

Enrolled
House Bill 2265

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)

CHAPTER

AN ACT

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

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

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

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

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

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

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

(3) A photo radar unit operated under this section may not be used unless a sign is posted announcing that photo radar is in use. The sign posted under this subsection must be all of the following:

- (a) Located on the state highway on which the photo radar unit is being used.
- (b) Between 100 and 400 yards before the location of the photo radar unit.

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

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

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

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

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

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

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

(A) The photo radar unit is operated by a uniformed police officer.

(B) The photo radar unit is operated out of a marked police vehicle.

(C) An indication of the actual speed of the vehicle is displayed within 150 feet of the location of the photo radar unit.

(D) The citation is mailed to the registered owner of the vehicle within six business days of the alleged violation.

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

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

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

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

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

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

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

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

(3)(a) A registered owner of a vehicle may respond by mail to a citation issued under subsection (1) of this section by submitting, within 30 days from the mailing of the citation, a certificate of innocence swearing or affirming that the owner was not the driver of the vehicle and by providing a photocopy of the owner’s driver license. A jurisdiction that receives a certificate of innocence under this paragraph shall dismiss the citation without requiring a court appearance by the registered owner or any other information from the registered owner other than the swearing or affirmation and the photocopy. The citation may be reissued only once, only to the registered owner and only if the jurisdiction verifies that the registered owner appears to have been the driver at the time of the violation. A registered owner may not submit a certificate of innocence in response to a reissued citation.

(b) If a business or public agency responds to a citation issued under subsection (1) of this section by submitting, within 30 days from the mailing of the citation, a certificate of nonliability stating that at the time of the alleged speeding violation the vehicle was in the custody and control of an employee, or was in the custody and control of a renter or lessee under the terms of a rental agreement or lease, and if the business or public agency provides the driver license number, name and address of the employee, renter or lessee, the citation shall be dismissed with respect to the

business or public agency. The citation may then be issued and delivered by mail or otherwise to the employee, renter or lessee identified in the certificate of nonliability.

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

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

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

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

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

Passed by House February 28, 2013

Received by Governor:

Repassed by House June 5, 2013

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Approved:

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Ramona J. Line, Chief Clerk of House

.....M.,....., 2013

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Tina Kotek, Speaker of House

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John Kitzhaber, Governor

Passed by Senate June 3, 2013

Filed in Office of Secretary of State:

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Peter Courtney, President of Senate

.....M.,....., 2013

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Kate Brown, Secretary of State