



Sub. H.B. 56*

126th General Assembly

(As Re-reported by S. Highways & Transportation)

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

BILL SUMMARY

- Establishes conditions under which local authorities may enforce certain traffic laws by means of traffic law photo-monitoring devices and requires existing devices to conform within 60 days of the bill's effective date.
- Allows 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 is present at the location of the device and issues the ticket, and imposes the burden of proof on a local authority in a contested violation.
- Requires 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 may submit upon receiving a ticket for a traffic law violation detected by such a device and makes a false statement on the form the offense of falsification.
- Prohibits a local authority with traffic law photo-monitoring devices from using any such device to photograph, videotape, or produce a digital

** This analysis was prepared before the re-report of the Senate Highways & Transportation Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

image of a vehicle operator for the purpose of enforcing the specified traffic laws.

- Requires 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 shows 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 is present).
- Establishes vehicle owner (or lessee or renter) liability for qualified traffic violations detected by a traffic law photo-monitoring device.
- Limits 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.
- Specifies 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 no points may be assessed against a person for any such violation.
- Requires 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.
- Allows an administrative fee, not to exceed the amount of the fine, if a person who denied committing the violation is found to have committed the violation.
- Requires 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.
- Creates 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 bill's effective date.

CONTENT AND OPERATION

The bill establishes 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 bill defines 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 bill, a local authority that authorizes the enforcement of traffic laws by means of traffic law photo-monitoring devices:

(1) Must not enter into, renew, amend, modify, or make 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) Must 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 is present at the location of the device and issues the ticket at the time and location of the violation;

(3) Must operate the devices from permanently fixed structures and not from portable platforms and must 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, must erect a warning sign that conforms in size, location, and content with standards established by ODOT and provide appropriate notice to local print and electronic media of the location of the device and the date the device will be operational;

(5) Must 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, must 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 (see **COMMENT**);

(7) Must 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) May establish an administrative fee, in an amount not to exceed the fine for the violation, to be imposed and collected by the hearing examiner or referee who enters a judgment against a person who denied committing the violation;

(9) Must not use 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 has occurred.

Under the bill, 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 no points may be 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.

Existing contracts

(Section 3)

In regard to the prohibitions related to contract payments on a fee basis that is contingent upon the number of tickets issued or fines levied or collected, the bill establishes 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 bill'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 must comply immediately upon the

effective date of the bill. In all other cases, such local authority must comply with the payment prohibitions whenever, after the bill'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 must issue only warning notices and may not issue any ticket for any traffic law violation detected by the device. The bill also requires 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 must 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 shows a net increase in accidents compared to the accident history at the intersection prior to installation of the device, the local authority may issue traffic control signal violation tickets at that location only if a law enforcement officer is present at the location and issues the ticket at the time and location of the violation.

Once the device becomes operational, a law enforcement officer must examine the image recorded by the device to determine whether a qualified traffic violation has been committed. If the image shows an alleged violation, contains a notation of the date and time of the alleged violation, and permits the law enforcement officer to read the letters and numbers on the motor vehicle's rear license plate, the officer may issue a ticket to the vehicle owner, lessee, or renter. The bill specifies that no ticket issued by mail for an alleged violation detected by a traffic law photo-monitoring device may contain the vehicle owner or operator's social security number, and no request for information from the owner of a motor vehicle may 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 bill provides 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 receives a ticket for an alleged violation detected by a traffic law photo-monitoring device, the dealer is not liable for a ticket issued for a vehicle that was in the care, custody, or control of a lessee or renter. The bill further specifies that a dealer who receives a ticket for such a violation may notify the law enforcement agency that issued the ticket of the vehicle lessee or renter's identity, but in no case may the dealer 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 bill, a person who receives a ticket for a noncriminal qualified traffic violation detected by a traffic law photo-monitoring device must 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 explains the circumstances surrounding the violation or that constitutes a defense. The evidence may be submitted in person or, to avoid the necessity of personal appearance, may be 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 must 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 bill requires 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 may submit upon receiving a ticket for a traffic law violation detected by such a device. The local authority is required to include the form with each ticket issued for an alleged violation detected by a traffic law photo-monitoring device.

The bill requires 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 is 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 bill, whoever knowingly makes a false statement, or knowingly swears or affirms 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 is guilty of falsification in a qualified traffic violation statement. Falsification in a qualified traffic violation statement is a misdemeanor of the first degree except that if the offender previously has been convicted of such a violation within the previous 12 months, falsification in a qualified traffic violation statement is a felony of the fifth degree.

Traffic violations bureau procedures

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

The bill specifies that a local authority has the burden of proving a contested violation by a preponderance of evidence. A traffic violations bureau that receives a signed statement or other evidence with an explanation must proceed in the same manner established in current law for noncriminal parking infractions and promptly determine whether the evidence and explanation mitigates 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 fails to pay the amount of any fine due within 30 days after receiving notice of the bureau's determination and does 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 is considered a judgment and must be treated as if it were a judgment rendered subsequent to a hearing held.

Upon receipt of a hearing request, the traffic violations bureau must 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 must conduct a hearing for a noncriminal traffic law violation detected by a traffic law photo-monitoring device. The bill requires 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 is entered for such a violation may 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 bill requires 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 must conform to all ODOT standards. The standards must include criteria for selecting locations at which the devices may 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 must meet in order to be utilized by local authorities.

The bill specifies 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 may not be 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 is located.

Compliance for existing devices

(Section 4)

Not later than 60 days after the bill's effective date, any local authority using a traffic law photo-monitoring device to enforce traffic laws must conform each existing device and the use of the device to the provisions of the bill, including related ODOT standards. Any ticket issued by a local authority for a

traffic law violation detected more than 60 days after the bill's effective date by a nonconforming device is invalid.

Study committee

(Section 5)

The bill creates 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 may be members of the same political party, one of whom must be the chairperson of the Senate committee dealing primarily with highway matters, one of whom must be appointed by the President of the Senate, and one of whom must be appointed by the Minority Leader of the Senate, (2) three members of the House of Representatives, no more than two of whom may be members of the same political party, one of whom must be the chairperson of the House of Representatives committee dealing primarily with highway matters, one of whom must be appointed by the Speaker of the House of Representatives, and one of whom must be appointed by the Minority Leader of the House of Representatives. The chairpersons of the respective Senate and House committees dealing with highway matters serve as co-chairpersons of the study committee and the Legislative Service Commission must staff the study committee. The committee must 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 bill's effective date, the committee must 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.

COMMENT

Under Traffic Rule 13 of the Ohio Supreme Court, each municipal court, county court, juvenile division of a court of common pleas, and mayor's court must establish a traffic violations bureau and appoint its clerk as violations clerk. With specified exceptions, a violations bureau has jurisdiction over all traffic offenses. A violations bureau accepts appearances, waiver of trial, pleas of guilty, and payment of fines and costs.

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	---

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