



Sub. H.B. 56*

126th General Assembly

(As 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 or a railroad crossing sign or signal, unless a law enforcement officer is present at the location of the device and issues the ticket.
- Prohibits 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 traffic laws.
- Requires a local authority to compile accident statistics for each 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 24-month period (or continue to use the device only if a law enforcement officer is present).

** This analysis was prepared before the 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.*

- Establishes vehicle owner 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 hear an admission with a mitigating explanation or a denial 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 must do all of the following:

(1) Enter into a contract with a vendor for the installation or maintenance of the devices or the provision of other services related to the devices only if payment to the vendor is on a fee basis that is not contingent upon the number of tickets issued or the amount of fines for traffic law violations detected by the devices;

(2) Use the devices only for the enforcement of a qualified traffic violation, meaning a violation of a traffic control signal or a railroad crossing sign or signal, 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) 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, 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) 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, 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, an admission with a mitigating explanation, or a denial (see **COMMENT**);

(7) 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.

Additionally, the bill allows a local authority that authorizes the enforcement of traffic laws by means of traffic law photo-monitoring devices to 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.

The bill prohibits a local authority that authorizes the enforcement of traffic laws by means of 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 traffic laws.

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.

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 location of a traffic law photo-monitoring device and to update the statistics for each location two times per year. For every 24-month period, the local authority must determine the change in the number of accidents at a location. If the number of accidents increases in a 24-month period, the local authority must either remove the device or allow the use of the device to continue only if a law enforcement officer is present at the location and issued the ticket at the time and location of the violation.

Once the device becomes operational, only a law enforcement officer may examine the image recorded by the device to determine whether a motor vehicle operator has committed a qualified traffic violation. 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. 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))

Upon receipt of a ticket for a noncriminal traffic law violation detected by a traffic law photo-monitoring device, the person who receives the ticket may answer the allegation by (1) an admission, (2) an admission with a mitigating explanation, or (3) a denial.

A person who admits committing the violation must sign the ticket and pay the fine.

A person who admits committing the violation with a mitigating explanation must submit evidence to the traffic violations bureau that explains the circumstances surrounding the violation. The evidence may be submitted in person or, to avoid the necessity of personal appearance may be sent by mail as affidavits and other documentary evidence. The traffic violations bureau must proceed in the same manner established in current law for noncriminal parking infractions and promptly determine whether the 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 ten days after receiving notice of the bureau's determination, the determination and the amount of the fine due are considered a judgment and treated as if it were a judgment rendered subsequent to a hearing.

A person who denies committing the violation must answer with a denial and request a hearing from the traffic violations bureau. 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 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 2)

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 3)

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 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	---

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