks, where enforcement efforts failed;
3. the amount of revenue from fines retained by the municipality;
4. the cost of the program to the municipality; and
5. such other information the municipality deems important.

The bill does not state what PRI must do with these reports.

BACKGROUND

Towns with 60,000 or More People

According to 2010 U.S. Census data, the following 13 Connecticut municipalities had 60,000 or more people: Bridgeport, Bristol, Danbury, Greenwich, Hamden, Hartford, Meriden, New Britain, New Haven, Norwalk, Stamford, Waterbury, and West Hartford.

COMMENTS

Standing to Bring Legal Challenge

The bill requires a legal challenge to a red light camera program or ordinance to be brought within 30 days of the ordinance's passage. This would limit the ability of a person to get redress if he or she was aggrieved by the ordinance more than 30 days after its passage.

Traffic Authority or Court

The bill requires recipients of violation notices to provide information to the "traffic authority" or court (2 (g) and (i)) and in other places requires these entities to send notices (2(h)). However, the bill does not give any court jurisdiction over these matters and does not define "traffic authority."

The bill also contains conflicting provisions on the parties responsible for sending violation notices. In §2 (e) the municipality or its authorized agent sends the notice. In § 2 (j) the "traffic authority," "court," or "municipal agents" sends the notice.

COMMITTEE ACTION

Transportation Committee

Joint Favorable

Yea 25 Nay 11 (03/18/2011)