86R1650 AJZ-F

By:  Thompson of Brazoria H.B. No. 262

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the governing body of a local authority to operate an automated traffic control system; providing a civil penalty.

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

SECTION 1.  Section 542.2035, Transportation Code, is amended to read as follows:

Sec. 542.2035.  AUTOMATED TRAFFIC CONTROL SYSTEMS PROHIBITED [~~LIMITATION ON MUNICIPALITIES~~]. (a) A local authority [~~municipality~~] may not implement or operate 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 attorney general shall enforce this subsection.

(b)  In this section, "automated traffic control system" means a system consisting of a photographic device, radar device, laser device, or other electrical or mechanical device that [~~designed to~~]:

(1)  is capable of producing one or more recorded photographic or digital images depicting the license plate attached to the front or rear of a motor vehicle that is not operated in compliance with a posted speed limit or the instructions of a traffic-control signal; and

(2)  is used by the local authority to enforce compliance with a posted speed limit or the instructions of a traffic-control signal by imposition of a civil or administrative penalty against the owner or operator of the motor vehicle [~~record the speed of a motor vehicle; and~~

[~~(2)  obtain one or more photographs or other recorded images of:~~

[~~(A)  the vehicle;~~

[~~(B)  the license plate attached to the vehicle; or~~

[~~(C)  the operator of the vehicle~~].

(c)  A local authority that violates Subsection (a) is liable for a civil penalty of:

(1)  not less than $1,000 and not more than $1,500 for the first violation; and

(2)  not less than $10,000 and not more than $10,500 for the second or a subsequent violation.

(d)  Each day of a continuing violation of Subsection (a) constitutes a separate violation.

(e)  A citizen of this state may file a complaint with the attorney general that a local authority is in violation of Subsection (a). A complaint filed under this subsection must include:

(1)  evidence of the violation;

(2)  evidence that the citizen provided the local authority written notice that described the violation, including the specific location of the automated traffic control system;

(3)  a copy of the written notice the citizen provided the local authority; and

(4)  evidence that the local authority did not cure the violation before the fourth business day after the date the local authority received the notice.

(f)  A civil penalty collected by the attorney general under this section shall be deposited to the credit of the designated trauma facility and emergency medical services account under Section 780.003, Health and Safety Code.

(g)  Before a suit may be brought against a local authority for a violation of Subsection (a), the attorney general must investigate the complaint to determine whether legal action is warranted. If legal action is warranted, the attorney general must give the chief administrative officer of the local authority charged with the violation a written notice that:

(1)  describes the violation and specific location of the automated traffic control system found to be in violation;

(2)  states the amount of the proposed penalty for the violation; and

(3)  gives the local authority 15 days from receipt of the notice to remove the automated traffic control system and cure the violation to avoid the penalty, unless the local authority was found liable by a court for previously violating Subsection (a).

(h)  If the attorney general determines that legal action is warranted and that the local authority has not cured the violation within the 15-day period provided by Subsection (g)(3), the attorney general or the appropriate county or district attorney may sue to collect the civil penalty provided by Subsection (c). The attorney general may also file a petition for a writ of mandamus or apply for other appropriate equitable relief. A suit or petition under this subsection may be filed in a district court in Travis County or in a county in which the principal office of the local authority is located. The attorney general may recover reasonable expenses incurred in obtaining relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(i)  Sovereign immunity to suit is waived and abolished to the extent of liability created by this section.

SECTION 2.  Section 27.031(a), Government Code, is amended to read as follows:

(a)  In addition to the jurisdiction and powers provided by the constitution and other law, the justice court has original jurisdiction of:

(1)  civil matters in which exclusive jurisdiction is not in the district or county court and in which the amount in controversy is not more than $10,000, exclusive of interest;

(2)  cases of forcible entry and detainer; and

(3)  foreclosure of mortgages and enforcement of liens on personal property in cases in which the amount in controversy is otherwise within the justice court's jurisdiction[~~; and~~

[~~(4)  cases arising under Chapter 707, Transportation Code, outside a municipality's territorial limits~~].

SECTION 3.  Section 780.003(b), Health and Safety Code, is amended to read as follows:

(b)  The account is composed of money deposited to the credit of the account under Section 542.2035 [~~Sections 542.406 and 707.008~~], Transportation Code, and under Section 780.002 of this code.

SECTION 4.  Section 133.004, Local Government Code, as amended by Chapters 718 (H.B. 2359), 1027 (H.B. 1623), and 1149 (S.B. 1119), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

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

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

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

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

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

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

(6)  the filing fees for the judicial fund imposed in [~~certain~~] statutory probate courts under Section 51.704, Government Code;

(7)  fees collected under Section 118.015;

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

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

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

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

[~~(11)  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.  The following laws are repealed:

(1)  Section 29.003(g), Government Code;

(2)  Sections 542.405, 542.406, and 544.012, Transportation Code; and

(3)  Chapter 707, Transportation Code.

SECTION 6.  (a) The repeal by this Act of Sections 542.405 and 542.406 and Chapter 707, Transportation Code, does not affect the validity of a proceeding initiated or a civil penalty imposed under those provisions before the effective date of this Act. A proceeding initiated or a civil penalty imposed under those provisions before the effective date of this Act is governed by the applicable law in effect before the effective date of this Act, and the former law is continued in effect for that purpose.

(b)  Notwithstanding the repeal by this Act of Sections 542.405 and 542.406 and Chapter 707, Transportation Code, if before the effective date of this Act a local authority enacted an ordinance under those provisions to implement an automated traffic control system and entered into a contract for the administration and enforcement of the system, the local authority may continue to operate the system under that ordinance and under the terms of that contract until the expiration date specified in the contract as the contract existed on the effective date of this Act.

(c)  Subsection (b) of this section does not apply to a contract for the administration and enforcement of an automated traffic control system entered into before the effective date of this Act that explicitly authorizes termination of the contract on the basis of adverse state legislation.

SECTION 7.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.