

BILL ANALYSIS

H.B. 2361
By: Truitt
Urban Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Municipalities are currently prohibited from using automated traffic control systems to enforce speeding laws. It has been suggested that this prohibition resulted from concerns that automated systems violated certain constitutional rights and could result in a person being cited for criminal violations the person did not commit. Interested parties note that counties and the Department of Public Safety (DPS) are not addressed by this prohibition, and that while there does not appear to have been any efforts on the part of counties or DPS to use automated speed enforcement devices in Texas, the statute is asymmetric in its treatment of the issue. H.B. 2361 seeks to address this issue as it relates to the authority of a municipality, county, or DPS to enforce compliance with posted speed limits by an automated traffic control system.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2361 amends the Transportation Code to prohibit a county, in addition to a municipality, from implementing or operating an automated traffic control system with respect to a highway or street under its jurisdiction for the purpose of enforcing compliance with posted speed limits. The bill also prohibits the Department of Public Safety (DPS) from implementing or operating such a system. The bill requires the attorney general to enforce this limitation as it applies to a county or DPS, in addition to a municipality. The bill specifies that provisions limiting the authority of a municipality, county, or DPS to implement or operate such a system do not prohibit a municipality, county, or DPS from using a device that records the speed of a motor vehicle and obtains photographs or other recorded images of the vehicle, the license plate attached to the vehicle, or the operator of the vehicle or from relying on evidence obtained from using the device in the prosecution of a criminal offense if the following conditions are met:

- the device is used by a peace officer who personally observes the violation and issues a citation to the operator of the vehicle at the time of the violation or is unable to issue the citation because of events beyond the control of the peace officer; or
- the device is used by a peace officer working in a team of peace officers engaged in a localized collective effort to enforce compliance with posted speed limits, the peace officer personally observes the violation, and another peace officer working in the same team issues a citation to the operator of the vehicle at the time of the violation or is unable to issue the citation because of events beyond the control of the peace officer.

H.B. 2361 redefines "automated traffic control system" with regard to the limitation on municipalities and counties to include a design that permits the issuance of a citation without the personal and contemporaneous involvement of a peace officer and provides for the meaning of the term with regard to the limitation on DPS by reference.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.