

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 HOUSE BILL 3270

 By: McBride

5
6 AS INTRODUCED

7
8 An Act relating to motor vehicles; creating the
9 Automated Traffic Control Systems in Highway
10 Construction or Maintenance Zones Act; stating
11 purpose; authorizing the establishment of automated
12 traffic control systems by the Department of Public
13 Safety under certain conditions; requiring certain
14 evidentiary burden; defining terms; clarifying
15 penalty for certain traffic violations; requiring
16 certain information campaign prior to implementation;
17 requiring certain signage; limiting operation of
18 automated traffic control systems; limiting use of
19 photographs and other recorded images obtained by
20 automated traffic control systems; making certain
21 traffic violation convictions contingent on driver
22 identification; requiring certain information be
23 clearly visible on photographs and recorded images
24 generated by the automated traffic control systems;
 authorizing certain delivery methods for certain
 traffic violation citations; requiring certain
 information be clearly visible on certain traffic
 violation citations; authorizing certain methods or
 response to citations; limiting liability of vehicle
 owner in certain circumstances; providing that
 certain photographs and images be admissible in
 certain proceedings; providing exception; providing
 exemption to the Oklahoma Open Records Act; requiring
 certain citations be dismissed in certain
 circumstances; providing criteria to qualify for
 citation dismissal; authorizing the promulgation of
 administrative rules; providing for codification; and
 providing an effective date.

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

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 11-1501 of Title 47, unless
4 there is created a duplication in numbering, reads as follows:

5 This act shall be known and may be cited as the "Automated
6 Traffic Control Systems in Highway Construction or Maintenance Zones
7 Act".

8 SECTION 2. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 11-1502 of Title 47, unless
10 there is created a duplication in numbering, reads as follows:

11 The purpose of the Automated Traffic Control Systems in Highway
12 Construction or Maintenance Zones Act is to increase safety in
13 highway construction or maintenance zones.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 11-1503 of Title 47, unless
16 there is created a duplication in numbering, reads as follows:

17 A. The Department of Public Safety may establish automated
18 traffic control systems in construction or maintenance zones
19 established by the Department of Transportation or the Oklahoma
20 Turnpike Authority.

21 B. Automated traffic control systems shall operate only during
22 periods when workers are present in the construction or maintenance
23 zone where the system is located.

24

1 C. When prosecutions are based upon evidence obtained through
2 an automated traffic control system established under the provisions
3 of the act, the State shall prove that one or more workers were
4 present in the construction or maintenance zone at the time the
5 violation, which is the subject of the prosecution, occurred.

6 SECTION 4. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 11-1504 of Title 47, unless
8 there is created a duplication in numbering, reads as follows:

9 For purposes of this section:

10 1. "Automated traffic control system" means a photographic
11 device, radar device, laser device, or other electrical or
12 mechanical device or devices designed to record the speed of a
13 vehicle and obtain a clear photograph or other recorded image of the
14 vehicle, the vehicle operator, and the vehicle's license plate while
15 the driver is in violation of Section 11-806 of Title 47 of the
16 Oklahoma Statutes. Photographs or other recorded images must
17 display the time, date, and location of the violation. A law
18 enforcement officer is not required to be present or to witness the
19 violation;

20 2. "Construction or maintenance zone" means an area where the
21 Oklahoma Department of Transportation or the Oklahoma Turnpike
22 Authority has determined that the preexisting established speed
23 limit through a highway construction or maintenance project is
24 greater than is reasonable or safe with respect to the conditions

1 expected to exist in the area, and the Department or Authority has
2 posted by changeable message or other appropriate sign a lower speed
3 limit for the area;

4 3. "Owner" means the person or entity to whom the vehicle is
5 registered.

6 SECTION 5. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 11-1505 of Title 47, unless
8 there is created a duplication in numbering, reads as follows:

9 The penalty for a traffic violation recorded by an automated
10 traffic control system shall be the same as otherwise provided by
11 statute for the violation.

12 SECTION 6. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 11-1506 of Title 47, unless
14 there is created a duplication in numbering, reads as follows:

15 A. Prior to utilizing automated traffic control systems, the
16 Department of Public Safety shall conduct a public information
17 campaign to inform drivers about the use of such systems in highway
18 construction or maintenance zones.

19 B. Signs indicating that speeds are enforced by automated
20 traffic control systems shall be clearly posted in the areas where
21 such systems are in use.

22 C. Operation of automated traffic control systems shall be
23 limited to areas where road construction or maintenance is
24 occurring.

1 D. Photographs or other recorded images obtained by automated
2 traffic control systems shall only be used as evidence in relation
3 to the violation of Section 11-806 of Title 47 of the Oklahoma
4 Statutes for which the photograph or other recorded images were
5 taken.

6 E. A driver shall not be convicted of a traffic violation
7 recorded by an automated traffic control system unless the driver is
8 identified through photograph or other recorded images obtained by
9 the system in relation to the violation.

10 SECTION 7. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 11-1507 of Title 47, unless
12 there is created a duplication in numbering, reads as follows:

13 A. The vehicle, vehicle operator, vehicle license plate, speed,
14 date, time, and location must be clearly visible on the photograph
15 or other recorded images serving as the basis of a traffic violation
16 citation authorized by the provisions of this act.

17 B. Traffic violation citations authorized by the provisions of
18 this act shall:

19 1. Be mailed or otherwise delivered to the registered owner of
20 the vehicle associated with the violation, within 14 business days
21 of the alleged violation. If mailed the citation shall be sent by
22 certified mail with return receipt requested;

23 2. Include:

24 a. the name and address of the vehicle owner,

- b. the license plate number of the vehicle,
- c. the offense charged,
- d. the time, date, and location of the violation,
- e. the applicable court date, and
- f. notice that the basis of the citation is the photograph or recorded images from the automated traffic control system; and

3. Be accompanied by a written document listing the alleged violator's rights and obligations and an explanation of how the alleged violator may elect to pay the fine or challenge the issuance of the citation.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-1508 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. An individual issued a citation under the provisions of this act may respond to the citation in person or by any other method allowed by law.

B. The owner of a vehicle shall not be held liable for a traffic violation recorded by an automated traffic control system, if the driver of the vehicle at the time of the violation cannot be identified through the photograph or other recorded images obtained by the system in relation to the violation.

1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 11-1509 of Title 47, unless
3 there is created a duplication in numbering, reads as follows:

4 Except as provided in Section 11 of this act, all photographs
5 and other recorded images evidencing a violation of Section 11-806
6 of Title 47 of the Oklahoma Statutes are admissible in proceedings
7 resulting from the issuance of a traffic violation citation
8 authorized by this act.

9 SECTION 10. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 11-1510 of Title 47, unless
11 there is created a duplication in numbering, reads as follows:

12 The Oklahoma Open Records Act shall not apply to data,
13 photographs, and other recorded images collected by an automated
14 traffic control device operated pursuant to the provisions of this
15 act.

16 SECTION 11. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 11-1511 of Title 47, unless
18 there is created a duplication in numbering, reads as follows:

19 A. A traffic violation citation issued under the provisions of
20 this act to a vehicle rental or leasing company shall be dismissed
21 with respect to the rental or leasing company if:

22 1. The company responds to the traffic violation citation by
23 submitting, within thirty (30) days of the mailing of the citation,
24 an affidavit or nonliability stating that, at the time of the

1 alleged speeding or other traffic violation, the vehicle was in the
2 custody and control of a renter or lessee under the terms of a
3 rental agreement or lease; and

4 2. The company provides the driver's license number, name, and
5 address of the renter or lessee

6 B. A traffic violation citation dismissed with respect to a
7 motor vehicle rental or leasing company in accordance with
8 subsection A of this section may later be issued and delivered by
9 mail or other means to the renter or lessee identified in the
10 affidavit of nonliability.

11 SECTION 12. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 11-1512 of Title 47, unless
13 there is created a duplication in numbering, reads as follows:

14 The Department of Public Safety shall promulgate rules as
15 necessary to implement the provisions of the Automated Traffic
16 Control Systems in Highway Construction or Maintenance Zones Act.

17 SECTION 13. This act shall become effective November 1, 2018.

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19 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 03/01/2018 -
20 DO PASS.
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