

BILL ANALYSIS

S.B. 1119
By: Carona
Urban Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Municipalities are currently installing photographic traffic signal enforcement systems (red light cameras) based on an attorney general opinion, but legislature has yet to pass legislation to regulate them.

As proposed, Senate Bill No. 1119 establishes responsible guidelines for photographic traffic signal enforcement systems and ensures that they are not used as a revenue generating source. The bill also ensures that the program is used for public safety and establishes the statutory framework under which the cameras will operate.

Senate Bill No. 1119 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

This bill does not expressly grant any additional rulemaking authority to a State officer, institution, or agency.

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.

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(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) Prohibits a local authority from imposing a civil penalty if the municipality violates Subsection (b) or (c).

Sec. 707.004. **REQUIRED ORDINANCE PROVISIONS.** Requires an ordinance adopted under Section 707.002 to provide that 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. 707.005. **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), 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. 707.006. **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. 707.007. **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. 707.008. **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. 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. 707.009. 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 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. 707.010. 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. 707.011. 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. 707.012 ENFORCEMENT. Allows the county tax assessor-collector or the Texas Department of Transportation to refuse registration of a vehicle involved in a violation if the penalty has not been paid.

Sec. 707.013. IMPOSITION OF CIVIL PENALTY CONVICTION FOR PURPOSES OF DRIVER RESPONSIBILITY PROGRAM. Provides that the imposition of a civil penalty is not a conviction and may not be considered a conviction for any purpose, except that it is a conviction for the purposes of Chapter 708 of the Transportation Code.

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Sec. 707.014. 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. 707.015. FAILURE TO PAY CIVIL PENALTY. Stipulates that (1) failure to pay the civil penalty cannot result in an arrest warrant being issued against the owner; and (2) imposition of the civil penalty may not be recorded on the owners driving record. Subsection (b) further stipulates that notice of these two facts must be included in the notice of violation.

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

SECTION 5. Effective date: September 1, 2007, contingent upon Senate Bill No. 125 being enacted and becoming law.

EFFECTIVE DATE

September 1, 2007.