

House Bill 4081

Sponsored by Representative MCLAIN, Senators NERON MISSLIN, FREDERICK, Representative WATANABE; Representatives BOWMAN, DOBSON, HELM, MANNIX, MARSH, OWENS, Senator WEBER (Presession filed.)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Makes changes to the highway worker photo radar laws. (Flesch Readability Score: 66.1).

Makes changes to the highway worker photo radar laws.

1 A BILL FOR AN ACT

2 Relating to photo radar in highway work zones; amending ORS 810.441 and 810.442.

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

4 **SECTION 1.** ORS 810.441 is amended to read:

5 810.441. [(1) *The Department of Transportation may operate photo radar within a highway work*
6 *zone that is located on a state highway. The photo radar unit may be operated only:*]

7 *[(a) In the area within a highway work zone when highway workers, as defined in ORS 811.230,*
8 *are present. The photo radar unit may not be operated in a location more than 100 yards from where*
9 *highway workers are present and, in the case of a divided state highway, the photo radar unit must*
10 *be located on the same roadway where highway workers are present.]*

11 *[(b) When the configuration of the roadway is temporarily changed, including but not limited to*
12 *temporary changes made to the number of usable lanes, lane width, shoulder width or curvature of the*
13 *roadway. The photo radar unit may not be operated in a location more than 100 yards from where the*
14 *configuration of the roadway is temporarily changed and, in the case of a divided state highway, the*
15 *photo radar unit must be located on the same roadway where the highway configuration is temporarily*
16 *changed.]*

17 *[(2) The department, at its own cost, may ask a jurisdiction authorized to operate photo radar un-*
18 *der ORS 810.438 (1) or the Oregon State Police to operate a photo radar unit in a highway work zone*
19 *on a state highway.]*

20 *[(3) A photo radar unit operated under this section may not be used unless a sign is posted an-*
21 *nouncing that photo radar is in use. The sign posted under this subsection must be all of the*
22 *following:]*

23 *[(a) Located on the state highway on which the photo radar unit is being used.]*

24 *[(b) Between 100 and 400 yards before the location of the photo radar unit.]*

25 **(1) The Department of Transportation shall, in collaboration with the Oregon State Po-**
26 **lice, establish a highway worker photo radar program and operate photo radar units within**
27 **highway work zones that are located on state highways. The department is responsible for**
28 **procuring and administering contracts necessary to:**

29 **(a) Implement the program, which includes but is not limited to contracts for photo ra-**
30 **dar units, training and administration; and**

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 **(b) Ensure the photo radar units:**

2 (A) Measure vehicle speed within the accuracy tolerance level determined by the Oregon

3 State Police;

4 (B) Produce clear digital images that show the motor vehicle, registration plate, date,

5 time, location, recorded speed and individual driving the vehicle;

6 (C) Are regularly inspected by a qualified technician no less than once every 60 days;

7 (D) Are installed and operating properly; and

8 (E) Are calibrated in accordance with the manufacturer's instructions, and at least once

9 per year by an independent calibration laboratory.

10 (2) The photo radar units may be operated only in the area within a highway work zone

11 when highway workers, as defined in ORS 811.230, are present and, in the case of a divided

12 state highway, the photo radar unit must be located on the same roadway where highway

13 workers are present.

14 (3) A photo radar unit operated under this section may not be used unless a sign is

15 posted announcing that photo radar is in use. The sign posted under this subsection must

16 be:

17 (a) Located on the state highway on which the photo radar unit is being used; and

18 (b) Within one mile of the location of the photo radar unit or the highway work zone in

19 which the photo radar unit is in use.

20 (4) The department shall, once each biennium, conduct a process and outcome evaluation for the

21 purposes of subsection (5) of this section that includes:

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

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

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

25 (5) The department shall report to the Legislative Assembly by March 1 of each odd-numbered

26 year.

27 (6) Before March 1 of any year in which photo radar units will be deployed under this

28 section, the department shall notify the Judicial Department of the number of photo radar

29 units that are intended to be deployed over the following 12 months, the counties within

30 which the photo radar units are likely to be deployed and the number of citations expected

31 to be issued based on traffic volume and expected driver behavior.

32 [(6)] (7) As used in this section, "highway work zone" has the meaning given that term in ORS

33 811.230.

34 **SECTION 2.** ORS 810.442 is amended to read:

35 810.442. (1) Notwithstanding any other provision of law, when [*a jurisdiction or the Oregon State*

36 *Police uses*] photo radar is used pursuant to ORS 810.441 in a highway work zone:

37 (a) A citation for speeding may be issued on the basis of photo radar if the following conditions

38 are met:

39 [(A) *The photo radar unit is operated by a uniformed police officer.*]

40 [(B) *The photo radar unit is operated out of a marked police vehicle.*]

41 [(C) *An indication of the actual speed of the vehicle is displayed within 150 feet of the location of*

42 *the photo radar unit.*]

43 (A) A police officer has reviewed the photographic evidence of the conduct and signs the

44 citation.

45 (B) The person operating the vehicle exceeded the speed limit or designated speed by six

1 **miles per hour or greater.**

2 **(C) A sign is posted that indicates that photo radar is in use and the sign meets the re-**
3 **quirements described in ORS 810.441.**

4 (D) The citation is mailed to the registered owner of the vehicle within [six business] 30 days
5 of the alleged violation.

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

8 *[(F)(i) One or more highway workers, as defined in ORS 811.230, are present and the photo radar*
9 *unit is operated within 100 yards from where highway workers are present and located on the same*
10 *roadway where highway workers are present; or]*

11 *[(ii) The configuration of the roadway is temporarily changed within the highway work zone, in-*
12 *cluding but not limited to temporary changes made to the number of usable lanes, lane width, shoulder*
13 *width or curvature of the roadway, and the photo radar unit is operated within 100 yards from where*
14 *the configuration of the roadway is temporarily changed and located on the same roadway where the*
15 *highway configuration is temporarily changed.]*

16 [(G)] (F) The [jurisdiction operating photo radar] **Oregon State Police** complies with the re-

17 quirements described in ORS 810.441.

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

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

23 (2) A citation issued on the basis of photo radar may be delivered by mail or otherwise to the
24 registered owner of the vehicle or to the driver. The citation may be prepared on a digital medium
25 and the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061. **The**
26 **Oregon State Police is responsible for accurately transmitting citations, and corresponding**
27 **data and evidence, issued under this section to the Judicial Department for processing. The**
28 **Oregon State Police shall include in the citations information that allows courts to identify**
29 **that the citations were issued under this section.**

30 (3)(a) A registered owner of a vehicle may respond by mail to a citation issued under subsection
31 (1) of this section by submitting, within 30 days from the mailing of the citation, a certificate of in-
32 nocence swearing or affirming that the owner was not the driver of the vehicle and by providing a
33 photocopy of the owner's driver license. *[A jurisdiction that receives a certificate of innocence under*
34 *this paragraph] If it reasonably appears that the registered owner was not the driver at the*
35 *time of the violation, the court* shall dismiss the citation without requiring a court appearance
36 by the registered owner or any other information from the registered owner *[other than the swearing*
37 *or affirmation and the photocopy].* The citation may be reissued only once, only to the registered
38 owner and only if the [jurisdiction] **court** verifies that the registered owner appears to have been
39 the driver at the time of the violation. A registered owner may not submit a certificate of innocence
40 in response to a reissued citation.

41 (b) If a business or public agency responds to a citation issued under subsection (1) of this sec-
42 tion by submitting, within 30 days from the mailing of the citation, a certificate of nonliability
43 stating that at the time of the alleged speeding violation the vehicle was in the custody and control
44 of an employee, or was in the custody and control of a renter or lessee under the terms of a rental
45 agreement or lease, and if the business or public agency provides the driver license number, name

1 and address of the employee, renter or lessee, the citation shall be dismissed with respect to the
2 business or public agency. The citation may then be issued and delivered by mail or otherwise to
3 the employee, renter or lessee identified in the certificate of nonliability.

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

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

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

14 (7) As used in this section, "highway work zone" has the meaning given that term in ORS
15 811.230.

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