

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2536

By: Tibbs

AS INTRODUCED

An Act relating to cities and towns; defining terms; allowing any municipality with a court of record to establish a program utilizing a photo radar system or photo-monitoring system for use with traffic-control devices; providing for an administrative review process; providing for evidence derived from a photo radar system or photo-monitoring system to be admissible in certain actions; requiring report; specifying contents; 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:

As used in this act:

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 of an operator and shall not be made a part of the operating record of the person upon whom the 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 themselves against any administrative penalty which may be imposed under the provisions of this act;

3. "Municipal criminal court of record" means those courts authorized to operate as municipal criminal courts of record as provided for 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 act, "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 running a red light;

7. "Photo radar system" means a device used primarily for speed limit enforcement substantially consisting of a radar unit linked to a camera, which automatically produces a photograph of a vehicle traveling in excess of the posted municipal speed limit, with the speed of the vehicle, the date, time of day, and location of the violation printed on the photograph; and

8. "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, by ordinance, may provide for the establishment of a program imposing an administrative monetary penalty on the owner of a vehicle for failure to comply with posted municipal speed limits or traffic signals by running a red light.

Each qualified municipality may install and operate a photo radar system or traffic light signal photo-monitoring systems at no more than fifteen intersections at any one time within the municipality.

1. The owner of a vehicle shall be liable for an administrative penalty imposed pursuant to this section if that vehicle is found, as evidenced by information obtained from a photo radar system or traffic signal photo-monitoring system, to have failed to comply with a posted municipal speed limit or traffic light signal by running a red light within the municipality authorized to operate such system.

2. Proof of a violation of this section shall be evidenced by information obtained from a photo radar system or 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 photo radar system or traffic signal photo-monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing a 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 alleged violator may pay the administrative penalty, and the manner and time in which the alleged violator may contest the penalty. The 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 person shall be deemed to admitting the violation and may be subject to a default judgment. Penalties for violations of this act shall be the same for all violators and shall not exceed the sum of Thirty-five Dollars (\$35.00).

6. 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, together with proof that the alleged violator was at the time of the violation the registered owner of the vehicle, and shall constitute a rebuttal presumption that the 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 photo radar system or traffic signal photo-monitoring system under the provisions of this act shall establish an administrative review process within the legal department of the municipality to allow a method for citizens to protest any notice of violation of this act or the ordinances of the municipality 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. No person named in a notice of violation shall be required to have legal representation in an administrative review, but may have legal representation if they choose.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 22-117.5 of Title 11, unless there is created a duplication in numbering, reads as follows:

In any action at law brought by any person or entity as the result of personal injury or death or damage to property, evidence derived from a photo radar system or photo-monitoring system shall be admissible in the same method prescribed as established under this act without the requirements of authentication otherwise required by law.

SECTION 5. 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 program pursuant to this act shall submit a report on the results of the use of a photo radar system or traffic signal photo-monitoring system to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives within two (2) years of the date the program begins, or within ninety (90) days of discontinuation 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 6. This act shall become effective November 1, 2006.

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