



Sub. H.B. 56

126th General Assembly
(As Passed by the General Assembly)

Reps. Raussen, Seitz, Brinkman, McGregor, D. Evans, Fessler, Aslanides, Reidelbach, Gilb, Buehrer, Hood, Daniels, Taylor, Martin, Gibbs, Faber, Raga, Blessing, Schneider, Uecker, Bupp, J. Stewart, Schaffer, Webster, Key, Law, Widowfield, Calvert, Coley, Collier, Flowers, Hughes, T. Patton, Peterson, Seaver, Setzer, Trakas

Sens. Armbruster, Jacobson

Effective date: Vetoed by Governor

ACT SUMMARY

The Governor vetoed the act which would have done all of the following:

- Established conditions under which local authorities may enforce certain traffic laws by means of traffic law photo-monitoring devices and required existing devices to conform within 60 days of the act's effective date;
- Allowed the use of traffic law photo-monitoring devices only to enforce a violation of a traffic control signal, a railroad crossing sign or signal, or a school zone speed limit when flashing lights indicate that it is in effect, unless a law enforcement officer was present at the location of the device and issued the ticket, and imposed the burden of proof on a local authority in a contested violation;
- Required a local authority that authorizes the enforcement of traffic laws by means of traffic law photo-monitoring devices to prescribe an appropriate form for the signed statement that a person could have submitted upon receiving a ticket for a traffic law violation detected by such a device, and would have made a false statement on the form the offense of falsification;

- Prohibited a local authority with traffic law photo-monitoring devices from using any such device to photograph, videotape, or produce a digital image of a vehicle operator for the purpose of enforcing the specified traffic laws;
- Required a local authority to compile accident statistics for each traffic control signal location of a traffic law photo-monitoring device, to update the statistics for each location two times per year, and to remove a device from a location that showed an increase in the number of accidents in a 12-month period compared to the accident history for the intersection prior to installation of the device (or continue to use the device only if a law enforcement officer was present);
- Established vehicle owner (or lessee or renter) liability for qualified traffic violations detected by a traffic law photo-monitoring device;
- Limited the amount of a fine for a noncriminal traffic law violation detected by a traffic law photo-monitoring device to an amount not exceeding the fine for a substantively comparable criminal traffic law violation;
- Specified that a traffic law violation detected solely by means of a traffic law photo-monitoring device may not be considered a criminal offense for purposes of any driving record maintained by the Bureau of Motor Vehicles and that no points may be assessed against a person for any such violation;
- Required a traffic violations bureau to make determinations of liability and conduct hearings in the same manner as established for hearing noncriminal parking violations, including any appeal;
- Allowed an administrative fee, not to exceed the amount of the fine, if a person who denied committing the violation was found to have committed the violation;
- Required the Department of Transportation to develop standards governing the use of traffic law photo-monitoring devices, including criteria for selecting locations for the devices, size, location, and content standards for warning signs, and technical specifications;

- Created a legislative traffic law photo-enforcement study committee to evaluate the use of traffic law photo-enforcement devices within Ohio and make recommendations six months after the act's effective date.

CONTENT AND OPERATION

The act was vetoed by the Governor; it would have established conditions and procedures for local authorities (a municipal corporation, county, or township) to follow when enforcing certain traffic laws by means of a traffic law photo-monitoring device, which the act would have defined as "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."

Conditions for enforcing traffic laws by traffic law photo-monitoring devices

(R.C. 4511.092(B) and (G))

Under the act, a local authority that authorizes the enforcement of traffic laws by means of traffic law photo-monitoring devices:

(1) Would have been prohibited from entering into, renewing, amending, modifying, or making payment under a contract with a vendor for the installation or maintenance of the devices or the provision of other services related to the devices if payment to the vendor is on a fee basis that is contingent upon the number of tickets issued or the amount of fines for traffic law violations detected by the devices (see "*Existing contracts*" below);

(2) Would have been required to use the devices only for the enforcement of a "qualified traffic violation," meaning a violation of a traffic control signal, a railroad crossing sign or signal, or a violation of a school zone speed limit that occurs in a school zone equipped with operating flashing lights giving notice that the school zone speed limit is in effect, or a substantially similar municipal ordinance that occurs under such conditions, unless a law enforcement officer was present at the location of the device and issued the ticket at the time and location of the violation;

(3) Would have been required to operate the devices from permanently fixed structures and not from portable platforms and to conform the use of the devices to all standards developed by the Department of Transportation (ODOT), including the timing of yellow lights and yellow arrows on traffic control signals;

(4) At least 30 days before a device becomes operational, would have been required to erect a warning sign that conformed in size, location, and content with

standards established by ODOT and to provide appropriate notice to local print and electronic media of the location of the device and the date the device would be operational;

(5) Would have been required to prescribe a fine in an amount not exceeding the fine established by the appropriate municipal or county court in the court's schedule of fines for a substantively comparable traffic law violation;

(6) Prior to requiring payment of any fine, would have been required to provide any person who receives a ticket for a noncriminal traffic law violation detected by a traffic law photo-monitoring device with the opportunity for a hearing before a hearing examiner or referee of a traffic violations bureau to answer the allegation by an admission, a statement on a specified form (see "Signed statement" below), or a denial;

(7) Would have been required to process all fines and costs from a traffic violation detected by a traffic law photo-monitoring device by a violations clerk of a traffic violations bureau;

(8) Would have been allowed to establish an administrative fee, in an amount not to exceed the fine for the violation, which would have been imposed and collected by the hearing examiner or referee who entered a judgment against a person who denied committing the violation;

(9) Would have been prohibited from using any such device to photograph, videotape, or produce a digital image of a vehicle operator for the purpose of determining whether a qualified traffic violation had occurred.

Under the act, a traffic law violation detected solely by means of a traffic law photo-monitoring device could not have been considered a criminal offense for purposes of any driving record maintained by the Bureau of Motor Vehicles and no points could have been assessed for any such violation for purposes of the administrative driver's license suspension based on the accumulation of points chargeable to a person's driving record for traffic law convictions.

Contracts

(Section 3)

In regard to the prohibitions related to contract payments on a fee basis that are contingent upon the number of tickets issued or fines levied or collected, the act would have established two compliance situations for a local authority that is a party to a contract with a vendor for the installation or maintenance of a traffic law photo-monitoring device on the act's effective date. If the existing contract obligates the local authority to payment on a fee basis that is contingent upon the

number of tickets issued or amount of fines levied or collected by the local authority but the contract allows the severability of such payment provision based upon compliance with governing law, the local authority would have been required to comply immediately upon the effective date of the act. In all other cases, such local authority would have been required to comply with the payment prohibitions whenever, after the act's effective date, the local authority enters into a new contract or renews, amends, or modifies the existing contract.

Operational procedures

(R.C. 4511.092(C) and (D))

During the first 30 days that a device is operational, the local authority would have been required to issue only warning notices and could not have issued any ticket for any traffic law violation detected by the device. The act also would have required the local authority to compile accident statistics for each traffic control signal location of a traffic law photo-monitoring device and to update the statistics for each location two times per year. For every 12-month period, the local authority would have been required to determine the change in the number of accidents at the location compared to the accident history at the intersection prior to installation of the device. If any subsequent 12-month period showed a net increase in accidents compared to the accident history at the intersection prior to installation of the device, the local authority could have issued traffic control signal violation tickets at that location only if a law enforcement officer was present at the location and issued the ticket at the time and location of the violation.

Once the device became operational, a law enforcement officer would have been required to examine the image recorded by the device to determine whether a qualified traffic violation had been committed. If the image showed an alleged violation, contained a notation of the date and time of the alleged violation, and permitted the law enforcement officer to read the letters and numbers on the motor vehicle's rear license plate, the officer could have issued a ticket to the vehicle owner, lessee, or renter. The act would have specified that no ticket issued by mail for an alleged violation detected by a traffic law photo-monitoring device could contain the vehicle owner or operator's social security number, and no request for information from the owner of a motor vehicle could request the owner to provide another person's social security number or driver's license number.

In the case of a leased or rented vehicle, the act would have provided that a law enforcement officer may not issue a ticket in the name of a motor vehicle leasing dealer or motor vehicle renting dealer. If a motor vehicle leasing or renting dealer received a ticket for an alleged violation detected by a traffic law photo-monitoring device, the dealer would not have been liable for a ticket issued

for a vehicle that was in the care, custody, or control of a lessee or renter. The act further would have specified that a dealer who receives a ticket for such a violation could have notified the law enforcement agency that issued the ticket of the vehicle lessee or renter's identity, but in no case would the dealer have been allowed to pay a ticket and then 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.

Hearing and other procedures upon receipt of a ticket

(R.C. 4511.092(E) and (F))

Under the act, a person who receives a ticket for a noncriminal qualified traffic violation detected by a traffic law photo-monitoring device would have been required to do one of the following:

(1) Sign the ticket and pay the fine.

(2) Submit to the traffic violations bureau a signed statement on a specified form (see "**Signed statement**," below) that the vehicle owner, lessee, or renter was not operating the vehicle at the time of the alleged violation or other evidence that explained the circumstances surrounding the violation or that constituted a defense. The evidence could have been submitted in person or, to avoid the necessity of personal appearance, sent by mail.

(3) Request a hearing from the traffic violations bureau concerning the violation. Upon receipt of a hearing request, the traffic violations bureau would have been required to set a date for the hearing and notify the person, in writing, of the date, time, and place of the hearing.

Signed statement

(R.C. 2921.13 and 4511.094)

The act would have required a local authority that authorizes the enforcement of traffic laws by means of traffic law photo-monitoring devices to prescribe an appropriate form for the signed statement that a person could have submitted upon receiving a ticket for a traffic law violation detected by such a device. The local authority would have been required to include the form with each ticket issued for an alleged violation detected by a traffic law photo-monitoring device.

The act would have required the form to contain all of the following:

(1) Basic instructions for completing the form, including an instruction that the person's signature on the form be notarized if the person who was signing the statement previously signed such a statement for an alleged violation detected by a traffic law photo-monitoring device in regard to a ticket issued by the same local authority within the previous 12 months;

(2) An instruction to include or attach any evidence that explains the basis for stating that the vehicle owner, lessee, or renter was not operating the vehicle at the time of the alleged violation or constitutes a defense;

(3) Notice in boldface type, stating: "ANY PERSON WHO KNOWINGLY FILES A FALSE STATEMENT IS GUILTY OF FALSIFICATION IN A QUALIFIED TRAFFIC VIOLATION STATEMENT UNDER SECTION 2921.13 OF THE REVISED CODE, WHICH IS A MISDEMEANOR OF THE FIRST DEGREE ON A FIRST VIOLATION AND FELONY OF THE FIFTH DEGREE ON A SUBSEQUENT VIOLATION WITHIN TWELVE MONTHS.";

(4) A signature line for the person completing the form;

(5) A signature line for the notary public, when necessary.

Under the act, whoever knowingly made a false statement, or knowingly swore or affirmed the truth of a false statement previously made, in a form submitted to a traffic violations bureau in connection with a qualified traffic violation ticket issued in response to an alleged traffic law violation detected by a traffic law photo-monitoring device, would have been guilty of falsification in a qualified traffic violation statement. Falsification in a qualified traffic violation statement would have been a misdemeanor of the first degree, except that if the offender previously had been convicted of such a violation within the previous 12 months, falsification in a qualified traffic violation statement would have been a felony of the fifth degree.

Traffic violations bureau procedures

(R.C. 4511.092(F)(1))

The act would have specified that a local authority has the burden of proving a contested violation by a preponderance of evidence. A traffic violations bureau that received a signed statement or other evidence with an explanation would have been required to proceed in the same manner established in current law for noncriminal parking infractions and to determine promptly whether the evidence and explanation mitigated the fact that the person committed the violation, notify the person, in writing, of its determination, and determine the

amount of the fine, if any. If the person failed to pay the amount of any fine due within 30 days after receiving notice of the bureau's determination and did not appeal that determination to the municipal or county court with jurisdiction for the local authority, the determination and the amount of the fine due would have been considered a judgment and would have been required to be treated as if it were a judgment rendered subsequent to a hearing held.

Upon receipt of a hearing request, the traffic violations bureau would have been required to set a date for the hearing and notify the person, in writing, of the date, time, and place of the hearing. A hearing examiner or referee of a traffic violations bureau would have been required to conduct a hearing for a noncriminal traffic law violation detected by a traffic law photo-monitoring device. The act would have required any payment of a judgment against a person for a noncriminal traffic law violation detected by a traffic law photo-monitoring device to be made and processed in the same manner as established in existing law for noncriminal parking infractions. Any person against whom a judgment was entered for such a violation would have been allowed to appeal the judgment to the appropriate municipal or county court in the same manner as established in existing law for noncriminal parking infractions.

Department of Transportation standards

(R.C. 4511.093)

The act would have required ODOT, in consultation with local governments, to develop standards governing the use of traffic law photo-monitoring devices and to include the standards in the appropriate departmental standards and policy documents, including the Ohio Manual of Uniform Traffic Control Devices. All devices used by local authorities would have been required to conform to all ODOT standards. The standards would have been required to include criteria for selecting locations at which the devices could be installed, size, location, and content standards for warning signs indicating the existence of a traffic law photo-monitoring device, and technical specifications that the devices and associated traffic signals would have been required to meet in order to be utilized by local authorities.

The act would have specified that at any intersection where a traffic law photo-monitoring device is installed, the time period during which the traffic control signal displays a yellow light or yellow arrow must conform with the provisions of the Ohio Manual of Uniform Traffic Control Devices governing the time of display of yellow lights and yellow arrows by traffic control signals. The time period could not have been shorter than the time period prescribed by that manual for intersections that are of the same type or have the same characteristics as the intersection at which the traffic control signal was located.

Compliance for existing devices

(Section 4)

Not later than 60 days after the act's effective date, any local authority using a traffic law photo-monitoring device to enforce traffic laws would have been required to conform each existing device and the use of the device to the provisions of the act, including related ODOT standards. Any ticket issued by a local authority for a traffic law violation detected more than 60 days after the act's effective date by a nonconforming device would have been invalid.

Study committee

(Section 5)

The act would have created a legislative traffic law photo-enforcement study committee consisting of six members, as follows: (1) three members of the Senate, no more than two of whom could have been members of the same political party, one of whom would have been required to be the chairperson of the Senate committee dealing primarily with highway matters, one of whom would have been required to be appointed by the President of the Senate, and one of whom would have been required to be appointed by the Minority Leader of the Senate, (2) three members of the House of Representatives, no more than two of whom could have been members of the same political party, one of whom would have been required to be the chairperson of the House committee dealing primarily with highway matters, one of whom would have been required to be appointed by the Speaker of the House of Representatives, and one of whom would have been required to be appointed by the Minority Leader of the House of Representatives. The chairpersons of the respective Senate and House committees dealing with highway matters would have been required to serve as co-chairpersons of the study committee and the Legislative Service Commission would have been required to staff the study committee. The committee would have been required to evaluate the use of traffic law photo-enforcement devices within Ohio, considering any testimony from citizens, local authorities using the devices, businesses that provide the devices, and other available information. Not later than six months after the act's effective date, the committee would have been required to make recommendations to the Majority and Minority Leaders of the Senate and House of Representatives concerning the use of traffic law photo-enforcement devices within Ohio.

HISTORY

ACTION	DATE
Introduced	02-10-05
Reported, H. Transportation, Public Safety & Homeland Security	05-05-05
Passed House (73-24)	05-18-05
Reported, S. Highways & Transportation	05-24-06
Recommitted, S. Highways & Transportation	11-30-06
Re-reported, S. Highways & Transportation	12-06-06
Passed Senate (18-13)	12-06-06
House concurred in Senate amendments (67-30)	12-12-06
Vetoed by Governor	01-05-07

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