

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 35

Short Title: Modify Red Light Camera Authorization.

(Public)

Sponsors: Senators Hoyle; and Kerr.

Referred to: Judiciary I.

February 2, 2005

A BILL TO BE ENTITLED

1 AN ACT TO MODIFY THE REQUIREMENTS IN ORDINANCES ENACTED
2 PURSUANT TO THE AUTHORIZATION FOR LOCAL GOVERNMENTS TO
3 ENACT TRAFFIC CONTROL PHOTOGRAPHIC SYSTEM ORDINANCES.
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5 The General Assembly of North Carolina enacts:

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

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

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

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

26 (1a) Subdivision (1) of this subsection shall not apply, and the registered
27 owner of the vehicle shall not be responsible for the violation, if notice
28 of the violation is given to the registered owner of the vehicle more
29 than 90 days after the date of the violation.

- 1 (2) A violation detected by a traffic control photographic system shall be
2 deemed a noncriminal violation for which a civil penalty of fifty
3 dollars (\$50.00) shall be assessed, and for which no points authorized
4 by G.S. 20-16(c) shall be assigned to the owner or driver of the vehicle
5 nor insurance points as authorized by G.S. 58-36-65.
- 6 (3) The owner of the vehicle shall be issued a citation which shall clearly
7 state the manner in which the violation may be challenged, and the
8 owner shall comply with the directions on the citation. The citation
9 shall be processed by officials or agents of the municipality and shall
10 be forwarded by personal service or first-class mail to the address
11 given on the motor vehicle registration. If the owner fails to pay the
12 civil penalty or to respond to the citation within the time period
13 specified on the citation, the owner shall have waived the right to
14 contest responsibility for the violation, and shall be subject to a civil
15 penalty not to exceed one hundred dollars (\$100.00). The municipality
16 may establish procedures for the collection of these penalties and may
17 enforce the penalties by civil action in the nature of debt.
- 18 (4) The municipality shall institute a nonjudicial administrative hearing to
19 review objections to citations or penalties issued or assessed under this
20 section. The procedures for conducting any nonjudicial administration
21 hearing requested by the owner of a vehicle to whom a citation has
22 been issued shall provide that if the owner denies responsibility for the
23 offense, the official conducting the hearing shall make a finding of
24 fact, based on clear and convincing evidence, that the violation
25 occurred and that the owner cited is responsible for the violation. The
26 finding of fact shall include a finding that the records of the Division
27 of Motor Vehicles has been checked and that the registration plate
28 listed on the citation is a valid registration plate, that the registration
29 plate belongs to the vehicle that has been cited, and that the person
30 cited is the current registered owner of the vehicle. If the required
31 finding of fact cannot be made, then the cited owner shall be paid, as
32 liquidated damages for the issuance of the improper civil citation, the
33 sum of fifty dollars (\$50.00) and reimbursement for travel expenses
34 calculated on the basis of fifty cents (50¢) per mile to and from the
35 owner's residence address to the location of the hearing.
- 36 (5) Should the officer conducting the nonjudicial administrative hearing
37 make a finding that clear and convincing evidence exists for the
38 issuance of the citation, the owner shall be entitled to a trial de novo in
39 the district court having jurisdiction and applying the same clear and
40 convincing evidence standard. There shall be no appeal from the ruling
41 of the district court.
- 42 (6) The municipality shall publish, each month, in the newspaper with the
43 largest circulation within the county where the municipality is located,
44 the following statistics for the previous month:

- 1 a. The total number of citations issued.
- 2 b. The number of citations paid without protest.
- 3 c. The number of citations not paid or appealed.
- 4 d. The number of citations appealed and the results of those
- 5 appeals including the number of citations found to be
- 6 erroneously issued."

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

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

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

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