

AN ACT

To amend sections 1901.20, 1907.02, 4511.094, and 4511.204; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 4511.093 (4511.043); to enact sections 3937.411, 4511.095, 4511.096, 4511.097, 4511.098, 4511.099, 4511.0910, 4511.0911, 4511.0912, 4511.0913, and 4511.0914; to enact new sections 4511.092 and 4511.093; and to repeal section 4511.092 of the Revised Code to establish conditions for the use by local authorities of traffic law photo-monitoring devices to detect certain traffic law violations and to require the Department of Public Safety to issue a report on texting while driving citations.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1901.20, 1907.02, 4511.094, and 4511.204 be amended, section 4511.093 (4511.043) be amended for the purpose of adopting a new section number as indicated in parentheses, and sections 3937.411, 4511.095, 4511.096, 4511.097, 4511.098, 4511.099, 4511.0910, 4511.0911, 4511.0912, 4511.0913, and 4511.0914 and new sections 4511.092 and 4511.093 of the Revised Code be enacted to read as follows:

Sec. 1901.20. (A)(1) The municipal court has jurisdiction ~~of~~ to hear misdemeanor cases committed within its territory and has jurisdiction over the violation of any ordinance of any municipal corporation within its territory, unless the violation is a civil violation based upon evidence recorded by a traffic law photo-monitoring device and issued pursuant to division (B)(3) of section 4511.093 of the Revised Code or the violation is required to be handled by a parking violations bureau or joint parking violations bureau pursuant to Chapter 4521. of the Revised Code, and of the violation of any misdemeanor committed within the limits of its territory. ~~The.~~ However, the municipal court has jurisdiction ~~of~~ over the violation of a

vehicle parking or standing resolution or regulation if a local authority, as defined in division (D) of section 4521.01 of the Revised Code, has specified that it is not to be considered a criminal offense, if the violation is committed within the limits of the court's territory, and if the violation is not required to be handled by a parking violations bureau or joint parking violations bureau pursuant to Chapter 4521. of the Revised Code. ~~The~~

The municipal court, if it has a housing or environmental division, has jurisdiction ~~of~~ over any criminal action over which the housing or environmental division is given jurisdiction by section 1901.181 of the Revised Code, provided that, except as specified in division (B) of that section, no judge of the court other than the judge of the division shall hear or determine any action over which the division has jurisdiction. In all such prosecutions and cases, the court shall proceed to a final determination of the prosecution or case.

(2) A judge of a municipal court does not have the authority to dismiss a criminal complaint, charge, information, or indictment solely at the request of the complaining witness and over the objection of the prosecuting attorney, village solicitor, city director of law, or other chief legal officer who is responsible for the prosecution of the case.

(B) The municipal court has jurisdiction to hear felony cases committed within its territory. In all felony cases, the court may conduct preliminary hearings and other necessary hearings prior to the indictment of the defendant or prior to the court's finding that there is probable and reasonable cause to hold or recognize the defendant to appear before a court of common pleas and may discharge, recognize, or commit the defendant.

(C)(1) A municipal court has jurisdiction ~~of~~ over an appeal from a judgment or default judgment entered pursuant to Chapter 4521. of the Revised Code, as authorized by division (D) of section 4521.08 of the Revised Code. The appeal shall be placed on the regular docket of the court and shall be determined by a judge of the court.

(2) A municipal court has jurisdiction over an appeal of a written decision rendered by a hearing officer under section 4511.099 of the Revised Code if the hearing officer that rendered the decision was appointed by a local authority within the jurisdiction of the court.

Sec. 1907.02. (A)(1) In addition to other jurisdiction granted a county court in the Revised Code, a county court has jurisdiction of all misdemeanor cases. A county court has jurisdiction to conduct preliminary hearings in felony cases, to bind over alleged felons to the court of common pleas, and to take other action in felony cases as authorized by Criminal Rule 5.

(2) A judge of a county court does not have the authority to dismiss a criminal complaint, charge, information, or indictment solely at the request of the complaining witness and over the objection of the prosecuting attorney, village solicitor, city director of law, or other chief legal officer who is responsible for the prosecution of the case.

(B) A county court has jurisdiction of the violation of a vehicle parking or standing ordinance, resolution, or regulation if a local authority, as defined in division (D) of section 4521.01 of the Revised Code, has specified that it is not to be considered a criminal offense, if the violation is committed within the limits of the court's territory, and if the violation is not required to be handled by a parking violations bureau or joint parking violations bureau pursuant to Chapter 4521. of the Revised Code. A county court does not have jurisdiction over violations of ordinances, resolutions, or regulations that are required to be handled by a parking violations bureau or joint parking violations bureau pursuant to that chapter.

A county court also has jurisdiction of an appeal from a judgment or default judgment entered pursuant to Chapter 4521. of the Revised Code, as authorized by division (D) of section 4521.08 of the Revised Code. Any such appeal shall be placed on the regular docket of the court and shall be determined by a judge of the court.

(C) A county court has jurisdiction over an appeal of a written decision rendered by a hearing officer under section 4511.099 of the Revised Code if the hearing officer that rendered the decision was appointed by a local authority within the jurisdiction of the court.

Sec. 3937.411. No insurer shall consider the issuance of a ticket for a civil violation under section 4511.097 of the Revised Code to an applicant or policyholder, or an admission or finding of liability related to such a ticket, as a basis for doing either of the following:

(A) Refusing to issue or deliver a policy of insurance upon a private automobile or increasing the rate to be charged for such a policy;

(B) Increasing the premium rate, canceling, or failing to renew an existing policy of insurance upon a private automobile.

Sec. ~~4511.093~~ 4511.043. (A)(1) No law enforcement officer who stops the operator of a motor vehicle in the course of an authorized sobriety or other motor vehicle checkpoint operation or a motor vehicle safety inspection shall issue a ticket, citation, or summons for a secondary traffic offense unless in the course of the checkpoint operation or safety inspection the officer first determines that an offense other than a secondary traffic offense has occurred and either places the operator or a vehicle occupant under arrest or issues a ticket, citation, or summons to the operator or a

vehicle occupant for an offense other than a secondary offense.

(2) A law enforcement agency that operates a motor vehicle checkpoint for an express purpose related to a secondary traffic offense shall not issue a ticket, citation, or summons for any secondary traffic offense at such a checkpoint, but may use such a checkpoint operation to conduct a public awareness campaign and distribute information.

(B) As used in this section, "secondary traffic offense" means a violation of division (A) or (F)(2) of section 4507.05, division (B)(1)(a) or (b) or (E) of section 4507.071, division (A) of section 4511.204, division (C) or (D) of section 4511.81, division (A)(3) of section 4513.03, or division (B) of section 4513.263 of the Revised Code.

Sec. 4511.092. As used in sections 4511.092 to 4511.0914 of the Revised Code:

(A) "Designated party" means the person whom the registered owner of a motor vehicle, upon receipt of a ticket based upon images recorded by a traffic law photo-monitoring device that indicate a traffic law violation, identifies as the person who was operating the vehicle of the registered owner at the time of the violation.

(B) "Hearing officer" means any person appointed by the mayor, board of county commissioners, or board of township trustees of a local authority, as applicable, to conduct administrative hearings on violations recorded by traffic law photo-monitoring devices, other than a person who is employed by a law enforcement agency as defined in section 109.573 of the Revised Code.

(C) "Law enforcement officer" means a sheriff, deputy sheriff, marshal, deputy marshal, police officer of a police department of any municipal corporation, police constable of any township, or police officer of a township or joint police district, who is employed on a permanent, full-time basis by the law enforcement agency of a local authority that assigns such person to the location of a traffic law photo-monitoring device.

(D) "Local authority" means a municipal corporation, county, or township.

(E) "Motor vehicle leasing dealer" has the same meaning as in section 4517.01 of the Revised Code.

(F) "Motor vehicle renting dealer" has the same meaning as in section 4549.65 of the Revised Code.

(G) "Recorded images" means any of the following images recorded by a traffic law photo-monitoring device that show, on at least one image or on a portion of the videotape, the rear of a motor vehicle and the letters and numerals on the rear license plate of the vehicle:

(1) Two or more photographs, microphotographs, electronic images, or digital images;

(2) Videotape.

(H) "Registered owner" means all of the following:

(1) Any person or entity identified by the bureau of motor vehicles or any other state motor vehicle registration bureau, department, or office as the owner of a motor vehicle;

(2) The lessee of a motor vehicle under a lease of six months or longer;

(3) The renter of a motor vehicle pursuant to a written rental agreement with a motor vehicle renting dealer.

(I) "System location" means the approach to an intersection or area of roadway toward which a traffic law photo-monitoring device is directed and is in operation.

(J) "Ticket" means any traffic ticket, citation, summons, or other ticket issued in response to an alleged traffic law violation detected by a traffic law photo-monitoring device, that represents a civil violation.

(K) "Traffic law photo-monitoring device" means an electronic system consisting of a photographic, video, or electronic camera and a means of sensing the presence of a motor vehicle that automatically produces recorded images.

(L) "Traffic law violation" means either of the following:

(1) A violation of section 4511.12 of the Revised Code based on the failure to comply with section 4511.13 of the Revised Code or a substantially equivalent municipal ordinance that occurs at an intersection due to failure to obey a traffic control signal;

(2) A violation of section 4511.21 or 4511.211 of the Revised Code or a substantially equivalent municipal ordinance due to failure to observe the applicable speed limit.

Sec. 4511.093. (A) A local authority may utilize a traffic law photo-monitoring device for the purpose of detecting traffic law violations. If the local authority is a county or township, the board of county commissioners or the board of township trustees may adopt such resolutions as may be necessary to enable the county or township to utilize traffic law photo-monitoring devices.

(B) The use of a traffic law photo-monitoring device is subject to the following conditions:

(1) A local authority shall use a traffic law photo-monitoring device to detect and enforce traffic law violations only if a law enforcement officer is present at the location of the device at all times during the operation of the device and if the local authority complies with sections 4511.094 and

4511.095 of the Revised Code.

(2) A law enforcement officer who is present at the location of any traffic law photo-monitoring device and who personally witnesses a traffic law violation may issue a ticket for the violation. Such a ticket shall be issued in accordance with section 2935.25 of the Revised Code and is not subject to sections 4511.096 to 4511.0910 and section 4511.912 of the Revised Code.

(3) If a traffic law photo-monitoring device records a traffic law violation and the law enforcement officer who was present at the location of the traffic law photo-monitoring device does not issue a ticket as provided under division (B)(2) of this section, the local authority may only issue a ticket in accordance with sections 4511.096 to 4511.0912 of the Revised Code.

Sec. 4511.094. (A) As used in this section:

~~(1) "Local authority" means a municipal corporation, county, or township.~~

~~(2) "Traffic law photo-monitoring device" means an electronic system consisting of a photographic, video, or electronic camera and a means of sensing the presence of a motor vehicle that automatically produces photographs, videotape, or digital images of the vehicle or its license plate.~~

~~(B)(1) No local authority shall use traffic law photo-monitoring devices to detect or enforce any traffic law violation until after it has erected done both of the following:~~

~~(1) Erected signs on every highway that is not a freeway that is part of the state highway system and that enters that local authority. The signs shall inform informing inbound traffic that the local authority utilizes traffic law photo-monitoring devices to enforce traffic laws. The;~~

~~(2) Beginning on the effective date of this amendment, erected signs at each fixed system location informing motorists that a traffic law photo-monitoring device is present at the location.~~

The local authority shall erect the signs shall be erected within the first three hundred feet of the boundary of the local authority or, if within three hundred feet of the fixed system location, as applicable. If the signs cannot be located within the first three hundred feet of the boundary of the local authority or within three hundred feet of the fixed system location, the local authority shall erect the signs as close to that distance as possible, provided that if. If a particular highway enters and exits the territory of a local authority multiple times, the local authority shall erect the signs as required by this division (A)(1) of this section at the locations in each direction of travel where inbound traffic on the highway first enters the territory of the

local authority and is not required to erect additional signs along such highway each time the highway reenters the territory of the local authority. The local authority is responsible for all costs associated with the erection, maintenance, and replacement, if necessary, of the signs. ~~All~~ The local authority shall ensure that all signs erected under this division ~~shall~~ conform in size, color, location, and content to standards contained in the manual adopted by the department of transportation pursuant to section 4511.09 of the Revised Code and shall remain in place for as long as the local authority utilizes traffic law photo-monitoring devices to enforce any traffic law. ~~Any~~

~~(B) A ticket, citation, or summons~~ issued by or on behalf of the local authority for any traffic law violation based upon evidence ~~gathered~~ recorded by a traffic law photo-monitoring device ~~after the effective date of this section~~ is invalid under the following circumstances:

(1) If the ticket was issued after March 12, 2009, but before the signs have been required under division (A)(1) of this section were erected is invalid; provided that no ticket, citation, or summons is invalid if the:

(2) If the ticket was issued after the effective date of this amendment but before the signs required under division (A)(2) of this section were erected.

However, if a local authority is in substantial compliance with the requirement requirements of this division to erect the signs (A)(1) or (2) of this section, as applicable, a ticket issued by the local authority under sections 4511.096 to 4511.0912 of the Revised Code is valid.

~~(2)(C)~~ A local authority is deemed to be in substantial compliance with the requirement of division ~~(B)(A)(1) or (2)~~ of this section, as applicable, to erect the advisory signs if the authority does both of the following:

~~(a)(1)~~ First erects all signs as required by division ~~(B)(1)(A)(1) or (2)~~ of this section, as applicable, and subsequently maintains and replaces the signs as needed so that at all times at least ninety per cent of the required signs are in place and functional;

~~(b)(2)~~ Annually documents and upon request certifies its compliance with division ~~(B)(2)(a)(C)(1)~~ of this section.

~~(C)(D)~~ A local authority that uses traffic law photo-monitoring devices to detect or enforce any traffic law violation at an intersection where traffic is controlled by traffic control signals that exhibit different colored lights or colored lighted arrows shall time the operation of the yellow lights and yellow arrows of those traffic control signals so that the steady yellow indication exceeds by one second the minimum duration for yellow indicators at similar intersections as established by the provisions of the manual adopted by the department of transportation under section 4511.09 of the Revised Code.

Sec. 4511.095. (A) Prior to deploying any traffic law photo-monitoring device, a local authority shall do all of the following:

(1) Conduct a safety study of intersections or locations under consideration for placement of fixed traffic law photo-monitoring devices. The study shall include an accounting of incidents that have occurred in the designated area over the previous three-year period and shall be made available to the public upon request.

(2) Conduct a public information campaign to inform motor vehicle operators about the use of traffic law photo-monitoring devices at system locations prior to establishing any of those locations;

(3) Publish at least one notice in a local newspaper of general circulation that announces the local authority's intent to utilize traffic law photo-monitoring devices, the locations of those devices, if known, and the date on which the first traffic law photo-monitoring device will be operational;

(4) Refrain from levying any civil fines on any person found to have committed a traffic law violation based upon evidence gathered by a fixed location traffic law photo-monitoring device until the local authority observes a public awareness warning period of not less than thirty days prior to the first issuance of any ticket based upon images recorded by the device. During the warning period, the local authority shall take reasonable measures to inform the public of the location of the device and the date on which tickets will be issued for traffic law violations based upon evidence gathered by the device. A warning notice may be sent to violators during the public awareness warning period.

(B)(1) A local authority that deploys its first traffic law photo-monitoring device after the effective date of this section shall do so only after complying with division (A) of this section. If such a local authority thereafter wishes to deploy an additional traffic law photo-monitoring device, the local authority shall comply with that division prior to deploying the additional device.

A local authority that is operating or has operated on its behalf a traffic law photo-monitoring device on the effective date of this section may continue to operate the device after that date without the need to comply with division (A) of this section. However, if such a local authority wishes to deploy an additional traffic law photo-monitoring device after the effective date of this section, the local authority shall comply with division (A) of this section prior to deploying the additional device.

(2) All tickets that result from evidence recorded by a traffic law photo-monitoring device and that are issued prior to the effective date of this

section by or on behalf of a local authority may be processed and adjudicated in accordance with the rules and procedures that were in effect for such tickets prior to the effective date of this section. On and after the effective date of this section, no ticket for a traffic law violation that is based upon evidence recorded by a traffic law photo-monitoring device shall be processed and adjudicated in any manner other than in accordance with sections 4511.096 to 4511.0912 of the Revised Code.

Sec. 4511.096. (A) A law enforcement officer employed by a local authority utilizing a traffic law photo-monitoring device shall examine evidence of alleged traffic law violations recorded by the device to determine whether such a violation has occurred. If the image recorded by the traffic law photo-monitoring device shows such a violation, contains the date and time of the violation, and shows the letter and numerals on the license plate of the vehicle involved as well as the state that issued the license plate, the officer may use any lawful means to identify the registered owner.

(B) The fact that a person or entity is the registered owner of a motor vehicle is prima facie evidence that that person or entity is the person who was operating the vehicle at the time of the traffic law violation.

(C) Within thirty days of the traffic law violation, the local authority or its designee may issue and send by regular mail a ticket charging the registered owner with the violation. The ticket shall comply with section 4511.097 of the Revised Code.

(D) A certified copy of the ticket alleging a traffic law violation, sworn to or affirmed by a law enforcement officer employed by the local authority, including by electronic means, and the recorded images produced by the traffic law photo-monitoring device, is prima facie evidence of the facts contained therein and is admissible in a proceeding for review of the ticket issued under this section.

Sec. 4511.097. (A) A traffic law violation for which a ticket is issued by a local authority pursuant to division (B)(3) of section 4511.093 of the Revised Code is a civil violation. If a local authority issues a ticket for such a violation, the ticket shall comply with the requirements of this section and the fine for such a ticket shall not exceed the amount of the fine that may be imposed for a substantially equivalent criminal traffic law violation.

(B) A local authority or its designee shall process such a ticket for a civil violation and shall send the ticket by ordinary mail to any registered owner of the motor vehicle that is the subject of the traffic law violation. The local authority or designee shall ensure that the ticket contains all of the following:

- (1) The name and address of the registered owner;
 - (2) The letters and numerals appearing on the license plate issued to the motor vehicle;
 - (3) The traffic law violation charged;
 - (4) The system location;
 - (5) The date and time of the violation;
 - (6) A copy of the recorded images;
 - (7) The name and badge number of the law enforcement officer who was present at the system location at the time of the violation;
 - (8) The amount of the civil penalty imposed, the date by which the civil penalty is required to be paid, and the address to which the payment is to be sent;
 - (9) A statement signed by a law enforcement officer employed by the local authority indicating that, based on an inspection of recorded images, the motor vehicle was involved in a traffic law violation, and a statement indicating that the recorded images are prima facie evidence of that traffic law violation both of which may be signed electronically;
 - (10) Information advising the person or entity alleged to be liable of the options prescribed in section 4511.098 of the Revised Code, specifically to include the time, place, and manner in which an administrative appeal may be initiated and the procedure for disclaiming liability by submitting an affidavit as prescribed in that section;
 - (11) A warning that failure to exercise one of the options prescribed in section 4511.098 of the Revised Code is deemed to be an admission of liability and waiver of the opportunity to contest the violation.
- (C) A local authority or its designee shall send a ticket not later than thirty days after the date of the alleged traffic law violation.
- (D) The local authority or its designee may elect to send by ordinary mail a warning notice in lieu of a ticket under this section.
- Sec. 4511.098. (A) A person or entity who receives a ticket for a civil violation sent in compliance with section 4511.097 of the Revised Code shall elect to do one of the following:
- (1) In accordance with instructions on the ticket, pay the civil penalty, thereby failing to contest liability and waiving the opportunity to contest the violation;
 - (2)(a) Within thirty days after receipt of the ticket, provide the law enforcement agency of the local authority with either of the following affidavits:
 - (i) An affidavit executed by the registered owner stating that another person was operating the vehicle of the registered owner at the time of the

violation, identifying that person as a designated party who may be held liable for the violation, and containing at a minimum the name and address of the designated party;

(ii) An affidavit executed by the registered owner stating that at the time of the violation, the motor vehicle or the license plates issued to the motor vehicle were stolen and therefore were in the care, custody, or control of some person or entity to whom the registered owner did not grant permission to use the motor vehicle. In order to demonstrate that the motor vehicle or the license plates were stolen prior to the traffic law violation and therefore were not under the control or possession of the registered owner at the time of the violation, the registered owner shall submit proof that a report about the stolen motor vehicle or license plates was filed with the appropriate law enforcement agency prior to the violation or within forty-eight hours after the violation occurred.

(b) A registered owner is not responsible for a traffic law violation if, within thirty days after the date of mailing of the ticket, the registered owner furnishes an affidavit specified in division (A)(2)(a)(i) or (ii) of this section to the local authority in a form established by the local authority and the following conditions are met:

(i) If the registered owner submits an affidavit as specified in division (A)(2)(a)(i) of this section, the designated party either accepts liability for the violation by paying the civil penalty or failing to request an administrative hearing within thirty days or is determined liable in an administrative hearing;

(ii) If the registered owner submits an affidavit as specified in division (A)(2)(a)(ii) of this section, the affidavit is supported by a stolen vehicle or stolen license plate report as required in that division.

(3) If the registered owner is a motor vehicle leasing dealer or a motor vehicle renting dealer, notify the law enforcement agency of the local authority of the name and address of the lessee or renter of the motor vehicle at the time of the traffic law violation. A motor vehicle leasing dealer or motor vehicle renting dealer who receives a ticket for an alleged traffic law violation detected by a traffic law photo-monitoring device is not liable for a ticket issued for a motor vehicle that was in the care, custody, or control of a lessee or renter at the time of the alleged violation. The dealer shall not pay such a ticket and subsequently attempt to collect a fee or assess the lessee or renter a charge for any payment of such a ticket made on behalf of the lessee or renter.

(4) If the vehicle involved in the traffic law violation is a commercial motor vehicle and the ticket is issued to a corporate entity, provide to the

law enforcement agency of the local authority an affidavit, sworn to or affirmed by an agent of the corporate entity, that provides the name and address of the employee who was operating the motor vehicle at the time of the alleged violation and who is the designated party.

(5) Contest the ticket by filing a written request for an administrative hearing to review the ticket. The person or entity shall file the written request not later than thirty days after receipt of the ticket. The failure to request a hearing within this time period constitutes a waiver of the right to contest the violation and ticket, and is deemed to constitute an admission of liability and waiver of the opportunity to contest the violation.

(B) A local authority that receives an affidavit described in division (A)(2)(a)(i) or (A)(4) of this section or a notification under division (A)(3) of this section from a registered owner may proceed to send a ticket that conforms with division (B) of section 4511.097 of the Revised Code to the designated party. The local authority shall send the ticket to the designated party by ordinary mail not later than twenty-one days after receipt of the affidavit or notification.

Sec. 4511.099. (A) When a person or entity named in a ticket for a civil violation under division (A) of section 4511.097 of the Revised Code elects to contest the ticket and completes the requirements prescribed in division (A)(5) of section 4511.098 of the Revised Code in a timely manner, all of the following apply:

(1) A hearing officer appointed by the local authority shall hear the case. The hearing officer shall conduct a hearing not sooner than twenty-one but not later than forty-five days after the filing of a written request for the hearing. The hearing officer may extend the time period by which a hearing must be conducted upon a request for additional time by the person or entity who requested the hearing.

(2) The hearing officer shall ensure that the hearing is open to the public. The hearing officer shall post a docket in a conspicuous place near the entrance to the hearing room. The hearing officer shall identify on the docket, by respondent, the hearings scheduled for that day and the time of each hearing. The hearing officer may schedule multiple hearings for the same time to allow for occurrences such as nonappearances or admissions of liability.

(3) The person who requested the administrative hearing or a representative of the entity that requested the hearing shall appear for the hearing and may present evidence at the hearing.

(4) The hearing officer shall determine whether a preponderance of the evidence establishes that the violation alleged in the ticket did in fact occur

and that the person or entity requesting the review is the person who was operating the vehicle at the time of the violation.

(B)(1) If the hearing officer finds by a preponderance of the evidence that the alleged traffic law violation did in fact occur and that the person or entity named in the ticket is the person who was operating the vehicle at the time of the violation, the hearing officer shall issue a written decision imposing liability for the violation upon the individual or entity and submit it to the local authority or its designee and the person or entity named in the ticket.

(2) If the hearing officer finds by a preponderance of the evidence that the alleged traffic law violation did not occur or did in fact occur but the person or entity named in the ticket is not the person who was operating the vehicle at the time of the violation, the hearing officer shall issue a written decision finding that the individual or entity is not liable for the violation and submit it to the local authority or its designee and the person or entity named in the ticket.

(3) If the person who requested the administrative hearing or a representative of the entity that requested the hearing fails to appear at the hearing, the hearing officer shall determine that the person or entity is liable for the violation. In such a case, the hearing officer shall issue a written decision imposing liability for the violation upon the individual or entity and submit it to the local authority or its designee and the person or entity named in the ticket.

(4) The hearing officer shall render a decision on the day a hearing takes place.

(C)(1) In determining whether the person or entity named in the ticket is liable, the hearing officer may consider any of the following as an affirmative defense to a traffic law violation:

(a) That the vehicle passed through the intersection in order to yield the right-of-way to either of the following:

(i) A public safety vehicle or coroner's vehicle in accordance with section 4511.45 of the Revised Code or a substantially equivalent municipal ordinance;

(ii) A funeral procession in accordance with section 4511.451 of the Revised Code or a substantially equivalent municipal ordinance.

(b) That the motor vehicle or license plates of the motor vehicle were stolen prior to the occurrence of the violation and were not under the control or possession of the registered owner at the time of the violation. In order to demonstrate that the motor vehicle or license plates were stolen prior to the occurrence of the violation and were not under the control or possession of

the registered owner at the time of the violation, the registered owner shall submit proof that a report about the stolen motor vehicle or license plates was filed with the appropriate law enforcement agency prior to the traffic law violation or within forty-eight hours after the traffic law violation occurred.

(c) At the time and place of the alleged traffic law violation, the traffic control signal was not operating properly or the traffic law photo-monitoring device was not in proper position and the recorded image is not of sufficient legibility to enable an accurate determination of the information necessary to impose liability.

(d) That the registered owner or person or entity named in the ticket was not the person operating the motor vehicle at the time of the violation. In order to meet the evidentiary burden imposed under division (C)(1)(d) of this section, the registered owner or person or entity named in the ticket shall provide to the hearing officer the identity of the designated party, that person's name and current address, and any other evidence that the hearing officer determines to be pertinent.

(2) A hearing officer also may consider the totality of the circumstances when determining whether to impose liability upon the person or entity named in the ticket.

(D)(1) If the hearing officer finds that the person or entity named in the ticket was not the person who was operating the vehicle at the time of the violation or receives evidence identifying the designated party, the hearing officer shall provide to the local authority or its designee, within five days of the hearing, a copy of any evidence substantiating the identity of the designated party.

(2) Upon receipt of evidence of the identity of the designated party, the local authority or its designee may issue a ticket to the designated party.

A local authority shall ensure that a ticket issued under division (D)(2) of this section conforms with division (B) of section 4511.097 of the Revised Code. The local authority shall send the ticket by ordinary mail not later than twenty-one days after receipt of the evidence from the hearing officer or the registered owner of the identity of the designated party.

(E) If a designated party who is issued a ticket under division (D)(2) of this section or division (B) of section 4511.098 of the Revised Code contests the ticket by filing a written request for an administrative hearing to review the ticket not later than thirty days after receipt of the ticket, the local authority shall require the registered owner of the motor vehicle also to attend the hearing. If at the hearing involving the designated party the hearing officer cannot determine the identity of the operator of the vehicle at

the time of the violation, the registered owner is liable for the violation. The hearing officer then shall issue a written decision imposing liability for the violation on the registered owner and submit it to the local authority or its designee and to the registered owner. If the designated party also is a registered owner of the vehicle, liability for the violation shall follow the order of registered owners as listed on the title to the vehicle.

(F) A person who is named in a ticket for a civil violation may assert a testimonial privilege in accordance with division (D) of section 2317.02 of the Revised Code.

(G) A person or entity may appeal a written decision rendered by a hearing officer under this section to the municipal court or county court with jurisdiction over the location where the violation occurred.

(H) No decision rendered under this section, and no admission of liability under this section or section 4511.098 of the Revised Code, is admissible as evidence in any other judicial proceeding in this state.

Sec. 4511.0910. A traffic law violation for which a civil penalty is imposed under sections 4511.097 to 4511.099 of the Revised Code is not a moving violation and points shall not be assessed against a person's driver's license under section 4510.036 of the Revised Code. In no case shall such a violation be reported to the bureau of motor vehicles or motor vehicle registration bureau, department, or office of any other state, nor shall such a violation be recorded on the driving record of the owner or operator of the vehicle involved in the violation.

Sec. 4511.0911. (A) Upon request, each manufacturer of a traffic law photo-monitoring device shall provide to a local authority utilizing its devices the maintenance record of any such device used in that local authority.

(B)(1) Commencing January 2015, not later than the last day of January of each year, the manufacturer of a traffic law photo-monitoring device shall provide to the applicable local authority a certificate of proper operation that attests to the accuracy of the device in recording a traffic law violation.

(2) In addition to the requirement prescribed in division (B)(1) of this section, for every such device that is considered mobile, meaning it is attached to a trailer, vehicle, or other wheeled apparatus so that it is easily moved to different system locations, both of the following apply:

(a) Each local authority shall test the accuracy of each such device with an independent, certified speed measuring device or some other commonly accepted method prior to its use at each system location.

(b) Each local authority shall clearly and conspicuously mark on the outside of the trailer, vehicle, or wheeled apparatus that contains the traffic

law photo-monitoring device that the device is contained therein and that the trailer, vehicle, or wheeled apparatus is the property of the local authority.

(C) In the case of a traffic law photo-monitoring device that is used at an intersection to detect violations of section 4511.12 of the Revised Code based on the failure to comply with section 4511.13 of the Revised Code or a substantially equivalent municipal ordinance, the local authority shall not issue a ticket for a violation based upon evidence recorded by a traffic law photo-monitoring device when a vehicle makes a legal right or left turn-on-red-signal if all of the following apply:

(1) The vehicle can make the turn safely.

(2) The vehicle comes to a complete stop at any point prior to completing the turn.

(3) No pedestrians are in the crosswalk, or are about to enter the crosswalk, of any approach to the intersection the vehicle occupies while commencing or making the turn.

Sec. 4511.0912. A local authority shall not issue a ticket for a violation of section 4511.21 or 4511.211 of the Revised Code or a substantially equivalent municipal ordinance due to failure to observe the applicable speed limit based upon evidence recorded by a traffic law photo-monitoring device unless one of the following applies:

(A) For a system location that is located within a school zone or within the boundaries of a state or local park or recreation area, the vehicle involved in the violation is traveling at a speed that exceeds the posted speed limit by not less than six miles per hour.

(B) For a system location that is located at any other location, the vehicle involved in the violation is traveling at a speed that exceeds the posted speed limit by not less than ten miles per hour.

Sec. 4511.0913. Sections 4511.092 to 4511.0912 of the Revised Code do not apply to the use of a traffic law photo-monitoring device that is placed on a school bus for the purpose of detecting violations of section 4511.75 of the Revised Code or a substantially equivalent municipal ordinance.

Sec. 4511.0914. Sections 4511.092 to 4511.0912 of the Revised Code do not affect in any manner either of the following:

(A) Any ban on the use by a local authority of traffic law photo-monitoring devices to detect traffic law violations that is in effect on the effective date of this section, irrespective of the method or means by which such a ban took effect;

(B) Any ban on the use by a local authority of traffic law

photo-monitoring devices to detect traffic law violations that takes effect after the effective date of this section, irrespective of the method or means by which such a ban takes effect.

Sec. 4511.204. (A) No person shall drive a motor vehicle, trackless trolley, or streetcar on any street, highway, or property open to the public for vehicular traffic while using a handheld electronic wireless communications device to write, send, or read a text-based communication.

(B) Division (A) of this section does not apply to any of the following:

(1) A person using a handheld electronic wireless communications device in that manner for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

(2) A person driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties;

(3) A person using a handheld electronic wireless communications device in that manner whose motor vehicle is in a stationary position and who is outside a lane of travel;

(4) A person reading, selecting, or entering a name or telephone number in a handheld electronic wireless communications device for the purpose of making or receiving a telephone call;

(5) A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle;

(6) A person receiving wireless messages via radio waves;

(7) A person using a device for navigation purposes;

(8) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;

(9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;

(10) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle.

(C)(1) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of

determining whether a violation of division (A) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(2) On January 31 of each year, the department of public safety shall issue a report to the general assembly that specifies the number of citations issued for violations of this section during the previous calendar year.

(D) Whoever violates division (A) of this section is guilty of a minor misdemeanor.

(E) This section shall not be construed as invalidating, preempting, or superseding a substantially equivalent municipal ordinance that prescribes penalties for violations of that ordinance that are greater than the penalties prescribed in this section for violations of this section.

(F) A prosecution for a violation of this section does not preclude a prosecution for a violation of a substantially equivalent municipal ordinance based on the same conduct. However, if an offender is convicted of or pleads guilty to a violation of this section and is also convicted of or pleads guilty to a violation of a substantially equivalent municipal ordinance based on the same conduct, the two offenses are allied offenses of similar import under section 2941.25 of the Revised Code.

(G) As used in this section:

(1) "Electronic wireless communications device" includes any of the following:

- (a) A wireless telephone;
- (b) A text-messaging device;
- (c) A personal digital assistant;
- (d) A computer, including a laptop computer and a computer tablet;
- (e) Any other substantially similar wireless device that is designed or used to communicate text.

(2) "Voice-operated or hands-free device" means a device that allows the user to vocally compose or send, or to listen to a text-based communication without the use of either hand except to activate or deactivate a feature or function.

(3) "Write, send, or read a text-based communication" means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or

sending, or reading communications referred to as text messages, instant messages, or electronic mail.

SECTION 2. That existing sections 1901.20, 1907.02, 4511.093, 4511.094, and 4511.204 and section 4511.092 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. S. B. No. 342

130th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____