

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS15021-LK-12 (1/10)

Short Title: Modify Red Light Camera Authorization.

(Public)

Sponsors: Senator Hoyle.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE REQUIREMENTS IN ORDINANCES ENACTED
PURSUANT TO THE AUTHORIZATION FOR LOCAL GOVERNMENTS TO
ENACT TRAFFIC CONTROL PHOTOGRAPHIC SYSTEM ORDINANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-300.1(c) reads as rewritten:

"(c) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. An ordinance authorized by this subsection shall provide that:

(1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within 30 days after notification of the violation, furnishes the officials or agents of the municipality which issued the citation either of the following:

- a. An affidavit stating the name and address of the person or company who had the care, custody, and control of the vehicle.
- b. An affidavit stating that the vehicle involved was, at the time, stolen. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report information.

(1a) Subdivision (1) of this subsection shall not apply, and the registered owner of the vehicle shall not be responsible for the violation, if notice

1 of the violation is given to the registered owner of the vehicle more
2 than 90 days after the date of the violation.

3 (2) A violation detected by a traffic control photographic system shall be
4 deemed a noncriminal violation for which a civil penalty of fifty
5 dollars (\$50.00) shall be assessed, and for which no points authorized
6 by G.S. 20-16(c) shall be assigned to the owner or driver of the vehicle
7 nor insurance points as authorized by G.S. 58-36-65.

8 (3) The owner of the vehicle shall be issued a citation which shall clearly
9 state the manner in which the violation may be challenged, and the
10 owner shall comply with the directions on the citation. The citation
11 shall be processed by officials or agents of the municipality and shall
12 be forwarded by personal service or first-class mail to the address
13 given on the motor vehicle registration. If the owner fails to pay the
14 civil penalty or to respond to the citation within the time period
15 specified on the citation, the owner shall have waived the right to
16 contest responsibility for the violation, and shall be subject to a civil
17 penalty not to exceed one hundred dollars (\$100.00). The municipality
18 may establish procedures for the collection of these penalties and may
19 enforce the penalties by civil action in the nature of debt.

20 (4) The municipality shall institute a nonjudicial administrative hearing to
21 review objections to citations or penalties issued or assessed under this
22 section. The procedures for conducting any nonjudicial administration
23 hearing requested by the owner of a vehicle to whom a citation has
24 been issued shall provide that if the owner denies responsibility for the
25 offense, the official conducting the hearing shall make a finding of
26 fact, based on clear and convincing evidence, that the violation
27 occurred and that the owner cited is responsible for the violation. The
28 finding of fact shall include a finding that the records of the Division
29 of Motor Vehicles has been checked and that the registration plate
30 listed on the citation is a valid registration plate, that the registration
31 plate belongs to the vehicle that has been cited, and that the person
32 cited is the current registered owner of the vehicle. If the required
33 finding of fact cannot be made, then the cited owner shall be paid, as
34 liquidated damages for the issuance of the improper civil citation, the
35 sum of fifty dollars (\$50.00) and reimbursement for travel expenses
36 calculated on the basis of fifty cents (50¢) per mile to and from the
37 owner's residence address to the location of the hearing.

38 (5) Should the officer conducting the nonjudicial administrative hearing
39 make a finding that clear and convincing evidence exists for the
40 issuance of the citation, the owner shall be entitled to a trial de novo in
41 the district court having jurisdiction and applying the same clear and
42 convincing evidence standard. There shall be no appeal from the ruling
43 of the district court.

1 (6) The municipality shall publish, each month, in the newspaper with the
2 largest circulation within the county where the municipality is located,
3 the following statistics for the previous month:

4 a. The total number of citations issued.

5 b. The number of citations paid without protest.

6 c. The number of citations not paid or appealed.

7 d. The number of citations appealed and the results of those
8 appeals including the number of citations found to be
9 erroneously issued."

10 **SECTION 2.** G.S. 160A-300.1 is amended by adding a new subsection to
11 read:

12 "(c1) The clear proceeds from the citations issued pursuant to the ordinance
13 authorized by this section shall be paid to the county school fund. The clear proceeds
14 from the citations shall mean the funds remaining after paying for any lease,
15 lease-purchase, or purchase of the traffic control photographic system; paying a
16 contractor for operating the system; and paying any administrative costs incurred by the
17 municipality related to the use of the system. In no event shall the clear proceeds from
18 each citation be less than fifteen dollars (\$15.00)."

19 **SECTION 3.** Ordinances previously issued pursuant to the authorization
20 contained in G.S. 160A-300.1 shall be modified in accordance with this act on or before
21 March 31, 2005.

22 **SECTION 4.** This act is effective when it becomes law.