

SENATE BILL NO. 302

BY SENATOR CATHEY

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AN ACT

To amend and reenact R.S. 32:365(B) and to enact R.S. 32:46, 47, 48, and 49, relative to issuing traffic violation citations in certain circumstances; to prohibit certain agencies from using automated speed enforcement devices or other similar devices to issue citations by mail; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:365(B) is hereby amended and reenacted and R.S. 32:46, 47, 48, and 49 are hereby enacted to read as follows:

§46. Electronic enforcement devices; school zone restrictions

A. For the purposes of this Section "electronic enforcement devices" shall mean automated speed enforcement devices, red light traffic cameras, and mobile speed cameras used for the purpose of regulating and enforcing traffic violations in which citations are issued by mail.

B. Local municipal authorities and local parish authorities shall only operate electronic enforcement devices in a school zone on school days during the specified time periods when children are in school. Devices shall only be operated one hour before and one hour after the beginning of a school day and one hour before and one hour after the end of a school day.

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

(2) A cooperative endeavor agreement executed by the municipality and

1 each governing authority of the schools located within the municipality's
2 boundaries shall be in place prior to implementation of automated speed
3 enforcement devices and mobile speed cameras.

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

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

9 D.(1) Any jurisdiction that submits a local match waiver for capital
10 outlay shall disclose the amount of revenue collected from handheld traffic
11 cameras. The failure to disclose the information required by this Subsection
12 shall result in any local match waiver being revoked.

13 (2) No local match waiver shall be revoked pursuant to this Subsection
14 for any of the following type of capital outlay projects:

15 (a) Water system projects.

16 (b) Sewer system projects.

17 (c) Natural gas system projects.

18 §47. Use of hand-held speed recording devices; restrictions

19 A. Automated speed enforcement devices or mobile speed cameras
20 pursuant to R.S. 32:43 and R.S. 32:45 that are handheld or manned, and issue
21 a citation of an alleged violation by mail, shall only be used by local municipal
22 authorities or local parish authorities in the following instances:

23 (1) The device or camera is being operated by a trained member of law
24 or traffic enforcement that are sworn or POST-certified. Deputized agents,
25 contractors, subcontractors of an agency, office, local municipality, local
26 authority, or any political subdivision of this state are strictly prohibited from
27 operating handheld or manned devices for the purpose of issuing a citation
28 violation by mail.

29 (2) The device or camera is not within one half mile of a speed limit
30 change of ten miles an hour or greater. This provision shall not apply to school

1 zones.

2 (3) There are forty-eight inch by forty-eight inch signs, the bottom of
3 which shall be at least seven feet from the ground, indicating a device or camera
4 is present, no less than five hundred feet and no more than one thousand feet
5 before the device or camera, in a manner as to be clearly visible to approaching
6 traffic. The signs shall be bright yellow and shall read "Photo enforcement
7 devices at use".

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

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

13 B. Criminal fines or fees shall not be imposed as a result of handheld or
14 manned devices for the purpose of issuing a citation violation by mail, nor shall
15 failure to pay the citation result in reporting to any credit bureaus.

16 §48. Violations; administrative hearing

17 A. Each local municipal authority or local parish authority that installs
18 or utilizes automated speed enforcement devices, red light cameras, or mobile
19 speed cameras, in which a citation is issued by mail shall establish an
20 administrative hearing process for a motorist to appeal the citation violation.

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

22 (1) A written citation with a detailed description of the alleged violation.

23 (2) Ability to request an administrative hearing before a traffic
24 adjudication hearing officer appointed by the local governing authority. The
25 traffic adjudication hearing officer shall be an independent, third party who
26 was not a participant in issuance of the violation.

27 (3) Clear notice with a minimum of fifteen days to respond.

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

30 (a) The traffic-control signal was not in proper position and sufficiently

1 legible to an ordinarily observant person.

2 (b) The operator of the vehicle was acting in compliance with the lawful
3 order or direction of a law enforcement or public safety officer.

4 (c) The operator of the vehicle violated the instructions of the traffic-
5 control signal so as to yield the right-of-way to an immediately approaching
6 authorized emergency vehicle.

7 (d) The vehicle was being operated as an authorized emergency vehicle
8 under R.S. 32:24, and the operator was acting in compliance with R.S. 32:24.

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

15 (f) The presence of ice, snow, unusual amounts of rain, or other
16 unusually hazardous road conditions existed that would make compliance with
17 this Subpart more dangerous under the circumstances than noncompliance.

18 (g) At the time of the violation the vehicle was a stolen vehicle or the
19 license plate displayed on the vehicle was a stolen plate, which must include
20 proof acceptable to the hearing officer that the theft of the vehicle or license
21 plate had been timely reported to the appropriate law enforcement agency.

22 (5) The hearing officer at any administrative adjudication hearing under
23 this Subpart shall issue an order clearly stating the decision rendered.

24 (6) Ability to seek petition for judicial review within thirty days of an
25 adverse decision rendered by the hearing officer.

26 (7) The issuance of a citation under this Subpart shall not be considered
27 a criminal conviction.

28 (8) A civil penalty may not be imposed under this Subpart on the owner
29 of a vehicle if the operator of the vehicle was arrested or was issued a citation
30 and notice to appear by a law or public safety officer as a violation of R.S.

1 32:232 if the violation was captured by an electronic enforcement device.

2 §49. Citations

3 Citations issued for violations of R.S. 32:47 and 48 shall contain on the
4 back of the citation an attestation wherein the driver who receives the violation
5 can attest either at the time of the violation the person who received the notice
6 of violation was not the owner of the vehicle or the vehicle was in the care,
7 custody, and control of another at the time of the violation. The driver who
8 receives the violation shall have the option to provide information on who was
9 the owner or driver of the vehicle at the time of the violation, but shall not be
10 required to do so.

11 * * *

12 §365. Television

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14 B.(1) Law enforcement officers of the state or any political subdivision
15 ~~thereof~~ shall be authorized to operate video recording equipment and monitors in
16 their law enforcement vehicles while in the performance of their duties. ~~However,~~
17 ~~this provision shall not be construed to allow law enforcement officers to record~~
18 ~~vehicles in violation of traffic safety laws with citations for such violations to be~~
19 ~~mailed to the alleged violator at a later date.~~

20 (2) Agents, contractors, or subcontractors of an agency, office, local
21 municipality, local authority, or any political subdivision of this state with the
22 authority to enforce traffic regulations shall be strictly prohibited from using
23 video recording equipment and monitors while in the performance of their
24 duties for the purpose of monitoring, recording, and issuing a traffic citation by
25 mail, except as required to provide the ministerial tasks of providing law
26 enforcement with video evidence necessary for law enforcement to make a
27 determination to issue a traffic citation.

28 Section 2. No local ordinance shall supersede the provisions of this Act unless such
29 local ordinance specifically prohibits the use of electronic enforcement devices.

30 Section 3. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
4 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____