

By: Rodriguez

S.B. No. 335

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. Sections 707.001(3) and (5), Transportation Code, are amended to read as follows:

(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 [~~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~~].

(5) "Official traffic-control device [~~Traffic-control signal~~]" has the meaning assigned by Section 541.304.

SECTION 3. Section 707.002, Transportation Code, is amended to read as follows:

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

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

6 (2) provide that the owner of a motor vehicle is liable
7 to the local authority for a civil penalty if [~~, while facing only a~~
8 ~~steady red signal displayed by an electrically operated~~
9 ~~traffic-control signal located in the local authority,~~] the vehicle
10 is operated in violation of the instructions of the official [~~that~~]
11 traffic-control device for which the enforcement system is
12 installed [~~signal, as specified by Section 544.007(d)~~].

13 SECTION 4. Section 707.003, Transportation Code, is amended
14 to read as follows:

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

19 (1) contract for the administration and enforcement of
20 the system; and

21 (2) install and operate the system or contract for the
22 installation or operation of the system.

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

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

1 enforcement system at a highway [~~an~~] intersection approach, the
2 local authority shall conduct a traffic engineering study of the
3 approach to determine whether, in addition to or as an alternative
4 to the system, a design change to the approach or a change in the
5 signalization of the intersection is likely to reduce the number of
6 red light violations at the intersection.

7 (d) A highway [~~An~~] intersection approach must be selected
8 for the installation of a photographic traffic [~~signal~~] enforcement
9 system based on traffic volume, the history of accidents at the
10 approach, the number or frequency of red light violations at the
11 intersection, and similar traffic engineering and safety criteria,
12 without regard to the ethnic or socioeconomic characteristics of
13 the area in which the approach is located.

14 (d-1) A railroad crossing may be selected for the
15 installation of a photographic traffic enforcement system if it is
16 equipped with a device to notify traffic of railroad tracks or an
17 approaching railroad train.

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

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

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

5 (1) be located:

6 (A) at least 100 feet from the intersection or
7 crossing; or

8 (B) [~~located~~] according to standards established
9 in the manual adopted by the Texas Transportation Commission under
10 Section 544.001;

11 (2) [~~]~~ be easily readable to any operator approaching
12 the intersection or crossing; [~~]~~ and

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

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

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

24 (b) Before installing a photographic traffic [~~signal~~]
25 enforcement system at a highway [~~an~~] intersection approach, the
26 local authority shall compile a written report of the number and
27 type of traffic accidents that have occurred at the intersection

1 for a period of at least 18 months before the date of the report.

2 (c) Not later than six months after the date of the
3 installation of the photographic traffic [~~signal~~] enforcement
4 system at a highway [~~the~~] intersection, the local authority shall
5 provide the department a copy of the report required by Subsection
6 (b).

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

13 SECTION 6. Section 707.005, Transportation Code, is amended
14 to read as follows:

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

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

22 (a) A local authority shall operate a photographic traffic
23 [~~control-signal~~] enforcement system only for the purpose of
24 detecting a violation or suspected violation of an official [~~a~~]
25 traffic-control device [~~signal~~].

26 (b) A person commits an offense if the person uses a
27 photographic traffic [~~signal~~] enforcement system to produce a

1 recorded image other than in the manner and for the purpose
2 specified by this chapter.

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

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

10 (1) the civil or administrative penalty may not exceed
11 \$75; and

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

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

15 (a) Not later than the 60th day after the end of a local
16 authority's fiscal year, after deducting amounts the local
17 authority is authorized by Subsection (b) to retain, the local
18 authority shall:

19 (1) send 50 percent of the revenue derived from civil
20 or administrative penalties collected by the local authority under
21 this chapter ~~[section]~~ to the comptroller for deposit to the credit
22 of the regional trauma account established under Section 782.002,
23 Health and Safety Code; and

24 (2) deposit the remainder of the revenue in a special
25 account in the local authority's treasury that may be used only to
26 fund traffic safety programs, including pedestrian safety
27 programs, public safety programs, highway intersection or railroad

1 crossing improvements, and traffic enforcement.

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

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

7 (2) installing the photographic traffic [~~signal~~]
8 enforcement system at sites in the local authority, including the
9 costs of installing cameras, flashes, computer equipment, loop
10 sensors, detectors, utility lines, data lines, poles and mounts,
11 networking equipment, and associated labor costs;

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

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

20 SECTION 10. Section 707.010, Transportation Code, is
21 amended to read as follows:

22 Sec. 707.010. EFFECT ON OTHER ENFORCEMENT. (a) The
23 implementation of a photographic traffic [~~signal~~] enforcement
24 system by a local authority under this chapter does not:

25 (1) preclude the application or enforcement in the
26 local authority of provisions governing violation of the
27 instructions of an official traffic-control device at a highway

1 intersection or railroad crossing [~~Section 544.007(d)~~] in the
2 manner prescribed by Chapter 543; or

3 (2) prohibit a peace officer from:

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

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

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

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

18 (c) The notice of violation must contain:

19 (1) a description of the violation alleged;

20 (2) the location of the highway intersection or
21 railroad crossing where the violation occurred;

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

23 (4) the name and address of the owner of the vehicle
24 involved in the violation;

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

27 (6) a copy of a recorded image of the violation limited

1 solely to a depiction of the area of the registration number
2 displayed on the license plate of the vehicle involved in the
3 violation;

4 (7) the amount of the civil penalty for which the owner
5 is liable;

6 (8) the number of days the person has in which to pay
7 or contest the imposition of the civil penalty and a statement that
8 the person incurs a late payment penalty if the civil penalty is not
9 paid or imposition of the penalty is not contested within that
10 period;

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

15 (10) information that informs the owner of the vehicle
16 named in the notice of violation:

17 (A) of the owner's right to contest the
18 imposition of the civil penalty against the person in an
19 administrative adjudication hearing;

20 (B) that imposition of the civil penalty may be
21 contested by submitting a written request for an administrative
22 adjudication hearing before the expiration of the period specified
23 under Subdivision (8); and

24 (C) that failure to pay the civil penalty or to
25 contest liability for the penalty in a timely manner is an admission
26 of liability and a waiver of the owner's right to appeal the
27 imposition of the civil penalty.

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

3 (a) It is presumed that the owner of the motor vehicle
4 committed the violation alleged in the notice of violation mailed
5 to the person if the motor vehicle depicted in a photograph or
6 digital image taken by a photographic traffic [~~signal~~] enforcement
7 system belongs to the owner of the motor vehicle.

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

16 (1) being test driven by another person;

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

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

21 (e) If, at the time of the violation alleged in the notice of
22 violation, the motor vehicle depicted in the photograph or digital
23 image taken by the photographic traffic [~~signal~~] enforcement system
24 was owned by a person in the business of renting or leasing motor
25 vehicles and the vehicle was being rented or leased to an
26 individual, the owner of the motor vehicle shall provide to the
27 local authority or the entity with which the local authority

1 contracts under Section 707.003(a)(1) the name and address of the
2 individual who was renting or leasing the motor vehicle depicted in
3 the photograph or digital image and a statement of the period during
4 which that individual was renting or leasing the vehicle. The owner
5 shall provide the information required by this subsection not later
6 than the 30th day after the date the notice of violation is
7 received. If the owner provides the required information, it is
8 presumed that the individual renting or leasing the motor vehicle
9 committed the violation alleged in the notice of violation and the
10 local authority or contractor may send a notice of violation to that
11 individual at the address provided by the owner of the motor
12 vehicle.

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

15 (e) The reliability of the photographic traffic [~~signal~~]
16 enforcement system used to produce the recorded image of the motor
17 vehicle involved in the violation may be attested to by affidavit of
18 an officer or employee of the local authority or of the entity with
19 which the local authority contracts under Section 707.003(a)(1) who
20 is responsible for inspecting and maintaining the system.

21 SECTION 14. Section 133.004, Local Government Code, as
22 amended by Chapters 718 (H.B. 2359), 1027 (H.B. 1623), and 1149
23 (S.B. 1119), Acts of the 80th Legislature, Regular Session, 2007,
24 is reenacted and amended to read as follows:

25 Sec. 133.004. CIVIL FEES. This chapter applies to the
26 following civil fees:

27 (1) the consolidated fee on filing in district court

1 imposed under Section 133.151;

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

4 (3) the filing fee in courts other than district court
5 for basic civil legal services for indigents imposed under Section
6 133.153;

7 (4) the filing fees for the judicial fund imposed in
8 certain statutory county courts under Section 51.702, Government
9 Code;

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

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

14 (7) fees collected under Section 118.015;

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

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

20 (10) the filing fee for the judicial fund imposed in
21 district court, statutory county court, and county court under
22 Section 133.154; and

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

27 (11) the portion of the civil or administrative

1 penalty described by Section 707.008(a)(1), Transportation Code,
2 imposed by a local authority to enforce compliance with the
3 instructions of an official [~~a~~] traffic-control device [~~signal~~].

4 SECTION 15. The following provisions are repealed:

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

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

11 (3) Sections 542.405, 542.406, and 544.012,
12 Transportation Code.

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