

HOUSE AMENDMENTS TO HOUSE BILL 4105

By COMMITTEE ON RULES

February 9

1 On page 1 of the printed bill, delete lines 4 through 30 and delete pages 2 through 6 and insert:

2 “**SECTION 1.** ORS 810.436 is amended to read:

3 “810.436. (1) Notwithstanding any other provision of law, if a city chooses to operate a camera
4 that complies with this section and ORS 810.434, a citation for violation of ORS 811.265 may be is-
5 sued on the basis of photographs from a camera taken without the presence of a police officer if the
6 following conditions are met:

7 “(a) Signs are posted, so far as is practicable, on all major routes entering the jurisdiction in-
8 dicating that compliance with traffic control devices is enforced through cameras.

9 “(b) For each traffic control device at which a camera is installed, signs indicating that a cam-
10 era may be in operation at the device are posted before the device at a location near the device.

11 “(c) If the traffic control device is a traffic light, the yellow light shows for at least the length
12 of time recommended by the standard set by the Institute of Transportation Engineers.

13 “(d) The citation is mailed to the registered owner of the vehicle, or to the driver if identifiable,
14 within 10 business days of the alleged violation.

15 “(e) The registered owner is given 30 days from the date the citation is mailed to respond to the
16 citation.

17 “(f) A police officer **or a duly authorized traffic enforcement agent** who has reviewed the
18 photograph signs the citation. The citation may be prepared on a digital medium, and the signature
19 may be electronic in accordance with the provisions of ORS 84.001 to 84.061.

20 “(2) Notwithstanding subsection (1) of this section, if the city issues a citation under ORS
21 810.437 for exceeding the speed limit under ORS 811.111 or designated speed posted under ORS
22 810.180 by 11 to 20 miles per hour, the city may not issue a citation under this section for violation
23 of ORS 811.265 arising out of the same criminal episode, as defined in ORS 131.505.

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

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

30 “(5) A person issued a citation under subsection (1) of this section may respond to the citation
31 by submitting a certificate of innocence or a certificate of nonliability under subsection (7) of this
32 section or any other response allowed by law.

33 “(6) A citation for violation of ORS 811.265 issued on the basis of photographs from a camera
34 installed as provided in this section and ORS 810.434 may be delivered by mail or otherwise to the
35 registered owner of the vehicle or to the driver if the driver is identifiable from the photograph.

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

11 “(b) If a business or public agency responds to a citation issued under subsection (1) of this
12 section by submitting, within 30 days from the mailing of the citation, a certificate of nonliability
13 stating that at the time of the alleged violation the vehicle was in the custody and control of an
14 employee or was in the custody and control of a renter or lessee under the terms of a motor vehicle
15 rental agreement or lease, and if the business or public agency provides the driver license number,
16 name and address of the employee, renter or lessee, the citation shall be dismissed with respect to
17 the business or public agency. The citation may then be reissued and delivered by mail or otherwise
18 to the employee, renter or lessee identified in the certificate of nonliability.

19 “(8) The penalties for and all consequences of a violation of ORS 811.265 initiated by the use
20 of a camera installed as provided in this section and ORS 810.434 are the same as for a violation
21 initiated by any other means.

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

26 “(10)(a) As used in this section, ‘duly authorized traffic enforcement agent’ means an
27 individual who:

28 “(A) Is employed, appointed and duly sworn in by the governing body of the incorporated
29 city in which the agent performs the agent’s duties; and

30 “(B) Has completed all necessary technical, administrative and other training to review
31 photographs and issue citations under this section.

32 “(b) Duly authorized traffic enforcement agents are not police officers.

33 “SECTION 2. ORS 810.437 is amended to read:

34 “810.437. (1) Notwithstanding any other provision of law, if a city chooses to operate cameras
35 that comply with this section and ORS 810.434, a citation for speeding may be issued on the basis
36 of photographs from a camera and other technology, including but not limited to sensors, that
37 measure the speed of a vehicle without the presence of a police officer if the following conditions
38 are met:

39 “(a) Signs are posted, so far as is practicable, on all major routes entering the jurisdiction in-
40 dicating that compliance with traffic laws is enforced through cameras and other technology.

41 “(b) For each traffic control device at which a camera is installed, signs indicating that a cam-
42 era system may be in operation at the traffic control device are posted before the device at a lo-
43 cation near the device.

44 “(c) The citation is mailed to the registered owner of the vehicle, or to the driver if identifiable,
45 within 10 business days of the alleged violation.

1 “(d) The registered owner is given 30 days from the date the citation is delivered to respond to
2 the citation.

3 “(e) A police officer **or a duly authorized traffic enforcement agent** who has reviewed the
4 photograph and other data signs the citation. The citation may be prepared on a digital medium, and
5 the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061.

6 “(f) The person exceeded the speed limit or designated speed by 11 miles per hour or greater.

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

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

13 “(4) A person issued a citation under subsection (1) of this section may respond to the citation
14 by submitting a certificate of innocence or a certificate of nonliability under subsection (6) of this
15 section or any other response allowed by law.

16 “(5) A citation issued under this section on the basis of photographs from a camera installed as
17 provided in this section and ORS 810.434 may be delivered by mail or otherwise to the registered
18 owner of the vehicle or to the driver if the driver is identifiable from the photograph.

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

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

37 “(7) The penalties for and all consequences of a speeding violation initiated by the use of a
38 camera installed as provided in this section and ORS 810.434 are the same as for a violation initi-
39 ated by any other means.

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

44 “(9)(a) **As used in this section, ‘duly authorized traffic enforcement agent’ means an in-**
45 **dividual who:**

1 “(A) Is employed, appointed and duly sworn in by the governing body of the incorporated
2 city in which the agent performs the agent’s duties; and

3 “(B) Has completed all necessary technical, administrative and other training to review
4 photographs and other data and issue citations under this section.

5 “(b) Duly authorized traffic enforcement agents are not police officers.

6 “**SECTION 3.** ORS 810.444 is amended to read:

7 “810.444. (1) Notwithstanding any other provision of law, in the jurisdiction operating a fixed
8 photo radar system under ORS 810.443:

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

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

12 “(B) A police officer **or a duly authorized traffic enforcement agent** who has reviewed the
13 photographic evidence of the conduct signs the citation.

14 “(b) A rebuttable presumption exists that the registered owner of the vehicle was the driver of
15 the vehicle when the citation is issued and delivered as provided in subsection (2) of this section.

16 “(c) An individual issued a citation under this subsection may respond to the citation by sub-
17 mitting a certificate of innocence under subsection (3)(a) of this section or may make any other re-
18 sponse allowed by law.

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

22 “(2) A citation issued on the basis of fixed photo radar may be delivered by mail or otherwise
23 to the registered owner of the vehicle or to the driver. The citation may be prepared on a digital
24 medium, and the signature may be electronic in accordance with the provisions of ORS 84.001 to
25 84.061.

26 “(3)(a) An individual named as the registered owner of a vehicle in current records of the De-
27 partment of Transportation may respond by mail to a citation issued under subsection (1) of this
28 section by submitting a certificate of innocence within 30 days from the mailing of the citation
29 swearing or affirming that the registered owner was not the driver of the vehicle and by providing
30 a photocopy of the registered owner’s driver license. A jurisdiction that receives a certificate of
31 innocence under this paragraph shall dismiss the citation without requiring a court appearance by
32 the registered owner or any other information from the registered owner other than the swearing
33 or affirmation and the photocopy. The citation may be reissued only once, only to the registered
34 owner and only if the jurisdiction verifies that the registered owner appears to have been the driver
35 at the time of the violation. A registered owner may not submit a certificate of innocence in re-
36 sponse to a reissued citation.

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

1 “(4) If the registered owner, employee, renter or lessee fails to respond to a citation issued un-
2 der this section, a default judgment under ORS 153.102 may be entered for failure to appear after
3 notice has been given that the judgment will be entered.

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

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

10 “(7)(a) As used in this section, ‘duly authorized traffic enforcement agent’ means an in-
11 dividual who:

12 “(A) Is employed, appointed and duly sworn in by the governing body of the incorporated
13 city in which the agent performs the agent’s duties; and

14 “(B) Has completed all necessary technical, administrative and other training to review
15 photographs and issue citations under this section.

16 “(b) Duly authorized traffic enforcement agents are not police officers.

17 “SECTION 4. ORS 153.083 is amended to read:

18 “153.083. (1) Notwithstanding ORS 9.160 and 9.320, in any trial of a violation, whether created
19 by ordinance or statute, in which a city attorney or district attorney does not appear, the peace
20 officer **or the duly authorized traffic enforcement agent** who issued the citation for the offense
21 may present evidence, examine and cross-examine witnesses and make arguments relating to:

22 “[1] (a) The application of statutes and rules to the facts in the case;

23 “[2] (b) The literal meaning of the statutes or rules at issue in the case;

24 “[3] (c) The admissibility of evidence; and

25 “[4] (d) Proper procedures to be used in the trial.

26 “(2)(a) As used in this section, ‘duly authorized traffic enforcement agent’ means an in-
27 dividual who:

28 “(A) Is employed, appointed and duly sworn in by the governing body of the incorporated
29 city in which the agent performs the agent’s duties; and

30 “(B) Has completed all necessary technical, administrative and other training to review
31 photographs and issue citations under ORS 810.436, 810.437 or 810.444.

32 “(b) Duly authorized traffic enforcement agents are not police officers as defined in
33 801.395.”.