

SENATE BILL NO. 99

BY SENATOR CATHEY AND REPRESENTATIVES AMEDEE, BAYHAM, CREWS, DEVILLIER, ECHOLS, EDMONSTON, EGAN, FIRMENT, JACKSON, MIKE JOHNSON, MCCORMICK, OWEN, ROMERO, SCHAMERHORN, THOMPSON, WILDER AND WYBLE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 14:134(A)(2) and R.S. 32:43(A)(3), 45(A), (B)(1), and (C), 46(C) and (D), the introductory paragraph of 47(A) and 47(A)(2) and (4), and (B), 48(B)(4)(e), and 49, to enact R.S. 32:1(111), (112), and (113), 43(A)(4), 46(E), 47(A)(5), (6), (7), and (C), and 48(B)(9) and (10), and to repeal R.S. 32:44(B) and (C), relative to malfeasance in office; to provide for the provisions for malfeasance in office regarding issuance of traffic camera citations; to provide relative to traffic camera recording devices; to provide for penalties for malfeasance in office; to clarify the penalties associated with the use of automated speed enforcement devices used in certain manners; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:134(A)(2) is hereby amended and reenacted to read as follows:

§134. Malfeasance in office

A. Malfeasance in office is committed when any public officer or public employee shall:

* * *

(2) Intentionally perform any such duty in an unlawful manner, **including violating the provisions of R.S. 32:43 et seq.**; or

* * *

Section 2. R.S. 32:43(A)(3), 45(A), (B)(1), and (C), 46(C) and (D), the introductory paragraph of 47(A) and 47(A)(2) and (4), and (B), 48(B)(4)(e), and 49 are hereby amended and reenacted, and R.S. 32:1(111), (112), and (113), 43(A)(4), 46(E), 47(A)(5), (6), (7), and (C), and 48(B)(9) and (10) are hereby enacted to read as follows:

§1. Definitions

* * *

(111) "Automated speed enforcement device" means an unmanned or handheld camera or optical device installed to work in conjunction with a traffic control signal or radar speed detection equipment, or both, and designed to collect photographic evidence of alleged traffic violations for the issuance of traffic citations by recording images that depict the license plate or other identifying feature of a motor vehicle not in compliance with instruction of a traffic control signal or posted traffic sign.

(112) "Mobile speed camera" means a device designed to collect photographic or video evidence of an alleged violation of a posted speed limit by recording images that depict the license plate or other identifying feature of a motor vehicle that is not operated in compliance with a posted speed limit sign.

(113) "Red light camera" means a device installed at an intersection designed to collect photographic or video evidence of alleged traffic violations by recording images that depict the license plate or other identifying feature of a motor vehicle that is not operated in compliance with instruction of a traffic control signal or a posted traffic sign.

* * *

§43. Automated speed enforcement devices; prohibition

A. * * *

(3) Automated speed enforcement devices and mobile speed cameras shall not be used anywhere other than school zones lawfully posted in accordance with R.S. 32:47. An unmanned automated speed enforcement device shall not be used to issue speeding citations in a school zone when a driver is not exceeding the posted speed limit immediately prior to the school zone if school zone signs are not posted at the entrance and exit of the school zone.

(4) The provisions contained in this Section shall not apply to a governing authority of a municipality with a population of less than sixteen thousand and more than fifteen thousand according to the latest federal

1 decennial census within a parish with a population of less than ninety thousand
2 and more than seventy thousand according to the latest federal decennial
3 census.

4 * * *

5 §45. Required notification for automated speed enforcement devices and mobile
6 speed ~~camera~~ cameras

7 A. Local municipal authorities or local parish authorities shall post signs
8 indicating that a an automated speed enforcement device or mobile speed camera
9 is present. The sign shall be posted no less than two hundred fifty feet and no more
10 than five hundred feet of the location of each automated speed enforcement device
11 or mobile speed camera in such a manner as to be clearly visible, not obstructed by
12 any barrier, equipment, vegetation, or other object, and shall be easily viewable by
13 drivers approaching the automated speed enforcement device or mobile speed
14 camera. The sign shall comply with the current manual and specifications adopted
15 by the Department of Transportation and Development pursuant to R.S. 32:235.

16 B.(1) Failure of a municipal or parish authority to comply with Subsection
17 A of this Section shall prohibit the use of any photographic or video images collected
18 by the automated speed enforcement device or mobile speed camera to impose or
19 collect any civil or criminal fine, fee, or penalty by or on behalf of the municipal or
20 parish authority.

21 * * *

22 C. For the purposes of this Section, an "automated speed enforcement
23 device or mobile speed camera" means a manned, unmanned, or portable device
24 designed to collect photographic or video evidence of an alleged violation of a
25 posted speed limit by recording images that depict the license plate or other
26 identifying feature of a motor vehicle that is not operated in compliance with a
27 posted speed limit sign.

28 §46. Electronic enforcement devices; school zone restrictions

29 * * *

30 C. The provisions contained in this Section shall not apply to a governing

1 authority of a municipality with a population of less than sixteen thousand and
 2 more than fifteen thousand according to the latest federal decennial census
 3 within a parish with a population of less than ninety thousand and more than
 4 seventy thousand according to the latest federal decennial census.

5 ~~C.(1)~~**D.(1)** Revenue generated as a result of electronic enforcement devices
 6 in school zones shall be divided between the governing authority of the school where
 7 the traffic citation was issued and the municipality after the governing authority pays
 8 the contractor or vendor for the costs of providing the electronic enforcement devices
 9 and related services.

10 (2) A cooperative endeavor agreement executed by the municipality and each
 11 governing authority of the schools located within the municipality's boundaries shall
 12 be in place prior to **the** implementation of automated speed enforcement devices and
 13 mobile speed cameras.

14 ~~(3) Revenue generated within Orleans Parish outside of a school zone shall~~
 15 ~~only be used for the purposes of stormwater drainage infrastructure, maintenance,~~
 16 ~~and improvements.~~

17 ~~(4) Revenue generated as a result of electronic enforcement devices outside~~
 18 ~~of a school zone shall only be used for public safety purposes.~~

19 ~~D.(1)~~**E.(1)** Any jurisdiction that submits a local match waiver for capital
 20 outlay shall disclose the amount of revenue collected from ~~handheld traffic cameras~~
 21 **electronic enforcement devices**. The failure to disclose the information required by
 22 this Subsection shall result in any local match waiver being revoked.

23 (2) No local match waiver shall be revoked pursuant to this Subsection for
 24 any of the following types of capital outlay projects:

25 (a) Water system projects.

26 (b) Sewer system projects.

27 (c) Natural gas system projects.

28 §47. Use of ~~handheld~~ speed recording devices; restrictions

29 A. Automated speed enforcement devices or mobile speed cameras ~~pursuant~~
 30 ~~to R.S. 32:43 and 45 that are handheld or manned, and used to~~ issue a citation of an

1 alleged violation by mail, shall only be used by local municipal authorities or local
2 parish authorities in the following instances:

3 * * *

4 (2) The device or camera is ~~not within one half mile of a speed limit change~~
5 ~~of ten miles per hour or greater. This provision shall not apply to school zones~~ in a
6 school zone lawfully posted in accordance with this Subsection.

7 * * *

8 (4) Upon the entrance to each school zone, there shall be painted a two-
9 foot-wide yellow stripe completely across the roadway with "Entering School
10 Zone" painted in twelve-inch white lettering visible therein.

11 (5) Two hundred feet before the entrance to each school zone, there shall
12 be painted a two-foot-wide yellow stripe completely across the roadway with
13 "School Zone Ahead" painted in twelve-inch white lettering visible therein.

14 (6) Local municipal authorities or local parish authorities shall post
15 signs, indicating that an automated speed enforcement device camera is present,
16 within two hundred feet of the school zone, in such a manner as to be clearly
17 visible to traffic approaching the school zone.

18 (7)(a) If a device or camera is used while in an authorized vehicle, the
19 authorized vehicle shall be clearly marked as a law enforcement vehicle.

20 (b) If a device or camera is used by a traffic or law enforcement officer while
21 not in a vehicle, the officer shall wear a reflective vest, clearly indicating that the
22 officer is law enforcement or that the officer is conducting speed enforcement
23 measures.

24 B. Criminal fines or fees shall not be imposed as a result of ~~handheld or~~
25 ~~manned devices~~ automated speed enforcement devices or mobile speed cameras
26 for the purpose of issuing a citation violation by mail, nor shall failure to pay the
27 citation result in reporting to any credit bureaus.

28 C. In addition to any other remedy provided by law, the use of handheld,
29 manned, or unmanned automated speed enforcement devices or mobile speed
30 cameras that can be mounted in a vehicle or deployed at various locations to

1 monitor and record the speed of passing traffic for the purpose of issuing a
2 citation of an alleged violation by mail intentionally inconsistent with R.S. 32:43
3 et seq., shall be punishable as provided for in R.S. 14:134.

4 §48. Violations; administrative hearing

5 * * *

6 B. The administrative process shall include, at a minimum, the following:

7 * * *

8 (4) It shall be an affirmative defense to the imposition of civil liability
9 pursuant to this Subpart when:

10 * * *

11 (e) At the time of the violation, the person who received the notice of
12 violation was not the owner of the vehicle at the time of the violation or the vehicle
13 was in the care, custody, and control of another person where the owner ~~furnishes a~~
14 ~~truthful affidavit which provides~~ certifies or otherwise indicates that the vehicle at
15 the time of the violation was not in his care, custody, or control or that the person
16 was not the owner of the vehicle.

17 * * *

18 (9) Any administrative hearing or judicial review of an adverse decision
19 shall be conducted at no cost to the owner of the vehicle requesting review.

20 (10) Each mailed citation shall include a self-addressed stamped
21 envelope, a Quick Response code, or other internet link to a portal that provides
22 vehicle owners access to the certification referenced in Subparagraph (4)(e) of
23 this Subsection without a fee.

24 §49. Citations

25 A. Citations issued for ~~violations of R.S. 32:47 and 48~~ through the use of
26 automated speed enforcement devices or mobile speed cameras shall contain on
27 the back of the citation an attestation wherein the driver who receives the violation
28 can attest either that at the time of the violation, the person who received the notice
29 of violation was not the owner of the vehicle or that the vehicle was in the care,
30 custody, and control of another at the time of the violation. Nothing in this Section

1 shall require that the owner's attestation referenced in this Section be notarized.

2 The driver who receives the violation shall have the option to provide information
3 on who was the owner or driver of the vehicle at the time of the violation but shall
4 not be required to do so.

5 B. Citations issued through the use of automated speed enforcement
6 devices, red light cameras, or mobile speed cameras that become final
7 delinquent debts, pursuant to R.S. 32:8, shall not be referred to the office of
8 debt recovery within the Department of Revenue.

9 Section 3. R.S. 32:44(B) and (C) are hereby repealed.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____