

# 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)

## 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**.

Permits use of photo radar in highway work zones on interstate highways and when no highway workers are present.

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*].

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

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

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

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

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

19 (a) The effect of the use of photo radar on traffic safety;

20 (b) The degree of public acceptance of the use of photo radar; and

21 (c) The process of administration of the use of photo radar.

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

24 (6) As used in this section, "highway work zone" has the meaning given that term in ORS  
25 811.230.

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

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

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

**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 photo radar unit is operated by a uniformed police officer.

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (6) A registered owner, employee, renter or lessee against whom a judgment for failure to appear

1 is entered may move the court to relieve the registered owner, employee, renter or lessee from the  
2 judgment as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence,  
3 surprise or excusable neglect.

4 (7) As used in this section, "highway work zone" has the meaning given that term in ORS  
5 811.230.

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

7

---