

## **BILL ANALYSIS**

Senate Research Center

S.B. 1119  
By: Carona  
Transportation & Homeland Security  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Municipalities are currently installing photographic traffic signal enforcement systems (red light cameras) based on an attorney general opinion, but have no statutory authority to do so.

S.B. 1119 establishes the statutory authority for photographic traffic signal enforcement systems and institutes responsible guidelines so that the program is used for safety and not used as a revenue generating source. This bill restricts a contract between the municipality and a vendor so that compensation is not based on the number of citations issued. This bill also requires a traffic engineering study prior to the placement of a camera. The study would take into account the history of accidents, frequency of red light violations, and similar traffic engineering and safety criteria. This bill also addresses the issues relating to enforcement and penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 7 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle I, Title 7, Transportation Code, by adding Chapter 707, as follows:

#### **CHAPTER 707. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM**

Sec. 707.001. DEFINITIONS. Defines "local authority," "owner of a motor vehicle," "photographic traffic signal enforcement system," "recorded image," and "traffic-control signal."

Sec. 707.002. AUTHORITY TO PROVIDE FOR CIVIL PENALTY. Authorizes the governing body of a local authority, by ordinance, to implement a photographic traffic signal enforcement system (system) and to provide that the owner of a motor vehicle is liable to the local authority for a civil penalty if, while facing only a steady red signal displayed by an electronically operated traffic-control signal located in the local authority, the vehicle is operated in violation of the instructions of that traffic-control signal.

Sec. 707.003. INSTALLATION AND OPERATION OF PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM. (a) Authorizes a local authority that implements a system to contract for the administration of the system and install and operate the system or contract for the installation or operation of the system.

(b) Prohibits a local authority that contracts for the administration and enforcement of a system from agreeing to pay a contractor a specified percentage of, or dollar amount from, each civil penalty collected.

(c) Requires the local authority, before installing a system, to conduct a traffic engineering study of the approach to determine whether, in addition to or as an alternative to the system, a design change to the approach or a change in the signalization of the intersection is likely to reduce the number of red light violations at the intersection.

(d) Requires an intersection approach to be selected for the installation of a system based on certain criteria, without regard to the ethnic or socioeconomic characteristics of the area in which the approach is located.

(e) Requires a local authority to report results of the traffic engineering study required by Subsection (c) to a citizen advisory committee (committee) consisting of one person appointed by each member of the governing body of the local authority. Requires the committee to advise the local authority on the installation and operation of a system established under this chapter.

(f) Prohibits a local authority from imposing a civil penalty under this chapter on the owner of a motor vehicle if the local authority violates Subsection (b) or (c).

(g) Requires the local authority to install signs along each roadway that leads to an intersection at which a system is in active use. Requires the signs to be at least 100 feet from the intersection or located according to standards established in the manual adopted by the Texas Transportation Commission (commission) under Section 544.001 (Adoption of Sign Manual for State Highways), be easily readable to any operator approaching the intersection, and clearly indicate the presence of a system that records violations that may result in the issuance of a notice of violation and the imposition of a monetary penalty.

(h) Prohibits a local authority or the person with which the local authority contracts for the administration and enforcement of a system from providing information about a civil penalty imposed under this chapter to a credit bureau, as defined by Section 392.001 (Definitions), Finance Code.

Sec. 707.004. REPORT OF ACCIDENTS. (a) Defines "department."

(b) Requires the local authority, before installing a system at an intersection approach, to compile a written report of the number and type of traffic accidents that have occurred at the intersection for a period of at least 18 months before the date of the report.

(c) Requires the local authority, not later than six months after the date of the installation of the system at the intersection, to provide the Texas Department of Transportation (TxDOT) a copy of the report required by Subsection (b).

(d) Requires a local authority, after installing a system at an intersection approach, to monitor and annually report to TxDOT the number and type of traffic accidents at the intersection to determine whether the system results in a reduction in accidents or a reduction in the severity of accidents.

(e) Requires the report to be in writing in the form prescribed by TxDOT.

(f) Requires TxDOT, not later than December 1 of each year, to publish the information submitted by a local authority under Subsection (d).

Sec. 707.005. MINIMUM CHANGE INTERVAL. Requires the minimum change interval for a steady yellow signal, at an intersection at which a system is in use, to be established in accordance with the Texas Manual on Uniform Traffic Control Devices.

Sec. 707.006. GENERAL SURVEILLANCE PROHIBITED; OFFENSE. (a) Requires a local authority to operate a system only for the purpose of detecting a violation or suspected violation of a traffic-control signal.

(b) Provides that a person commits an offense if the person uses a system to produce a recorded image other than in the manner and for the purpose specified by this chapter.

(c) Provides that an offense under this section is a Class A misdemeanor.

Sec. 707.007. AMOUNT OF CIVIL PENALTY; LATE PAYMENT PENALTY. Prohibits the amount of the civil or administrative penalty from exceeding \$75 and prohibits a late payment penalty from exceeding \$25 if a local authority enacts an ordinance to enforce compliance with the instructions of a traffic-control signal by the imposition of a civil or administrative penalty.

Sec. 707.008. DEPOSIT OF REVENUE FROM CERTAIN TRAFFIC PENALTIES. (a) Requires the local authority, not later than the 60th day after the end of a local authority's fiscal year, after deducting amounts the local authority is authorized by Subsection (b) to retain, to send 50 percent of the revenue derived from civil or administrative penalties collected by the local authority under this section to the comptroller for deposit to the credit of the regional trauma account established under Section 782.002, Health and Safety Code, and deposit the remainder of the revenue in a special account in the local authority's treasury that may be used only to fund certain programs, intersection improvements, and traffic enforcement.

(b) Authorizes the local authority to retain an amount necessary to cover certain costs.

(c) Provides that Chapter 133 (Criminal and Civil Fees Payable to the Comptroller), Local Government Code, applies to fee revenue described by Subsection (a)(1).

(d) Provides that, if under Section 133.059, Local Government Code, the comptroller conducts an audit of a local authority and determines that the local authority retained more than the amounts authorized by this section or failed to deposit amounts as required by this section, the comptroller may impose a penalty on the local authority equal to twice the amount the local authority retained in excess of the amount authorized by this section or failed to deposit as required by this section.

Sec. 707.009. REQUIRED ORDINANCE PROVISIONS. Requires an ordinance adopted under Section 707.002 to provide that a person against whom the local authority seeks to impose a civil penalty is entitled to a hearing and is required to provide certain provisions relating to the hearing and to the designation of an entity responsible for the enforcement and administration of the system.

Sec. 707.010. EFFECT ON OTHER ENFORCEMENT. (a) Provides that the implementation of a system does not preclude the application or enforcement in the local authority, or prohibit a peace officer from arresting a violator of Section 544.007(d) (relating to stopping at a red light) in the manner provided by Chapter 543 (Arrest and Prosecution of Violators), if the peace officer personally witnesses the violation, or from issuing the violator a citation and notice to appear as provided by that chapter.

(b) Prohibits a local authority from imposing a civil penalty under this chapter on the owner of a motor vehicle if the operator was arrested or issued a citation and notice to appear by a peace officer for the same violation of Section 544.007(d) recorded by the system.

Sec. 707.011. NOTICE OF VIOLATION; CONTENTS. (a) Provides that the imposition of a civil penalty under this chapter is initiated by the mailing of a notice of violation to the owner of the motor vehicle against whom the local authority seeks to impose the penalty.

(b) Sets forth the requirements for mailing a notice of violation, including the timeframe in which, and the place at which, the notice is required to be mailed.

(c) Sets forth the content requirements for a notice of violation under this section.

(d) Provides that a notice of violation is presumed to have been received on the fifth day after the notice is mailed.

Sec. 707.012. **ADMISSION OF LIABILITY.** Provides that a person who fails to pay the civil penalty or to contest the liability for the penalty in a timely manner or who requests an administrative adjudication hearing to contest the imposition of the civil penalty against the person and fails to appear at that hearing is considered to admit liability for the full amount of the penalty stated in the notice of violation and waives the right to appeal the imposition of the civil penalty.

Sec. 707.013. **PRESUMPTION.** (a) Provides that the owner of the motor vehicle is presumed to have committed the violation stated in the notice of violation if the motor vehicle depicted in a photograph or digital image taken by a system belongs to that owner.

(b) Rebutts the presumption in Subsection (a) on the presentation of certain evidence showing that, at the time of the violation alleged in the notice of violation, the motor vehicle depicted in a photograph or digital image taken by a system was owned by a person in the business of selling, renting, or leasing motor vehicles or by a person who was not the person named in the notice of violation.

(c) Requires the presentation of evidence under Subsection (b) to be made by affidavit, through testimony at the administrative hearing, or by written declaration under penalty of perjury, notwithstanding Section 707.014. Authorizes the affidavit or written declaration to be submitted by mail to the local authority or the entity with which the local authority contracts.

(d) Prohibits a civil penalty from being imposed if the presumption established by Subsection (a) is rebutted under Subsection (b).

(e) Requires the owner of the motor vehicle depicted in a photograph or digital image taken by the system if, at the time of the violation alleged in the notice of violation, the motor vehicle depicted in a photograph or digital image taken by a system was owned by a person in the business of selling, renting, or leasing motor vehicles, to provide to the local authority the name and address of the individual who was renting or leasing the motor vehicle. Requires the owner to provide said information not later than the 30th day after the date the notice of violation is received. Provides that if such action is taken by the owner, the person renting or leasing the motor vehicle at the time of the violation alleged in the notice of violation is presumed to have committed that violation and authorizes the local authority to send a notice of violation to that person.

Sec. 707.014. **ADMINISTRATIVE ADJUDICATION HEARING.** (a) Authorizes a person who receives a notice of violation under this chapter to contest the imposition of the civil penalty by filing a written request for an administrative adjudication hearing. Requires the request to be sent on or before the date specified in the notice of violation, which may not be earlier than the 30th day after the date the notice of violation was mailed.

(b) Requires the local authority, on receipt of a timely request for an administrative adjudication hearing, to notify the person of the date and time of the hearing.

(c) Requires a hearing officer designated by the governing body of the local authority to conduct the hearing.

(d) Requires the issues in a hearing to be proven by a preponderance of the evidence.

(e) Authorizes the reliability of the system to be attested by affidavit of an officer or employee of the local authority or of the entity with which the local authority contracts.

(f) Provides that an affidavit of an officer or employee of the local authority or entity that alleges the violation based on an inspection of the applicable recorded image is admissible in the administrative adjudication hearing and is evidence of the facts contained in the affidavit.

(g) Requires the hearing officer, at the conclusion of the administrative adjudication hearing, to enter a finding of liability, or no liability, for a civil penalty. Requires the finding to be in writing and be signed and dated by the hearing officer.

(h) Requires a finding of liability to specify the amount of the civil penalty and prohibits an imposition of a fine if a finding of no liability is entered.

(i) Authorizes a finding of no liability to be filed with certain entities and be recorded on microfilm or microfiche or using data processing techniques.

Sec. 707.015. **UNTIMELY REQUEST FOR ADMINISTRATIVE ADJUDICATION HEARING.** Sets forth conditions under which a person who receives a notice of violation under this chapter and fails to timely pay the amount of the civil penalty or fails to timely request a hearing is entitled to an administrative adjudication hearing.

Sec. 707.016. **APPEAL.** Sets forth procedural requirements for an appeal to a determination by the local authority that the owner of a motor vehicle is liable for a civil penalty.

Sec. 707.017. **ENFORCEMENT.** Authorizes the county assessor-collector or TxDOT to refuse to register a motor vehicle alleged to have been involved in the violation if the owner is delinquent in the payment of a civil penalty imposed under this chapter.

Sec. 707.018. **IMPOSITION OF CIVIL PENALTY NOT A CONVICTION.** Provides that the imposition of a civil penalty under this chapter is not a conviction and prohibits it from being considered a conviction for any purpose.

Sec. 707.019. **FAILURE TO PAY CIVIL PENALTY.** (a) Prohibits an arrest warrant from being issued for the owner and prohibits the imposition of the civil penalty from being recorded on the owner's driving record if the owner of the motor vehicle fails to timely pay the amount of the civil penalty imposed against the owner.

(b) Requires notice of Subsection (a) to be included in the notice of violation required by Section 707.011(c).

**SECTION 2.** Amends Section 27.031(a), Government Code, to add cases arising under Chapter 707, Transportation Code, outside a municipality's territorial jurisdiction, to the list of cases over which the justice court has original jurisdiction.

**SECTION 3.** Amends Section 29.003, Government Code, by adding Subsection (g), to require a municipal court to have exclusive appellate jurisdiction within that municipality's territorial limits in cases arising from Chapter 707, Transportation Code.

**SECTION 4.** Amends Section 133.004, Local Government Code, to provide that this chapter applies to certain civil fees, including the portion of the civil or administrative penalty described by Section 707.008(a)(1), Transportation Code, imposed by a local authority to enforce compliance with the instructions of a traffic-control signal.

**SECTION 5.** Amends Subtitle B, Title 9, Health and Safety Code, by adding Chapter 782, as follows:

CHAPTER 782. REGIONAL EMERGENCY MEDICAL SERVICES

Sec. 782.001. DEFINITIONS. Defines "commission" and "commissioner."

Sec. 782.002. REGIONAL TRAUMA ACCOUNT. (a) Provides that the regional trauma account is created as a dedicated account in the general revenue fund of the state treasury. Authorizes money in the account to be appropriated only to the Health and Human Services Commission (HHSC) to make distributions as provided by Section 782.003.

(b) Provides that the account is composed of money deposited to the credit of the account under Section 707.008, Transportation Code, and the earnings of the account.

(c) Provides that Sections 403.095 (Use of Dedicated Revenue) and 404.071 (Disposition of Interest on Investments), Government Code, do not apply to the account.

Sec. 782.003. PAYMENTS FROM THE REGIONAL TRAUMA ACCOUNT. (a) Requires the executive commissioner of HHSC (commissioner) to use money appropriated from the regional trauma account established under Section 782.002 to fund uncompensated care of designated trauma facilities and county and regional emergency medical services located in the area served by the trauma service area regional advisory council that serves the local authority submitting money under Section 707.008, Transportation Code.

(b) Requires the commissioner to use 96 percent of the money appropriated from the account to fund a portion of the uncompensated trauma care provided at facilities designated as state trauma facilities by the Department of State Health Services, two percent of the money appropriated from the account for county and regional emergency medical services, one percent of the money appropriated from the account for distribution to the 22 trauma service area regional advisory councils, and one percent of the money appropriated from the account to fund administrative costs of HHSC.

(c) Requires the money under Subsection (b) to be distributed in proportion to the amount deposited to the account from the local authority.

SECTION 6. Makes application of Section 707.008, Transportation Code, as added by this Act, and Section 782.002, Health and Safety Code, as added by this Act, prospective.

SECTION 7. Requires the commissioner, not later than December 1, 2007, to adopt rules to implement Chapter 782, Health and Safety Code, as added by this Act.

SECTION 8. Makes application of Section 707.004, Transportation Code, as added by this Act, prospective to January 1, 2008.

SECTION 9. Makes application of Section 707.003, Transportation Code, as added by this Act prospective.

SECTION 10. Effective date: September 1, 2007.