

By: Marquez

H.B. No. 689

A BILL TO BE ENTITLED

AN ACT

relating to the use of a photographic traffic enforcement system at a railroad crossing.

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

SECTION 1. The heading to Chapter 707, Transportation Code, is amended to read as follows:

CHAPTER 707. PHOTOGRAPHIC TRAFFIC [~~SIGNAL~~]
ENFORCEMENT SYSTEM

SECTION 2. Section 707.001, Transportation Code, is amended by adding Subdivision (1-a) and amending Subdivision (3) to read as follows:

(1-a) "Official traffic-control device" has the meaning assigned by Section 541.304.

(3) "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 official traffic-control device, including a traffic-control signal; and

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

SECTION 3. Section 707.002, Transportation Code, is amended

1 to read as follows:

2 Sec. 707.002. AUTHORITY TO PROVIDE FOR CIVIL PENALTY. The
3 governing body of a local authority by ordinance may:

4 (1) implement a photographic traffic [~~signal~~]
5 enforcement system at a highway intersection or railroad crossing;
6 and

7 (2) provide that the owner of a motor vehicle is liable
8 to the local authority for a civil penalty if:

9 (A) [~~7~~] while facing only a steady red signal
10 displayed by an electrically operated traffic-control signal
11 located at a highway intersection in the local authority, the
12 vehicle is operated in violation of the instructions of that
13 traffic-control signal, as specified by Section 544.007(d); or

14 (B) the vehicle is operated in violation of the
15 instructions of an official traffic-control device that instructs
16 traffic at a railroad crossing to stop for an approaching or
17 crossing train.

18 SECTION 4. Section 707.003, Transportation Code, is amended
19 to read as follows:

20 Sec. 707.003. INSTALLATION AND OPERATION OF PHOTOGRAPHIC
21 TRAFFIC [~~SIGNAL~~] ENFORCEMENT SYSTEM. (a) A local authority that
22 implements a photographic traffic [~~signal~~] enforcement system
23 under this chapter may:

24 (1) contract for the administration and enforcement of
25 the system; and

26 (2) install and operate the system or contract for the
27 installation or operation of the system.

1 (b) A local authority that contracts for the administration
2 and enforcement of a photographic traffic [~~signal~~] enforcement
3 system may not agree to pay the contractor a specified percentage
4 of, or dollar amount from, each civil penalty collected.

5 (c) Before installing a photographic traffic [~~signal~~]
6 enforcement system at a highway [~~an~~] intersection or railroad
7 crossing approach, the local authority shall conduct a traffic
8 engineering study of the approach to determine whether, in addition
9 to or as an alternative to the system, a design change to the
10 approach or a change in the signalization of the intersection or
11 crossing is likely to reduce the number of red light violations at
12 the intersection or crossing.

13 (d) A highway [~~An~~] intersection or railroad crossing
14 approach must be selected for the installation of a photographic
15 traffic [~~signal~~] enforcement system based on traffic volume, the
16 history of accidents at the approach, the number or frequency of
17 official traffic-control device [~~red-light~~] violations at the
18 intersection or crossing, and similar traffic engineering and
19 safety criteria, without regard to the ethnic or socioeconomic
20 characteristics of the area in which the approach is located.

21 (e) A local authority shall report results of the traffic
22 engineering study required by Subsection (c) to a citizen advisory
23 committee consisting of one person appointed by each member of the
24 governing body of the local authority. The committee shall advise
25 the local authority on the installation and operation of a
26 photographic traffic [~~signal~~] enforcement system established under
27 this chapter.

1 (f) A local authority may not impose a civil penalty under
2 this chapter on the owner of a motor vehicle if the local authority
3 violates Subsection (b), ~~[or]~~ (c), or (g).

4 (g) The local authority shall install signs along each
5 roadway that leads to a highway ~~[an]~~ intersection or railroad
6 crossing at which a photographic traffic ~~[signal]~~ enforcement
7 system is in active use. The signs must:

8 (1) be located:

9 (A) at least 100 feet from the intersection or
10 crossing; or

11 (B) ~~[located]~~ according to standards established
12 in the manual adopted by the Texas Transportation Commission under
13 Section 544.001;

14 (2) ~~[r]~~ be easily readable to any operator approaching
15 the intersection or crossing; ~~[r]~~ and

16 (3) clearly indicate the presence of a photographic
17 traffic enforcement ~~[monitoring]~~ system that records violations
18 that may result in the issuance of a notice of violation and the
19 imposition of a monetary penalty.

20 (h) A local authority or the person with which the local
21 authority contracts for the administration and enforcement of a
22 photographic traffic ~~[signal]~~ enforcement system may not provide
23 information about a civil penalty imposed under this chapter to a
24 credit bureau, as defined by Section 392.001, Finance Code.

25 SECTION 5. Sections 707.004(b), (c), and (d),
26 Transportation Code, are amended to read as follows:

27 (b) Before installing a photographic traffic ~~[signal]~~

1 enforcement system at a highway [~~an~~] intersection or railroad
2 crossing approach, the local authority shall compile a written
3 report of the number and type of traffic accidents that have
4 occurred at the intersection or crossing for a period of at least 18
5 months before the date of the report.

6 (c) Not later than six months after the date of the
7 installation of the photographic traffic [~~signal~~] enforcement
8 system at a highway [~~the~~] intersection or railroad crossing, the
9 local authority shall provide the department a copy of the report
10 required by Subsection (b).

11 (d) After installing a photographic traffic [~~signal~~]
12 enforcement system at a highway [~~an~~] intersection or railroad
13 crossing approach, the local authority shall monitor and annually
14 report to the department the number and type of traffic accidents at
15 the intersection or crossing to determine whether the system
16 results in a reduction in accidents or a reduction in the severity
17 of accidents.

18 SECTION 6. Section 707.005, Transportation Code, is amended
19 to read as follows:

20 Sec. 707.005. MINIMUM CHANGE INTERVAL. At a highway [~~an~~]
21 intersection at which a photographic traffic enforcement
22 [~~monitoring~~] system is in use, the minimum change interval for a
23 steady yellow signal must be established in accordance with the
24 Texas Manual on Uniform Traffic Control Devices.

25 SECTION 7. Sections 707.006(a) and (b), Transportation
26 Code, are amended to read as follows:

27 (a) A local authority shall operate a photographic traffic

1 [~~control signal~~] enforcement system only for the purpose of
2 detecting a violation or suspected violation of an official [~~a~~]
3 traffic-control device [~~signal~~].

4 (b) A person commits an offense if the person uses a
5 photographic traffic [~~signal~~] enforcement system to produce a
6 recorded image other than in the manner and for the purpose
7 specified by this chapter.

8 SECTION 8. Section 707.007, Transportation Code, is amended
9 to read as follows:

10 Sec. 707.007. AMOUNT OF CIVIL PENALTY; LATE PAYMENT
11 PENALTY. If a local authority enacts an ordinance to enforce
12 compliance with the instructions of an official [~~a~~] traffic-control
13 device [~~signal~~] by the imposition of a civil or administrative
14 penalty, the amount of:

15 (1) the civil or administrative penalty may not exceed
16 \$75; and

17 (2) a late payment penalty may not exceed \$25.

18 SECTION 9. Sections 707.008(a) and (b), Transportation
19 Code, are amended to read as follows:

20 (a) Not later than the 60th day after the end of a local
21 authority's fiscal year, after deducting amounts the local
22 authority is authorized by Subsection (b) to retain, the local
23 authority shall:

24 (1) send 50 percent of the revenue derived from civil
25 or administrative penalties collected by the local authority under
26 this chapter [~~section~~] to the comptroller for deposit to the credit
27 of the regional trauma account established under Section 782.002,

1 Health and Safety Code; and

2 (2) deposit the remainder of the revenue in a special
3 account in the local authority's treasury that may be used only to
4 fund traffic safety programs, including pedestrian safety
5 programs, public safety programs, highway intersection or railroad
6 crossing improvements, and traffic enforcement.

7 (b) A local authority may retain an amount necessary to
8 cover the costs of:

9 (1) purchasing or leasing equipment that is part of or
10 used in connection with the photographic traffic [~~signal~~]
11 enforcement system in the local authority;

12 (2) installing the photographic traffic [~~signal~~]
13 enforcement system at sites in the local authority, including the
14 costs of installing cameras, flashes, computer equipment, loop
15 sensors, detectors, utility lines, data lines, poles and mounts,
16 networking equipment, and associated labor costs;

17 (3) operating the photographic traffic [~~signal~~]
18 enforcement system in the local authority, including the costs of
19 creating, distributing, and delivering violation notices, review
20 of violations conducted by employees of the local authority, the
21 processing of fine payments and collections, and the costs
22 associated with administrative adjudications and appeals; and

23 (4) maintaining the general upkeep and functioning of
24 the photographic traffic [~~signal~~] enforcement system.

25 SECTION 10. Section 707.010, Transportation Code, is
26 amended to read as follows:

27 Sec. 707.010. EFFECT ON OTHER ENFORCEMENT. (a) The

1 implementation of a photographic traffic [~~signal~~] enforcement
2 system by a local authority under this chapter does not:

3 (1) preclude the application or enforcement in the
4 local authority of provisions governing violation of the
5 instructions of an official traffic-control device at a highway
6 intersection or railroad crossing [~~Section 544.007(d)~~] in the
7 manner prescribed by Chapter 543; or

8 (2) prohibit a peace officer from:

9 (A) arresting a violator of a provision governing
10 violation of the instructions of an official traffic-control device
11 at a highway intersection or railroad crossing [~~Section 544.007(d)~~]
12 as provided by Chapter 543, if the peace officer personally
13 witnesses the violation; ~~]~~ or

14 (B) [~~from~~] issuing the violator a citation and
15 notice to appear as provided by Chapter 543 [~~that chapter~~].

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

21 SECTION 11. Section 707.011(c), Transportation Code, is
22 amended to read as follows:

23 (c) The notice of violation must contain:

24 (1) a description of the violation alleged;

25 (2) the location of the highway intersection or
26 railroad crossing where the violation occurred;

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

1 (4) the name and address of the owner of the vehicle
2 involved in the violation;

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

5 (6) a copy of a recorded image of the violation limited
6 solely to a depiction of the area of the registration number
7 displayed on the license plate of the vehicle involved in the
8 violation;

9 (7) the amount of the civil penalty for which the owner
10 is liable;

11 (8) the number of days the person has in which to pay
12 or contest the imposition of the civil penalty and a statement that
13 the person incurs a late payment penalty if the civil penalty is not
14 paid or imposition of the penalty is not contested within that
15 period;

16 (9) a statement that the owner of the vehicle in the
17 notice of violation may elect to pay the civil penalty by mail sent
18 to a specified address instead of appearing at the time and place of
19 the administrative adjudication hearing; and

20 (10) information that informs the owner of the vehicle
21 named in the notice of violation:

22 (A) of the owner's right to contest the
23 imposition of the civil penalty against the person in an
24 administrative adjudication hearing;

25 (B) that imposition of the civil penalty may be
26 contested by submitting a written request for an administrative
27 adjudication hearing before the expiration of the period specified

1 under Subdivision (8); and

2 (C) that failure to pay the civil penalty or to
3 contest liability for the penalty in a timely manner is an admission
4 of liability and a waiver of the owner's right to appeal the
5 imposition of the civil penalty.

6 SECTION 12. Sections 707.013(a), (b), and (e),
7 Transportation Code, are amended to read as follows:

8 (a) It is presumed that the owner of the motor vehicle
9 committed the violation alleged in the notice of violation mailed
10 to the person if the motor vehicle depicted in a photograph or
11 digital image taken by a photographic traffic [~~signal~~] enforcement
12 system belongs to the owner of the motor vehicle.

13 (b) If, at the time of the violation alleged in the notice of
14 violation, the motor vehicle depicted in a photograph or digital
15 image taken by a photographic traffic [~~signal~~] enforcement system
16 was owned by a person in the business of selling, renting, or
17 leasing motor vehicles or by a person who was not the person named
18 in the notice of violation, the presumption under Subsection (a) is
19 rebutted on the presentation of evidence establishing that the
20 vehicle was at that time:

21 (1) being test driven by another person;

22 (2) being rented or leased by the vehicle's owner to
23 another person; or

24 (3) owned by a person who was not the person named in
25 the notice of violation.

26 (e) If, at the time of the violation alleged in the notice of
27 violation, the motor vehicle depicted in the photograph or digital

1 image taken by the photographic traffic [~~signal~~] enforcement system
2 was owned by a person in the business of renting or leasing motor
3 vehicles and the vehicle was being rented or leased to an
4 individual, the owner of the motor vehicle shall provide to the
5 local authority or the entity with which the local authority
6 contracts under Section 707.003(a)(1) the name and address of the
7 individual who was renting or leasing the motor vehicle depicted in
8 the photograph or digital image and a statement of the period during
9 which that individual was renting or leasing the vehicle. The owner
10 shall provide the information required by this subsection not later
11 than the 30th day after the date the notice of violation is
12 received. If the owner provides the required information, it is
13 presumed that the individual renting or leasing the motor vehicle
14 committed the violation alleged in the notice of violation and the
15 local authority or contractor may send a notice of violation to that
16 individual at the address provided by the owner of the motor
17 vehicle.

18 SECTION 13. Section 707.014(e), Transportation Code, is
19 amended to read as follows:

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 local authority or of the entity with
24 which the local authority contracts under Section 707.003(a)(1) who
25 is responsible for inspecting and maintaining the system.

26 SECTION 14. Section 133.004, Local Government Code, as
27 amended by Chapters 718 (H.B. 2359), 1027 (H.B. 1623), and 1149

1 (S.B. 1119), Acts of the 80th Legislature, Regular Session, 2007,
2 is reenacted and amended to read as follows:

3 Sec. 133.004. CIVIL FEES. This chapter applies to the
4 following civil fees:

5 (1) the consolidated fee on filing in district court
6 imposed under Section 133.151;

7 (2) the filing fee in district court for basic civil
8 legal services for indigents imposed under Section 133.152;

9 (3) the filing fee in courts other than district court
10 for basic civil legal services for indigents imposed under Section
11 133.153;

12 (4) the filing fees for the judicial fund imposed in
13 certain statutory county courts under Section 51.702, Government
14 Code;

15 (5) the filing fees for the judicial fund imposed in
16 certain county courts under Section 51.703, Government Code;

17 (6) the filing fees for the judicial fund imposed in
18 statutory probate courts under Section 51.704, Government Code;

19 (7) fees collected under Section 118.015;

20 (8) marriage license fees for the family trust fund
21 collected under Section 118.018;

22 (9) marriage license or declaration of informal
23 marriage fees for the child abuse and neglect prevention trust fund
24 account collected under Section 118.022;

25 (10) the filing fee for the judicial fund imposed in
26 district court, statutory county court, and county court under
27 Section 133.154; and

1 ~~[(11) the portion of the civil or administrative~~
2 ~~penalty described by Section 542.406(c)(1), Transportation Code,~~
3 ~~imposed by a local authority to enforce compliance with the~~
4 ~~instructions of a traffic-control signal,]~~

5 (11) the portion of the civil or administrative
6 penalty described by Section 707.008(a)(1), Transportation Code,
7 imposed by a local authority to enforce compliance with the
8 instructions of an official [a] traffic-control device [~~signal~~].

9 SECTION 15. The following provisions are repealed:

10 (1) Section 782.002(b), Health and Safety Code, as
11 added by Chapter 1027 (H.B. 1623), Acts of the 80th Legislature,
12 Regular Session, 2007;

13 (2) Section 782.003(a), Health and Safety Code, as
14 added by Chapter 1027 (H.B. 1623), Acts of the 80th Legislature,
15 Regular Session, 2007; and

16 (3) Sections 542.405, 542.406, and 544.012,
17 Transportation Code.

18 SECTION 16. This Act takes effect September 1, 2013.