

ENGROSSED SENATE
BILL NO. 234

By: Rozell of the Senate

and

Ostrander of the House

[motor vehicles - creating Oklahoma Speed Trap Law -
codification -

effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-811 of Title 47, unless there is created a duplication in numbering, reads as follows:

This provisions of this act shall be known and may be cited as the "Oklahoma Speed Trap Law".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-812 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section:

1. "Abusing police power" means the exercise of police power by a law enforcement officer to enforce criminal and traffic laws for the principal purpose of raising revenue for the municipality and not for the purpose of public safety and welfare;

2. "Affected highway" means any highway which is part of the state highway system; and

3. "Affected municipality" means any municipality through which passes an affected highway.

B. Upon the request of the district attorney of any district attorney district in which an affected municipality is located, the Commissioner of the Department of Public Safety is authorized to

investigate and determine whether any law enforcement officer of a municipality is abusing police power.

Such investigation shall require the affected municipality to submit a certified record of all fines, costs, citations, municipal expenditures and percentage of citations that are written for ten (10) miles per hour or less than the posted speed.

1. Such records may be over a reasonable period of time as requested by the Department of Public Safety, but in no event shall be less than ninety (90) days' worth of documentation.

2. The affected municipality shall submit requested records within thirty (30) days, unless an extension for submission is approved; and shall cooperate with all other aspects of the investigation. Failure to comply with any requirement of this section shall result in automatic sanctions.

C. It shall be presumed that the affected municipality is allowing a law enforcement officer to abuse police power upon a finding that:

1. The amount of revenue produced by fines and costs from traffic law violations for which citations were written by the police department of the affected municipality occurring on the affected highways exceeds thirty percent (30%) of the affected municipality's total expenditures, less capital expenditures and debt service, in the preceding year; or

2. More than fifty percent (50%) of the summons written for speeding in the affected municipality are written for speed limit violations which were ten (10) miles per hour or less than the posted limit.

D. Upon the completion of an inquiry, the Commissioner shall forward all information to the district attorney requesting the investigation. The district court for the judicial district in which the municipality is located, upon application by the district attorney and after notice and a hearing, may impose any of the

following sanctions on a municipality which is found by clear and convincing evidence to have allowed abuse of its police power:

1. Order that a municipality abusing police power shall cease patrolling any or all affected highways;

2. Order that all or any part of future fines and court costs received from traffic law violations or misdemeanor cases where the location of the offense is an affected highway shall be paid over to the county general fund of the county in which the municipality is located; or

3. Such other sanction as is appropriate under the circumstances.

E. Every law enforcement officer shall be prohibited from abusing police power pursuant to this act. Any law enforcement officer convicted of abusing police power shall, upon conviction, be guilty of a misdemeanor. It shall be a separate violation for each citation, summons, or misdemeanor arrest made in violation of the court's order.

SECTION 3. This act shall become effective November 1, 1999.

Passed the Senate the 24th day of February, 1999.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1999.

Speaker of the House of Representatives