

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 191

By: Williamson

AS INTRODUCED

An Act relating to cities and towns; defining terms; allowing any municipality authorized to operate a municipal court of record to establish a demonstration program utilizing a photo-monitoring system of intersections with traffic-control devices; setting certain procedures for notification of violation of certain traffic laws and enforcement of penalty; providing for Administrative Review Process; providing for codification; and providing an 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 22-117.2 of Title 11, unless there is created a duplication in numbering, reads as follows:

For purposes of this section:

1. "Administrative monetary penalty" means an administrative penalty imposed by a municipality as provided for in this act. Administrative penalties shall not be deemed a conviction as an operator and shall not be made a part of the operating record of the person upon whom such administrative penalty is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage;

2. "Administrative review process" means a system established by a municipality to allow citizens to protect any administrative penalty which may be imposed under the provisions of this act;

3. "Municipal criminal court of record" means a court authorized to operate as a municipal criminal court of record as provided in Section 28-101 of Title 11 of the Oklahoma Statutes;

4. "Notice of violation" means notice sent by first-class mail to any vehicle owner alleged to be liable for a violation of this section;

5. "Owner" means the registered owner of such vehicle on record with the Oklahoma Tax Commission. For purposes of this section "owner" does not mean any vehicle rental or vehicle leasing company if the vehicle is registered in the name of the vehicle rental or vehicle leasing company;

6. "Photo-monitoring system" means a vehicle sensor installed to work in conjunction with a traffic-control device which automatically produces one or more photographs, one or more microphotographs, a videotape or other recorded images of each vehicle at the time it is used or operated in violation of the law by failure to heed a red light; and

7. "Vehicle" means every motorized device in, upon or by which a person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 22-117.3 of Title 11, unless there is created a duplication in numbering, reads as follows:

The governing body of any municipality authorized to operate a municipal criminal court of record may, by ordinance, establish a demonstration program imposing an administrative monetary penalty on the owner of a vehicle for failure to comply with municipal traffic signals by failure to heed a red light. Each qualified municipality may install and operate traffic light signal photo-monitoring systems at no more than fifteen (15) intersections at any one time

within the municipality. No demonstrating program may continue past July 1, 2004.

1. The owner of a vehicle, even if the owner is not the driver, shall be liable for an administrative penalty imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a traffic signal photo-monitoring system, to have failed to comply with a traffic light signal by failure to heed a red light within the municipality authorized to operate the system.

2. Proof of a violation of this section shall be evidenced by information obtained from a traffic signal photo-monitoring system authorized pursuant to this section. A certificate, sworn to or affirmed by a technician employed by a municipality authorized to impose penalties pursuant to this section, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a traffic signal photo-monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such violation shall be available for inspection by any owner of a vehicle upon whom a violation of this section has been imposed, or in any administrative review or proceeding regarding the monetary penalty for a violation of this section.

3. A notice of violation shall be sent by first-class mail to each person alleged to be liable as an owner for violation of this section. Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be accepted as proof of mailing.

4. A notice of violation shall contain the name and the last-known address of the owner of the vehicle, as shown on the records of the Oklahoma Tax Commission, of the person alleged to be liable as an owner for a violation of this section, the license tag number of the vehicle involved in the violation, the location, date, and

time where such violation is alleged to have taken place, and the identification number of the camera which recorded the violation or other document locator number.

5. The notice of violation shall contain information advising the alleged violator of the manner and time in which the administrative penalty may be paid, and the manner and time in which the penalty may be contested. Such notice of violation shall also contain a clear and concise explanation that if the person does not pay the administrative penalty in the time and manner prescribed in the notice of violation, or fails to contest the notice, that the violation shall be deemed admitted and the penalty enforced by a default judgment. Penalties for violations of this act shall be the same for all violators and shall not exceed Thirty-five Dollars (\$35.00).

6. The municipality shall proceed under one of the following options to collect an unpaid administrative penalty:

- a. the municipality may file an itemization of unpaid administrative penalties with the Oklahoma Tax Commission for collection at the time of registration of the vehicle, or
- b. the municipality may contract with a collection agency to collect unpaid administrative penalties;

7. The notice of violation of this section shall be prima facie evidence that the vehicle described in the notice issued pursuant to this act was operated in violation of this act. Proof that the defendant was at the time of such violation the registered owner of the vehicle shall constitute a rebuttable presumption that such registered owner of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the registered owner of the vehicle submits a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation. The police report must

be presented by the return date established by the municipality for all such notices of violation.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 22-117.4 of Title 11, unless there is created a duplication in numbering, reads as follows:

Each municipality which establishes a traffic signal photo-monitoring system under the provisions of this act shall establish an administrative review process generally patterned after the administrative review procedure found in the Oklahoma Electronic Toll Collection Act, Section 11-1401 of Title 47 of the Oklahoma Statutes, within the municipality's legal department to allow a method for citizens to protest any notice of violation of this act or the municipality's ordinances establishing the system. The system, to the greatest extent possible, should be in an informal, nonadversarial, nonjudicial setting, giving citizens the widest latitude feasible to present their protest. Legal representation in an administrative review is not required but is permitted.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 22-117.6 of Title 11, unless there is created a duplication in numbering, reads as follows:

Any municipality which adopts a demonstration program pursuant to this act shall submit a report on the results of the use of a traffic signal photo-monitoring system to the Department of Public Safety within two (2) years of the date the program begins, or within ninety (90) days if the program is discontinued.

The report shall contain the number of violations witnessed, the number of notices of violation which were issued, how many were paid, the number protested through the administrative review process and any other program statistics or information which would show program outcomes. Also, the report shall contain information on the number of accidents, injuries, deaths, and damage to property, other

than damage to vehicles, before the program began and a comparison at the end of two (2) years, or sooner if a project is discontinued.

SECTION 5. This act shall become effective November 1, 2001.

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