

**A-Engrossed**  
**House Bill 2265**

Ordered by the Senate May 29  
Including Senate Amendments dated May 29

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Department of Transportation)

**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.

Permits use of photo radar in highway work zones on interstate highways [*and when no highway workers are present*] **under certain circumstances.**

Eliminates sunset of provision allowing use of photo radar in highway work zones.

**A BILL FOR AN ACT**

1  
2 Relating to use of photo radar in highway work zones; amending sections 4 and 5, chapter 634,  
3 Oregon Laws 2007; and repealing section 6, chapter 634, Oregon Laws 2007.

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

5 **SECTION 1.** Section 4, chapter 634, Oregon Laws 2007, is amended to read:

6 **Sec. 4.** (1) The Department of Transportation may operate photo radar within a highway work  
7 zone that is located on a state highway[, *except for a highway work zone located on an interstate*  
8 *highway*]. **The photo radar unit may be operated only:**

9 (a) **In the area within a highway work zone when highway workers, as defined in ORS**  
10 **811.230, are present. The photo radar unit may not be operated in a location more than 100**  
11 **yards from where highway workers are present and, in the case of a divided state highway,**  
12 **the photo radar unit must be located on the same roadway where highway workers are**  
13 **present.**

14 (b) **When the configuration of the roadway is temporarily changed, including but not**  
15 **limited to temporary changes made to the number of usable lanes, lane width, shoulder width**  
16 **or curvature of the roadway. The photo radar unit may not be operated in a location more**  
17 **than 100 yards from where the configuration of the roadway is temporarily changed and, in**  
18 **the case of a divided state highway, the photo radar unit must be located on the same**  
19 **roadway where the highway configuration is temporarily changed.**

20 (2) The department, at its own cost, may ask a jurisdiction authorized to operate photo radar  
21 under ORS 810.438 (1) or the Oregon State Police to operate a photo radar unit in a highway work  
22 zone on a state highway[, *except for a highway work zone located on an interstate highway*].

23 (3) A photo radar unit operated under this section may not be used unless a sign is posted an-  
24 nouncing that photo radar is in use. The sign posted under this subsection must be all of the fol-  
25 lowing:

26 (a) Located on the state highway on which the photo radar unit is being used.

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

**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 (4) The department shall, once each biennium, conduct a process and outcome evaluation for the  
2 purposes of subsection (5) of this section that includes:

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

6 (5) The department shall report to the Legislative Assembly by March 1 of each odd-numbered  
7 year.

8 (6) As used in this section, "highway work zone" has the meaning given that term in ORS  
9 811.230.

10 **SECTION 2.** Section 5, chapter 634, Oregon Laws 2007, is amended to read:

11 **Sec. 5.** (1) Notwithstanding any other provision of law, when a jurisdiction or the Oregon State  
12 Police uses photo radar in a highway work zone:

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

- 15 (A) The photo radar unit is operated by a uniformed police officer.
- 16 (B) The photo radar unit is operated out of a marked police vehicle.
- 17 (C) An indication of the actual speed of the vehicle is displayed within 150 feet of the location  
18 of the photo radar unit.
- 19 (D) The citation is mailed to the registered owner of the vehicle within six business days of the  
20 alleged violation.

21 (E) The registered owner is given 30 days from the date the citation is mailed to respond to the  
22 citation.

23 *[(F) One or more highway workers are present. For the purposes of this subparagraph, "highway  
24 workers" has the meaning given that term in ORS 811.230.]*

25 **(F)(i) One or more highway workers, as defined in ORS 811.230, are present and the photo  
26 radar unit is operated within 100 yards from where highway workers are present and located  
27 on the same roadway where highway workers are present; or**

28 **(ii) The configuration of the roadway is temporarily changed within the highway work  
29 zone, including but not limited to temporary changes made to the number of usable lanes,  
30 lane width, shoulder width or curvature of the roadway, and the photo radar unit is operated  
31 within 100 yards from where the configuration of the roadway is temporarily changed and  
32 located on the same roadway where the highway configuration is temporarily changed.**

33 (G) The jurisdiction operating photo radar complies with the requirements described in [*section  
34 4 of this 2007 Act*] **section 4, chapter 634, Oregon Laws 2007.**

35 (b) A rebuttable presumption exists that the registered owner of the vehicle was the driver of  
36 the vehicle when the citation is issued and delivered as provided in this section.

37 (c) A person issued a citation under this subsection may respond to the citation by submitting  
38 a certificate of innocence or a certificate of nonliability under subsection (3) of this section or may  
39 make any other response allowed by law.

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

43 (3)(a) A registered owner of a vehicle may respond by mail to a citation issued under subsection  
44 (1) of this section by submitting, within 30 days from the mailing of the citation, a certificate of in-  
45 nocence swearing or affirming that the owner was not the driver of the vehicle and by providing a

1 photocopy of the owner's driver license. A jurisdiction that receives a certificate of innocence under  
2 this paragraph shall dismiss the citation without requiring a court appearance by the registered  
3 owner or any other information from the registered owner other than the swearing or affirmation  
4 and the photocopy. The citation may be reissued only once, only to the registered owner and only  
5 if the jurisdiction verifies that the registered owner appears to have been the driver at the time of  
6 the violation. A registered owner may not submit a certificate of innocence in response to a reissued  
7 citation.

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

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

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

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

26 (7) As used in this section, "highway work zone" has the meaning given that term in ORS  
27 811.230.

28 **SECTION 3. Section 6, chapter 634, Oregon Laws 2007, is repealed.**

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