

**A-Engrossed**  
**House Bill 3438**

Ordered by the Senate June 3  
Including Senate Amendments dated June 3

Sponsored by Representative GORSEK; Representatives DEMBROW, GOMBERG, KENY-GUYER, KOMP, LIVELY, MCKEOWN, WHISNANT, Senator MONNES ANDERSON

**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 *[any]* City of **Fairview** to operate photo radar in school zone while school is in session. Requires that police officer review video recording of conduct before signing citation.  
**Sunsets January 2, 2015.**

**A BILL FOR AN ACT**

1  
2 Relating to use of photo radar in school zones.

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

4 **SECTION 1. (1) The City of Fairview may, at its own cost, operate a photo radar unit in**  
5 **a school zone between 7 a.m. and 5 p.m. on a day when school is in session.**

6 **(2) A photo radar unit operated under this section:**

7 **(a) May not be used on controlled access highways.**

8 **(b) May not be used unless a sign is posted announcing "Traffic Laws Photo Enforced."**

9 **The sign posted under this paragraph must:**

10 **(A) Be on the street on which the photo radar unit is being operated;**

11 **(B) Be between 100 and 400 yards before the location of the photo radar unit;**

12 **(C) Be at least two feet above ground level; and**

13 **(D) If posted in a school zone not otherwise marked by a flashing light used as a traffic**  
14 **control device, indicate that school is in session.**

15 **(e) Must be capable of making a video recording of the conduct.**

16 **(3) The City of Fairview shall conduct an outcome evaluation for the purposes of sub-**  
17 **section (4) of this section that includes:**

18 **(a) The effect of the operation of the photo radar unit on traffic safety; and**

19 **(b) The degree of public acceptance of the operation of the photo radar unit.**

20 **(4) By March 1, 2015, the City of Fairview shall present to the Seventy-eighth Legislative**  
21 **Assembly the outcome evaluation conducted by the city under subsection (3) of this section**  
22 **in the manner provided in ORS 192.245.**

23 **SECTION 2. (1) Notwithstanding any other provision of law, in the jurisdiction operating**  
24 **a photo radar unit under section 1 of this 2013 Act:**

25 **(a) A citation for speeding may be issued under section 1 of this 2013 Act on the basis**  
26 **of photo radar if:**

27 **(A) The school zone has a flashing light used as a traffic control device and operated**

**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 under ORS 810.243, and the flashing light indicates that children may be arriving at or leav-  
2 ing school;

3 (B) A sign that provides drivers with information about the driver's current rate of speed  
4 is posted between 100 and 400 yards before each entrance to the school zone; and

5 (C) A police officer who has reviewed the video recording of the conduct signs the cita-  
6 tion.

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

9 (c) An individual issued a citation under this subsection may respond to the citation by  
10 submitting a certificate of innocence under subsection (3)(a) of this section or may make any  
11 other response allowed by law.

12 (d) A business or public agency issued a citation under this subsection may respond to  
13 the citation by submitting a certificate of nonliability under subsection (3)(b) of this section  
14 or may make any other response allowed by law.

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

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

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

40 (4) If the registered owner, employee, renter or lessee fails to respond to a citation issued  
41 under subsection (1) of this section, a default judgment under ORS 153.102 may be entered  
42 for failure to appear after notice has been given that the judgment will be entered.

43 (5) The penalties for and all consequences of a speeding violation initiated by the use of  
44 photo 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

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

4 SECTION 3. Sections 1 and 2 of this 2013 Act are repealed on January 2, 2015.

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