



General Assembly

Substitute Bill No. 5458

February Session, 2012

* HB05458TRA 031612 *

AN ACT CONCERNING MUNICIPAL AUTOMATED TRAFFIC ENFORCEMENT 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, 2012*) 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 images produced, the date and time, and the location
9 of such device;

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, 2012*) (a) A municipality with a
22 population greater than forty-eight thousand may by ordinance
23 authorize the use of automated traffic enforcement safety devices to
24 enforce the provisions of section 14-299 of the general statutes, within
25 such municipality. Such authorization shall expire on September 30,
26 2018.

27 (b) Any contract between a municipality enforcing an ordinance
28 adopted under this section and a vendor shall not provide for payment
29 to the vendor on a contingency basis.

30 (c) Before enforcing an ordinance adopted under this section, the
31 municipality's police chief shall approve any proposed automated
32 traffic enforcement safety device location, provided such device shall
33 only be located at an intersection where the duration of the yellow
34 signal light is no less than the duration of the yellow signal light
35 recommended under regulations adopted by the State Traffic
36 Commission, and the municipality shall install advance warning signs
37 along all approaches of the roadways preceding the intersection at
38 which the automated traffic enforcement safety device is located. The
39 advance warning signs shall (1) notify motorists of the existence of the
40 automated traffic enforcement safety device, and (2) be located not less
41 than one hundred feet and not more than one hundred ten feet from
42 such intersection.

43 (d) Any ordinance adopted under this section shall specify that: (1)
44 The owner of a motor vehicle commits a violation of the ordinance if
45 the automated traffic enforcement safety device produces a recorded
46 image or images of a motor vehicle or a motor vehicle being drawn by
47 another motor vehicle proceeding through an intersection in violation
48 of the provisions of section 14-299 of the general statutes; (2) the owner
49 of a motor vehicle establishes a defense if the person identified as
50 having the care, custody or control of the motor vehicle, or identified

51 as the operator of the motor vehicle at the time of the violation, is not
52 the owner; (3) payment of a penalty and associated costs and fees
53 imposed for a violation of an ordinance adopted under this section
54 may be made by electronic means; and (4) a designated employee of a
55 vendor and a local police officer shall review and approve the
56 recorded image or images before the notices referred to in subsection
57 (f) of this section are mailed to the owner of the motor vehicle or the
58 motor vehicle being drawn by another motor vehicle.

59 (e) An ordinance adopted under this section: (1) Shall impose a civil
60 penalty of not more than fifty dollars; (2) may impose fees associated
61 with the electronic processing of the payment of the civil penalty
62 imposed for a violation of such ordinance, provided such fees do not
63 exceed fifteen dollars; and (3) shall provide (A) that the civil penalty
64 imposed for a violation of such ordinance may be applied to defray the
65 costs of the installation, operation and maintenance of the automated
66 traffic enforcement safety device and program, and (B) that any
67 penalty not applied pursuant to subparagraph (A) of this subdivision
68 be applied to the municipality's local transportation infrastructure
69 improvements.

70 (f) The traffic authority of the municipality or its authorized agent
71 shall mail to the owner of a motor vehicle or a motor vehicle being
72 drawn by another motor vehicle committing a violation of an
73 ordinance adopted pursuant to this section, notice of the ordinance
74 violation by first class mail postmarked not later than thirty days after
75 obtaining the name and address of the owner of the motor vehicle, but
76 not more than sixty days after the date of the alleged violation. The
77 notice shall include: (1) The name and address of the owner of the
78 motor vehicle or the motor vehicle being drawn by another motor
79 vehicle; (2) the license plate number of the motor vehicle or the motor
80 vehicle being drawn by another motor vehicle; (3) the violation
81 charged; (4) the location of the intersection and the date and time of
82 the violation; (5) a copy of or information on how to view, through
83 electronic means, the recorded image described in this section; (6) a
84 statement or electronically-generated affirmation by a designated

85 employee of a vendor and local police officer, who have reviewed the
86 recorded image described in this section and determined that the
87 motor vehicle violated the ordinance; (7) the amount of the civil
88 penalty imposed for the violation; and (8) the date by which the civil
89 penalty shall be paid if the owner of the vehicle does not choose to
90 contest the violation. The date by which the civil penalty shall be paid
91 shall be not later than thirty days after the issuance date of the
92 violation if a defense described in this section does not apply or forty-
93 five days after the issuance date of the violation if a defense described
94 in this section requires the notice to be sent to another person.

95 (g) Any challenge to the implementation of an automated traffic
96 enforcement safety device or adoption of an ordinance under this
97 section shall be brought within thirty days of passage of the ordinance.

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

114 (i) If the owner of a motor vehicle or a vehicle being drawn by
115 another motor vehicle meets the requirements of subsection (h) of this
116 section, the municipality's traffic authority or authorized agent shall
117 mail, or electronically transfer, a notice of the citation to the person

118 identified as having the care, custody or control of the motor vehicle or
119 the vehicle being drawn by another motor vehicle at the time of the
120 violation. The proof required under subsection (h) of this section
121 creates a rebuttable presumption that the person having the care,
122 custody or control of the motor vehicle or the vehicle being drawn by
123 another motor vehicle at the time of the violation was the operator of
124 the motor vehicle at the time of the violation. The notice required
125 under this subsection shall contain the following: (1) The information
126 described in subsection (f) of this section; (2) a statement that the
127 person receiving the notice was identified by the owner of the motor
128 vehicle or the vehicle being drawn by another motor vehicle as the
129 person having the care, custody or control of the motor vehicle at the
130 time of the violation; and (3) a statement that a person may offer a
131 defense as described in this subsection, or in subsection (h) or (j) of this
132 section.

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

147 (k) If the owner of a motor vehicle or a vehicle being drawn by
148 another motor vehicle submits the evidence required under subsection
149 (j) of this section, the municipality's traffic authority or authorized
150 agent shall mail a notice of the citation to the person identified as the
151 person operating the motor vehicle at the time of the violation. The

152 proof required under subsection (j) of this section creates a rebuttable
153 presumption that the person identified in the affidavit required under
154 subsection (j) of this section was the operator of the motor vehicle at
155 the time of the violation. The notice required under this subsection
156 shall contain the following: (1) The information described in subsection
157 (f) of this section; and (2) a statement that the person receiving the
158 notice was identified by the owner of the motor vehicle as the person
159 operating the motor vehicle at the time of the violation.

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

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

178 (n) If it appears from the records of the local authority that has
179 jurisdiction to enforce an ordinance adopted under this section that a
180 person has failed to pay a violation by the applicable deadline
181 established by this section without notification of an intent to contest
182 the violation, the local authority shall send a notice to the person who
183 is the registered owner of the motor vehicle or the vehicle being drawn
184 by another motor vehicle that such person has an outstanding unpaid

185 assessment.

186 (o) The chief executive officer of a municipality shall appoint one or
187 more traffic control signal violation hearing officers, other than police
188 officers or persons who work in the police department, to conduct the
189 hearings authorized by this section.

190 (p) Any person who asserts a defense authorized by this section and
191 who requests a hearing shall be given written notice of the date, time
192 and place for the hearing. Such hearing shall be held not less than
193 fifteen days or more than thirty days after the date of the mailing of
194 notice, provided the hearing officer shall grant, upon good cause
195 shown, any reasonable request by any interested party for
196 postponement or continuance. An original or certified copy of the
197 initial notice of violation shall be filed and retained by the
198 municipality, be deemed to be a business record within the scope of
199 section 52-180 of the general statutes and be evidence of the facts
200 contained therein. A person wishing to contest such person's liability
201 shall appear at the hearing and may present evidence on such person's
202 behalf. The presence of the police officer who authorized the issuance
203 of the citation shall be required at the hearing if such person so
204 requests. A designated municipal official, other than the hearing
205 officer, may present evidence on behalf of the municipality. If the
206 person who requested the hearing fails to appear, the hearing officer
207 may enter an assessment by default against such person upon a
208 finding of proper notice and liability under the applicable ordinance or
209 statute. The hearing officer may accept from such person copies of
210 police reports, documents of the Department of Motor Vehicles and
211 other official documents by mail prior to the hearing and may
212 determine thereby that the appearance of such person is unnecessary.
213 The hearing officer shall conduct the hearing in the order and form
214 and with such methods of proof as the hearing officer deems fair and
215 appropriate. The rules regarding the admissibility of evidence shall not
216 be strictly applied, but all testimony shall be given under oath or
217 affirmation. The hearing officer shall announce the hearing officer's
218 decision at the end of the hearing. If the hearing officer determines that

219 the person is not liable, the hearing officer shall dismiss the matter and
220 enter the hearing officer's determination in writing accordingly. If the
221 hearing officer determines that the person is liable for the violation, the
222 hearing officer shall forthwith enter and assess the penalties, costs or
223 fees against such person as provided by the applicable ordinances of
224 the municipality.

225 Sec. 3. (NEW) (*Effective October 1, 2012*) Notwithstanding any
226 provision of the general statutes, a violation of section 14-299 of the
227 general statutes detected and recorded by an automated traffic control
228 signal enforcement device pursuant to section 2 of this act shall not: (1)
229 Constitute an infraction or violation; (2) be processed by the
230 Centralized Infractions Bureau; (3) be considered a moving traffic
231 violation; (4) be reported to the Department of Motor Vehicles for
232 inclusion on a person's driving record; or (5) cause the assessment of
233 points against the operator's license of the person found to have
234 violated section 14-299 of the general statutes.

235 Sec. 4. (NEW) (*Effective October 1, 2012*) Not later than the later of
236 October 1, 2017, or twelve months following the date of
237 implementation of an automated traffic enforcement safety device
238 program by a municipality, each municipality that has installed such a
239 device and has been operating such a program shall submit a report to
240 the joint standing committee of the General Assembly having
241 cognizance of matters relating to transportation. Such report shall
242 include a comparison and analysis of: (1) The number of violations of
243 section 14-299 of the general statutes that occurred at the intersections
244 where such automated traffic control signal enforcement devices were
245 used, prior to and during the use of such enforcement devices; (2) the
246 number and type of related traffic violations and accidents that
247 occurred at such intersections prior to and during the use of such
248 devices; and (3) the number of violations of section 14-299 of the
249 general statutes and related violations and accidents that occurred at
250 intersections where such control signal enforcement devices were used
251 and at similar intersections where such automated traffic control signal
252 enforcement devices were not used. The report shall also describe

253 situations in which (A) camera results could not be used or were not
 254 used; (B) the number of leased, out-of-state or other vehicles, including
 255 trucks, where enforcement efforts were unsuccessful; (C) the amount
 256 of revenue from fines retained by the municipality; (D) the cost of such
 257 program to the municipality; and (E) such other data or comparisons
 258 deemed of interest or importance by the municipality.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	New section
Sec. 2	<i>October 1, 2012</i>	New section
Sec. 3	<i>October 1, 2012</i>	New section
Sec. 4	<i>October 1, 2012</i>	New section

Statement of Legislative Commissioners:

In section 1(1)(B), the "location of violation and the traffic control signal" was changed to the "location of such device" for clarity; in section 2(a), "with the authority of its chief executive officer and legislative body" was deleted for statutory consistency; in section 2(f) and section 2(h), "the municipality" was changed to "the traffic authority of the municipality" for internal consistency; in section 2(f), section 2(h) and section 2(j), references to the court were removed for internal consistency and to reflect the intent of the committee; in section 2(h), section 2(i) and section 2(k), references to "or agent" were changed to "or authorized agent" for consistency; and in section 4, "Not later than October 1" was changed to "Not later than the later of October 1" for clarity.

TRA *Joint Favorable Subst.*