

By: Berman

H.B. No. 200

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a municipality to implement a photographic traffic signal enforcement system; providing for the imposition of civil penalties and providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle I, Title 7, Transportation Code, is amended by adding Chapter 707 to read as follows:

CHAPTER 707. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM

Sec. 707.001. DEFINITIONS. In this chapter:

(1) "Owner of a motor vehicle" means the owner of a motor vehicle as shown on the motor vehicle registration records of the Texas Department of Transportation or the analogous department or agency of another state or country.

(2) "Photographic traffic signal enforcement system" means a system that:

(A) consists of a camera system and vehicle sensor installed to exclusively work in conjunction with an electrically operated traffic-control signal; and

(B) is capable of producing at least two recorded images that depict the license plate attached to the rear of a motor vehicle that is not operated in compliance with the instructions of the traffic-control signal.

(3) "Recorded image" means a photographic or digital image that depicts the rear of a motor vehicle.

1           (4) "Traffic-control signal" has the meaning assigned  
2 by Section 541.304.

3           Sec. 707.002. AUTHORITY TO PROVIDE FOR CIVIL PENALTY. The  
4 governing body of a municipality by ordinance may implement a  
5 photographic traffic signal enforcement system and provide that the  
6 owner of a motor vehicle is liable to the municipality for a civil  
7 penalty if, while facing only a steady red signal displayed by an  
8 electrically operated traffic-control signal located in the  
9 municipality, the vehicle is operated in violation of the  
10 instructions of that traffic-control signal, as specified by  
11 Section 544.007(d).

12           Sec. 707.003. INSTALLATION AND OPERATION OF PHOTOGRAPHIC  
13 TRAFFIC SIGNAL ENFORCEMENT SYSTEM. A municipality that implements  
14 a photographic traffic signal enforcement system under this chapter  
15 may:

16                 (1) contract for the administration and enforcement of  
17 the ordinance; and

18                 (2) install and operate the system or contract for the  
19 installation or operation of the system.

20           Sec. 707.004. REQUIRED ORDINANCE PROVISIONS. An ordinance  
21 adopted under Section 707.002 must provide that a person against  
22 whom the municipality seeks to impose a civil penalty is entitled to  
23 a hearing and shall:

24                 (1) provide for the period in which the hearing must be  
25 held;

26                 (2) provide for the appointment of a hearing officer  
27 with authority to administer oaths and issue orders compelling the

1 attendance of witnesses and the production of documents; and

2 (3) designate the department, agency, or office of the  
3 municipality responsible for the enforcement and administration of  
4 the ordinance or provide that the entity with which the  
5 municipality enters into a contract under Section 707.003(1) is  
6 responsible for the enforcement and administration of the  
7 ordinance.

8 Sec. 707.005. EFFECT ON OTHER ENFORCEMENT. (a) The  
9 implementation of a photographic traffic signal enforcement system  
10 by a municipality under this chapter does not:

11 (1) preclude the application or enforcement in the  
12 municipality of Section 544.007(d) in the manner prescribed by  
13 Chapter 543; or

14 (2) prohibit a peace officer from arresting a violator  
15 of Section 544.007(d) as provided by Chapter 543 or from issuing the  
16 violator a citation and notice to appear as provided by that  
17 chapter.

18 (b) A municipality may not impose a civil penalty under this  
19 chapter on the owner of a motor vehicle if the operator of the  
20 vehicle was arrested or issued a citation and notice to appear by a  
21 peace officer for the same violation of Section 544.007(d) recorded  
22 by the traffic signal enforcement system.

23 Sec. 707.006. NOTICE OF VIOLATION; CONTENTS. (a) The  
24 imposition of a civil penalty under this chapter is initiated by the  
25 mailing of a notice of violation to the owner of the motor vehicle  
26 against whom the municipality seeks to impose the civil penalty.

27 (b) Not later than the 30th day after the date the violation

1 is alleged to have occurred, the designated department, agency, or  
2 office of the municipality or the entity with which the  
3 municipality has entered into a contract under Section 707.003(1)  
4 shall mail the notice of violation to the owner at:

5 (1) the owner's address as shown on the registration  
6 records of the Texas Department of Transportation; or

7 (2) if the vehicle is registered in another state or  
8 country, the owner's address as shown on the motor vehicle  
9 registration records of the department or agency of the other state  
10 or country analogous to the Texas Department of Transportation.

11 (c) The notice of violation must contain the following:

12 (1) a description of the violation alleged;

13 (2) the location of the intersection where the  
14 violation occurred;

15 (3) the date and time of the violation;

16 (4) the name and address of the owner of the vehicle  
17 involved in the violation;

18 (5) the registration number displayed on the license  
19 plate of the vehicle involved in the violation;

20 (6) a copy of a recorded image of the registration  
21 number displayed on the license plate of the vehicle involved in the  
22 violation;

23 (7) the amount of the civil penalty for which the owner  
24 is liable;

25 (8) the number of days the person has in which to pay  
26 the civil penalty;

27 (9) a statement that the owner of the vehicle in the

1 citation or summons may elect to pay the civil penalty instead of  
2 appearing at the time and place of the administrative adjudication  
3 hearing and that the penalty may be paid by mail sent to a specified  
4 address; and

5 (10) information that informs the owner of the vehicle  
6 named in the notice of violation:

7 (A) of the owner's right to contest the  
8 imposition of the civil penalty against the person in an  
9 administrative adjudication hearing;

10 (B) that imposition of the civil penalty may be  
11 contested by submitting a written request for an administrative  
12 adjudication hearing before the expiration of the period specified  
13 by Subdivision (8); and

14 (C) that failure to pay the civil penalty or to  
15 contest liability for the penalty in a timely manner is an admission  
16 of liability.

17 (d) A notice of violation is presumed to have been received  
18 on the fifth day after the date the notice is mailed.

19 Sec. 707.007. ADMISSION OF LIABILITY. A person who fails to  
20 pay the civil penalty or to contest liability for the penalty in a  
21 timely manner or who requests an administrative adjudication  
22 hearing to contest the imposition of the civil penalty against the  
23 person and fails to appear at that hearing is considered to admit  
24 liability for the full amount of the civil penalty stated in the  
25 notice of violation mailed to the person.

26 Sec. 707.008. PRESUMPTION. It is presumed that the owner of  
27 the motor vehicle committed the violation alleged in the notice of

1 violation mailed to the person if the motor vehicle depicted in a  
2 photograph or digital image taken by a photographic traffic signal  
3 enforcement system belongs to the owner of the motor vehicle.

4 Sec. 707.009. ADMINISTRATIVE ADJUDICATION HEARING. (a) A  
5 person who receives a notice of violation under this chapter may  
6 contest the imposition of the civil penalty specified in the notice  
7 of violation by filing a written request for an administrative  
8 adjudication hearing. The request for a hearing must be filed on or  
9 before the date specified in the notice of violation, which may not  
10 be less than the 15th day after the date the notice of violation was  
11 mailed.

12 (b) On receipt of a timely request for an administrative  
13 adjudication hearing, the municipality shall notify the person of  
14 the date and time of the hearing.

15 (c) A hearing officer designated by the governing body of  
16 the municipality shall conduct the administrative adjudication  
17 hearing.

18 (d) In an administrative adjudication hearing, the issues  
19 must be proven by a preponderance of the evidence.

20 (e) The reliability of the photographic traffic signal  
21 enforcement system used to produce the recorded image of the motor  
22 vehicle involved in the violation may be attested to by affidavit of  
23 an officer or employee of the municipality or of the entity with  
24 which the municipality has contracted under Section 707.003(1) who  
25 is responsible for inspecting and maintaining the system.

26 (f) An affidavit of an officer or employee of the  
27 municipality that alleges a violation based on an inspection of the

applicable recorded image is:

(1) admissible in the administrative adjudication hearing; and

(2) evidence of the facts contained in the affidavit.

(g) At the conclusion of the administrative adjudication hearing, the hearing officer shall enter a finding of liability for the civil penalty or a finding of no liability for the civil penalty. A finding under this subsection must be in writing and be signed and dated by the hearing officer.

(h) A finding of liability for a civil penalty must specify the amount of the civil penalty for which the person is liable. If the hearing officer enters a finding of no liability, a civil penalty for the violation may not be imposed against the person.

(i) A finding of liability or a finding of no liability entered under this section may:

(1) be filed with the clerk or secretary of the municipality or with a person designated by the governing body of the municipality; and

(2) be recorded on microfilm or microfiche or using data processing techniques.

Sec. 707.010. UNTIMELY REQUEST FOR ADMINISTRATIVE ADJUDICATION HEARING. Notwithstanding any other provision of this chapter, a person who receives a notice of violation under this chapter and who fails to timely pay the amount of the civil penalty or fails to timely request an administrative adjudication hearing is entitled to an administrative adjudication hearing if:

(1) the person submits a written request for the

1 hearing to the designated hearing officer, accompanied by an  
2 affidavit that attests to the date on which the person received the  
3 notice of violation; and

4 (2) the written request and affidavit are submitted to  
5 the hearing officer within the same number of days after the date  
6 the person received the notice of violation as specified by Section  
7 707.006(c)(10)(B).

8 Sec. 707.011. AMOUNT OF CIVIL PENALTY; PAYMENT BY MAIL. (a)  
9 The amount of a civil penalty that may be imposed on the owner of a  
10 motor vehicle under this chapter is \$75.

11 (b) The ordinance must provide that payment of a civil  
12 penalty may be made by mail.

13 Sec. 707.012. ENFORCEMENT. If the owner of a motor vehicle  
14 is delinquent in the payment of three or more civil penalties  
15 imposed under this chapter, the motor vehicle alleged to have been  
16 involved in any of the violations may be impounded or immobilized by  
17 placement of an appropriate device on the vehicle.

18 Sec. 707.013. APPEAL. (a) The owner of a motor vehicle  
19 determined by a hearing officer to be liable for a civil penalty may  
20 appeal that determination to a judge of the municipal court of the  
21 municipality by filing an appeal petition with the clerk of the  
22 municipal court.

23 (b) The petition must be:

24 (1) filed before the 31st day after the date on which  
25 the administrative adjudication hearing officer entered the  
26 finding of liability for the civil penalty; and

27 (2) accompanied by payment of the costs required by



1 law for municipal court.

2 (c) The municipal court clerk shall schedule a hearing and  
3 notify the owner of the motor vehicle and the appropriate  
4 department, agency, or office of the municipality of the date,  
5 time, and place of the hearing.

6 (d) Unless the owner of the vehicle, before filing the  
7 appeal petition, posts a bond in the amount of the civil penalty  
8 with the department, agency, or office of the municipality or with  
9 the contracted entity designated to enforce and administer the  
10 ordinance, an appeal does not stay enforcement or collection of the  
11 civil penalty imposed against that owner.

12 Sec. 707.014. IMPOSITION OF CIVIL PENALTY NOT A CONVICTION.  
13 The imposition of a civil penalty under this chapter is not a  
14 conviction and may not be considered a conviction for any purpose.

15 Sec. 707.015. REQUIRED SIGNAGE. (a) A municipality that  
16 implements a photographic traffic signal enforcement system shall  
17 place or erect signs to inform motorists entering the municipality  
18 that a photographic traffic signal enforcement system is in use in  
19 the municipality.

20 (b) The municipality shall place or erect a sign required by  
21 Subsection (a) at each location where a city limits sign has been  
22 placed or erected adjacent to a roadway that enters the  
23 municipality.

24 (c) A sign required by this section must:

25 (1) conform to the manual and specifications adopted  
26 by the Texas Transportation Commission under Section 544.001; and

27 (2) read as follows: "THIS (CITY, TOWN, OR VILLAGE)

1 USES A PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM TO ENFORCE  
2 COMPLIANCE WITH TRAFFIC SIGNALS."

3 Sec. 707.016. IMPROPER USE OF SYSTEM; OFFENSE. (a) A  
4 person commits an offense if the person uses a photographic traffic  
5 signal enforcement system to produce a recorded image other than in  
6 the manner and for the purposes specified by this chapter.

7 (b) An offense under this section is a Class A misdemeanor.

8 Sec. 707.017. USE OF REVENUE. In a municipal fiscal year,  
9 after deducting any amount necessary to pay for the operation or  
10 maintenance of the photographic traffic signal enforcement system,  
11 the municipality shall use revenue derived from civil penalties  
12 imposed under this chapter only for traffic safety and traffic  
13 signal awareness and education programs.

14 SECTION 2. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2003.