

**PROPOSED AMENDMENTS TO
HOUSE BILL 3438**

1 On page 1 of the printed bill, line 2, delete “; amending ORS 810.438 and
2 810.439”.

3 Delete lines 4 through 31 and delete pages 2 and 3 and insert:

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

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

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

9 **“(b) May not be used unless a sign is posted announcing ‘Traffic**
10 **Laws Photo Enforced.’ The sign posted under this paragraph must:**

11 **“(A) Be on the street on which the photo radar unit is being oper-**
12 **ated;**

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

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

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

18 **“(c) Must be capable of making a video recording of the conduct.**

19 **“(3) The City of Fairview shall conduct an outcome evaluation for**
20 **the purposes of subsection (4) of this section that includes:**

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

1 **“(b) The degree of public acceptance of the operation of the photo**
2 **radar unit.**

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

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

10 **“(a) A citation for speeding may be issued under section 1 of this**
11 **2013 Act on the basis of photo radar if:**

12 **“(A) The school zone has a flashing light used as a traffic control**
13 **device and operated under ORS 810.243, and the flashing light indicates**
14 **that children may be arriving at or leaving school;**

15 **“(B) A sign that provides drivers with information about the**
16 **driver’s current rate of speed is posted between 100 and 400 yards be-**
17 **fore each entrance to the school zone; and**

18 **“(C) A police officer who has reviewed the video recording of the**
19 **conduct signs the citation.**

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

23 **“(c) An individual issued a citation under this subsection may re-**
24 **spond to the citation by submitting a certificate of innocence under**
25 **subsection (3)(a) of this section or may make any other response al-**
26 **lowed by law.**

27 **“(d) A business or public agency issued a citation under this sub-**
28 **section may respond to the citation by submitting a certificate of**
29 **nonliability under subsection (3)(b) of this section or may make any**
30 **other response allowed by law.**

1 “(2) A citation issued on the basis of photo radar may be delivered
2 by mail or otherwise to the registered owner of the vehicle or to the
3 driver. The citation may be prepared on a digital medium, and the
4 signature may be electronic in accordance with the provisions of ORS
5 84.001 to 84.061.

6 “(3)(a) An individual named as the registered owner of a vehicle in
7 current records of the Department of Transportation may respond by
8 mail to a citation issued under subsection (1) of this section by sub-
9 mitting a certificate of innocence within 30 days from the mailing of
10 the citation swearing or affirming that the registered owner was not
11 the driver of the vehicle and by providing a photocopy of the registered
12 owner’s driver license. A jurisdiction that receives a certificate of in-
13 nocence under this paragraph shall dismiss the citation without re-
14 quiring a court appearance by the registered owner or any other
15 information from the registered owner other than the swearing or af-
16 firmation and the photocopy. The citation may be reissued only once,
17 only to the registered owner and only if the jurisdiction verifies that
18 the registered owner appears to have been the driver at the time of the
19 violation. A registered owner may not submit a certificate of inno-
20 cence in response to a reissued citation.

21 “(b) If a business or public agency named as the registered owner
22 of a vehicle in current records of the Department of Transportation
23 responds to a citation issued under subsection (1) of this section by
24 submitting a certificate of nonliability within 30 days from the mailing
25 of the citation stating that at the time of the alleged speeding vio-
26 lation the vehicle was in the custody and control of an employee, or
27 was in the custody and control of a renter or lessee under the terms
28 of a rental agreement or lease, and if the business or public agency
29 provides the driver license number, name and address of the employee,
30 renter or lessee, the citation shall be dismissed with respect to the

1 business or public agency. The citation may then be issued and deliv-
2 ered by mail or otherwise to the employee, renter or lessee identified
3 in the certificate of nonliability.

4 “(4) If the registered owner, employee, renter or lessee fails to re-
5 spond to a citation issued under subsection (1) of this section, a default
6 judgment under ORS 153.102 may be entered for failure to appear after
7 notice has been given that the judgment will be entered.

8 “(5) The penalties for and all consequences of a speeding violation
9 initiated by the use of photo radar are the same as for a speeding vi-
10 olation initiated by any other means.

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

16 “SECTION 3. Sections 1 and 2 of this 2013 Act are repealed on Jan-
17 uary 2, 2015.”.

18
