

Enrolled House Bill 2621

Sponsored by Representative REARDON; Representatives GORSEK, LIVELY, TAYLOR, Senators MONROE, ROSENBAUM (Presession filed.)

CHAPTER

AN ACT

Relating to photo radar; and declaring an emergency.

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

SECTION 1. (1) As used in this section, “urban high crash corridor” means a segment of highway that has an incidence rate of reported traffic crashes resulting in fatalities or serious injuries that is at least 25 percent higher than the rate for highways with the same speed limit or designated speed within the jurisdiction on average between January 1, 2006, and January 1, 2016, and for which the governing body of the city makes a finding that speeding has had a negative impact on traffic safety.

(2) Notwithstanding ORS 810.438, the City of Portland may, at its own cost, operate a fixed photo radar system on urban high crash corridors.

(3) A fixed photo radar unit operated under this section:

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

(b) May not be used unless a sign is posted announcing “Traffic Laws Photo Enforced.”

The sign posted under this paragraph must:

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

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

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

(D) Provide drivers with information about the driver’s current rate of speed; and

(E) Conform with specifications for traffic control devices approved by the Oregon Transportation Commission under ORS 810.200.

(c) Must remain in the same location for at least 180 days.

(4) The City of Portland shall, once each biennium, conduct an outcome evaluation for the purposes of subsection (5) of this section that includes:

(a) The effect of the operation of the fixed photo radar system on traffic safety;

(b) The degree of public acceptance of the operation of the fixed photo radar system; and

(c) The process of administering the use of the fixed photo radar system.

(5) By March 1 of each odd-numbered year, the City of Portland shall present to the Legislative Assembly the outcome evaluation conducted by the city under subsection (4) of this section in the manner provided in ORS 192.245.

SECTION 2. (1) Notwithstanding any other provision of law, in the jurisdiction operating a fixed photo radar system under section 1 of this 2015 Act:

(a) A citation for speeding may be issued on the basis of fixed photo radar if:

(A) A sign that provides drivers with information about the driver's current rate of speed is posted between 100 and 400 yards before the location of each fixed photo radar unit; and

(B) A police officer who has reviewed the photographic evidence of the conduct signs the citation.

(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 subsection (2) of this section.

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

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

(2) A citation issued on the basis of fixed 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) An individual named as the registered owner of a vehicle in current records of the Department of Transportation may respond by mail to a citation issued under subsection (1) of this section by submitting a certificate of innocence within 30 days from the mailing of the citation swearing or affirming that the registered owner was not the driver of the vehicle and by providing a photocopy of the registered 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 named as the registered owner of a vehicle in current records of the Department of Transportation responds to a citation issued under subsection (1) of this section by submitting an affidavit of nonliability within 30 days from the mailing of the citation 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 affidavit of nonliability.

(4) If the registered owner, employee, renter or lessee fails to respond to a citation issued under 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 fixed 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.

SECTION 3. Notwithstanding ORS 153.675, all of the amounts paid to the City of Portland under ORS 153.640 from citations issued under section 2 of this 2015 Act may be used only for the costs of operating and maintaining fixed photo radar units in urban high crash cor-

ridors, as defined in section 1 of this 2015 Act, and for improving traffic safety for all modes of transportation.

SECTION 4. Sections 1, 2 and 3 of this 2015 Act are repealed on January 2, 2024.

SECTION 5. In addition to and not in lieu of any other appropriation, there is appropriated to the Judicial Department, for the biennium beginning July 1, 2015, out of the General Fund, the amount of \$1,250,000, which may be expended for the Multnomah County Circuit Court Violations Bureau.

SECTION 6. (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Emergency Board, for the biennium beginning July 1, 2015, out of the General Fund, the amount of \$1,000,000 to be allocated to the Judicial Department for the Multnomah County Circuit Court Violations Bureau.

(2) If any moneys appropriated by subsection (1) of this section are not allocated by the Emergency Board prior to December 1, 2016, the moneys remaining on that date become available for any purpose for which the Emergency Board lawfully may allocate funds.

SECTION 7. Sections 1 to 4 of this 2015 Act become operative on January 1, 2016.

SECTION 8. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by House June 30, 2015

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate July 3, 2015

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State