GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2001

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SENATE BILL 857 Judiciary II Committee Substitute Adopted 4/24/01

Short Title: Charlotte Photo Radar. (Public)
Sponsors:
Referred to:
April 4, 2001
A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE LOCAL GOVERNMENTS TO USE PHOTOGRAPHIC
SPEED-MEASURING SYSTEMS TO ESTABLISH SPEED LIMIT AND
SCHOOL ZONE SPEED LIMIT VIOLATIONS AND TO AUTHORIZE THE
NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING
STANDARDS COMMISSION AND THE SECRETARY OF CRIME CONTROL
AND PUBLIC SAFETY TO APPROVE STANDARDS FOR THE
PHOTOGRAPHIC SPEED-MEASURING SYSTEMS.
The General Assembly of North Carolina enacts:
SECTION 1. Chapter 160A of the General Statutes is amended by adding a
new section to read:
"§ 160A-300.2. Use of photographic speed-measuring systems.
(a) A photographic speed-measuring system is a speed-measuring instrument or
system which works in conjunction with a photographic, video, or electronic camera to
automatically measure the speed and produce photographs, video, or digital images of
vehicles violating a speed limit or speed restriction.
(b) A photographic speed-measuring system shall be approved, calibrated, and
tested for accuracy in accordance with G.S. 8-50.3.
(c) Any photographic speed-measuring system shall be monitored by a sworn
law enforcement officer during all times the system is actively in use.
(d) Any photographic speed-measuring system installed or in use on a street or highway must be identified by appropriate advance warning signs conspicuously posted
not more than 1,000 feet from the location of the photographic speed-measuring system. All advance warning signs shall be consistent with a statewide standard adopted by the
Department of Transportation.
(e) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-141
and G.S. 20-141.1 by means of a photographic speed-measuring system.

Notwithstanding the provisions of G.S. 20-141, 20-141.1, and 20-176, in the event that

a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-141

1 or G.S. 20-141.1 detected by a photographic speed-measuring system shall not be an 2 infraction or misdemeanor. An ordinance authorized by this subsection shall provide 3 that: 4 <u>(1)</u> The owner of a vehicle shall be responsible for a violation unless the 5 owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner 6 7 of the vehicle shall not be responsible for the violation if the owner of 8 the vehicle, within 21 days after notification of violation, furnishes the 9 officials or agents of the municipality which issued the citation: The name and address of the person or company who leased, 10 11 rented, or otherwise had the care, custody, and control of the 12 vehicle; or 13 An affidavit stating that the vehicle involved was, at the time, <u>b.</u> 14 stolen or in the care, custody, or control of some person who 15 did not have permission of the owner to use the vehicle. 16 **(2)** A violation detected by a photographic speed-measuring system shall be deemed a noncriminal violation for which a civil penalty of fifty 17 18 dollars (\$50.00) shall be assessed and for which no points authorized 19 by G.S. 20-16(c) or G.S. 58-36-65 shall be assigned to the owner or 20 driver of the vehicle. 21 The owner of the vehicle shall be issued a citation which shall clearly (3) 22 state the manner in which the violation may be challenged. The 23 citation shall be processed by officials or agents of the municipality 24 and shall be forwarded by personal service or first-class mail to the address given on the motor vehicle registration. If the owner fails to 25 26 pay the civil penalty or to respond to the citation within the time period 27 specified on the citation, the owner shall have waived the right to contest responsibility for the violation and shall be subject to an 28 29 additional civil penalty not to exceed fifty dollars (\$50.00). The 30 municipality may establish procedures for the collection of these 31 penalties and may recover the penalties by civil action in the nature of 32 debt. The municipality shall provide a nonjudicial administrative hearing 33 <u>(4)</u> 34 process to review objections to citations or penalties issued or assessed 35 under this section. An administrative hearing decision shall be subject 36 to review by the superior court by proceedings in the nature of 37 certiorari. Any petition for review by the superior court shall be filed 38 with the clerk of superior court within 30 days after the administrative 39 hearing decision. 40 After reasonable deduction of costs for administration, the proceeds of <u>(5)</u> 41 all civil penalties paid shall be paid to the Charlotte-Mecklenburg local 42

school administrative unit."

1 **SECTION 2.** Chapter 8 of the General Statutes is amended by adding a new 2 section to read: 3 "§ 8-50.3. Results of photographic speed-measuring instruments; admissibility. 4 (a) The results of the use of a photographic speed-measuring system as described 5 in G.S. 160A-300.2(a) shall be admissible as evidence in a nonjudicial administrative 6 hearing held pursuant to G.S. 160A-300.2(e)(4) for the purpose of establishing the 7 speed of the vehicle detected. Notwithstanding the provisions of subsection (a) of this section, the results of 8 9 a photographic speed-measuring system are not admissible unless it is found that: The photographic speed-measuring system employed was approved for 10 (1) use by the North Carolina Criminal Justice Education and Training 11 12 Standards Commission (hereinafter referred to as the Commission) and 13 the Secretary of Crime Control and Public Safety (hereinafter referred 14 to as Secretary) pursuant to G.S. 17C-6. The photographic speed-measuring system had been calibrated and 15 (2) tested for accuracy in accordance with the standards established by the 16 17 Commission and Secretary for that particular system. 18 At the time the results were obtained, the photographic speed-**(3)** 19 measuring system was being monitored by a sworn law enforcement 20 officer. 21 All photographic speed-measuring systems shall be calibrated and tested in (c) 22 accordance with standards established by the Commission and Secretary. A written certificate by a technician certified by the Commission showing that a test was made 23 24 within the required testing period and that the system was accurate shall be competent 25 and prima facie evidence of those facts in a nonjudicial administrative hearing held 26 pursuant to G.S. 160A-300.2(e)(4). 27 In every nonjudicial administrative hearing held pursuant to G.S. 160A-(d) 28 300.2(e)(4), where the results of a photographic speed-measuring system are sought to 29 be admitted, notice shall be taken of the rules approving the photographic speed-

SECTION 3. G.S. 17C-6(a) is amended by adding a new subdivision to read:

measuring system and the procedures for calibration or testing for accuracy of such

"(13a) In conjunction with the Secretary of Crime Control and Public Safety, approve use of specific models and types of photographic speed-measuring systems as described in G.S. 160A-300.2(a) and establish the standards for calibration and testing for accuracy of each approved system."

SECTION 4. Section 1 of this act applies to the City of Charlotte only.

SECTION 5. This act is effective when it becomes law.

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