

# House Bill 2990

Sponsored by Representative JENSON; Representatives GARRARD, HUNT, Senators BURDICK, COURTNEY, GORDLY (at the request of Joe Pope)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Oregon State Police to operate photo radar on state or interstate highway. Directs Oregon State Police to conduct process and outcome evaluation once each biennium.

Distributes half of fines collected from use of photo radar by Oregon State Police to Oregon State Police and half of fines to Department of Education.

## A BILL FOR AN ACT

1  
2 Relating to traffic enforcement; creating new provisions; and amending ORS 810.438 and 810.439.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 810.438 is amended to read:

5 810.438. (1) **The Oregon State Police may operate photo radar.**

6 [(1)] (2) The following jurisdictions may, at their own cost, operate photo radar:

7 (a) Albany.

8 (b) Beaverton.

9 (c) Bend.

10 (d) Eugene.

11 (e) Medford.

12 (f) Portland.

13 (g) Tigard.

14 (3) **A photo radar system operated by the Oregon State Police may be operated on any**  
15 **state or interstate highway.**

16 [(2)] (4) A photo radar system operated **by a jurisdiction designated under subsection (2) of**  
17 **this section:**

18 (a) May be used on streets in residential areas or school zones.

19 (b) May be used in [other] areas **not described in paragraph (a) of this subsection** if the  
20 governing body of the city makes a finding that speeding has had a negative impact on traffic safety  
21 in those areas.

22 (c) May not be used for more than four hours per day in any one location.

23 (d) May not be used on controlled access highways.

24 (e) May not be used unless a sign is posted announcing that photo radar is in use. The sign  
25 posted under this paragraph must be all of the following:

26 (A) On the street on which the photo radar unit is being used.

27 (B) Between 100 and 400 yards before the location of the photo radar unit.

28 [(3)] (5) [A] **The Oregon State Police and each** city that operates a photo radar system under  
29 this section shall, once each biennium, conduct a process and outcome evaluation for the purposes  
30 of subsection [(4)] (b) of this section that includes:

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (a) The effect of the use of the photo radar system on traffic safety;
- 2 (b) The degree of public acceptance of the use of the photo radar system; and
- 3 (c) The process of administration of the use of the photo radar system.

4 [(4)] (6) By March 1 of the year of each regular session of the Legislative Assembly:

5 (a) The Department of Transportation shall provide to the Legislative Assembly an executive  
6 summary of the process and outcome evaluations conducted under subsection [(3)] (5) of this section;  
7 and

8 (b) **The Oregon State Police and** each city that operates a photo radar system under this  
9 section shall present to the Legislative Assembly the process and outcome evaluation conducted  
10 [by the city] under subsection [(3)] (5) of this section.

11 **SECTION 2.** ORS 810.439 is amended to read:

12 810.439. (1) Notwithstanding any other provision of law[, *in the jurisdictions using photo radar*]:

13 (a) **In the jurisdictions using photo radar** a citation for speeding may be issued on the basis  
14 of photo radar if the following conditions are met:

15 [(A)] *The photo radar equipment is operated by a uniformed police officer.*

16 [(B)] *The photo radar equipment is operated out of a marked police vehicle.*

17 [(C)] (A) An indication of the actual speed of the vehicle is displayed within 150 feet of the lo-  
18 cation of the photo radar unit.

19 [(D)] (B) Signs indicating that speeds are enforced by photo radar are posted, so far as is  
20 practicable, on all major routes entering the jurisdiction.

21 [(E)] *The citation is mailed to the registered owner of the vehicle within six business days of the*  
22 *alleged violation.*

23 [(F)] *The registered owner is given 30 days from the date the citation is mailed to respond to the*  
24 *citation.*

25 (b) **When photo radar is used as authorized by ORS 810.438, a citation for speeding may**  
26 **be issued on the basis of photo radar if the following conditions are met:**

27 (A) **The photo radar equipment is operated by a uniformed police officer.**

28 (B) **The photo radar equipment is operated out of a marked police vehicle.**

29 (C) **The citation is mailed to the registered owner of the vehicle within six business days**  
30 **of the alleged violation.**

31 (D) **The registered owner is given 30 days from the date the citation is mailed to respond**  
32 **to the citation.**

33 [(b)] (c) A rebuttable presumption exists that the registered owner of the vehicle was the driver  
34 of the vehicle when the citation is issued and delivered as provided in this section.

35 [(c)] (d) A person issued a citation under this subsection may respond to the citation by sub-  
36 mitting a certificate of innocence or a certificate of nonliability under subsection (3) of this section  
37 or may make any other response allowed by law.

38 (2) A citation issued on the basis of photo radar may be delivered by mail or otherwise to the  
39 registered owner of the vehicle or to the driver. The citation may be prepared on a digital medium,  
40 and the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061.

41 (3)(a) A registered owner of a vehicle may respond by mail to a citation issued under subsection  
42 (1) of this section by submitting a certificate of innocence within 30 days from the mailing of the  
43 citation swearing or affirming that the owner was not the driver of the vehicle and by providing a  
44 photocopy of the owner's driver license. A jurisdiction that receives a certificate of innocence under  
45 this paragraph shall dismiss the citation without requiring a court appearance by the registered

1 owner or any other information from the registered owner other than the swearing or affirmation  
 2 and the photocopy. The citation may be reissued only once, only to the registered owner and only  
 3 if the **Oregon State Police or** jurisdiction verifies that the registered owner appears to have been  
 4 the driver at the time of the violation. A registered owner may not submit a certificate of innocence  
 5 in response to a reissued citation.

6 (b) If a business or public agency responds to a citation issued under subsection (1) of this sec-  
 7 tion by submitting a certificate of nonliability within 30 days from the mailing of the citation stating  
 8 that at the time of the alleged speeding violation the vehicle was in the custody and control of an  
 9 employee or was in the custody and control of a renter or lessee under the terms of a rental  
 10 agreement or lease, and if the business or public agency provides the driver license number, name  
 11 and address of the employee, renter or lessee, the citation shall be dismissed with respect to the  
 12 business or public agency. The citation may then be issued and delivered by mail or otherwise to  
 13 the employee, renter or lessee identified in the certificate of nonliability.

14 (4) If the person named as the registered owner of a vehicle in the current records of the De-  
 15 partment of Transportation fails to respond to a citation issued under subsection (1) of this section,  
 16 a default judgment under ORS 153.102 may be entered for failure to appear after notice has been  
 17 given that the judgment will be entered.

18 (5) The penalties for and all consequences of a speeding violation initiated by the use of photo  
 19 radar are the same as for a speeding violation initiated by any other means.

20 (6) A registered owner, employee, renter or lessee against whom a judgment for failure to appear  
 21 is entered may move the court to relieve the owner, employee, renter or lessee from the judgment  
 22 as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence, surprise or  
 23 excusable neglect.

24 **SECTION 3. Notwithstanding ORS 153.630, if a member of the Oregon State Police issues**  
 25 **a citation under ORS 810.439, one-half of the fines collected by any court shall be credited**  
 26 **and distributed to the Oregon State Police. The other half of such fines shall be credited and**  
 27 **distributed to the Department of Education.**