

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 562
Committee Substitute Favorable 4/28/03
Senate Judiciary I Committee Substitute Adopted 5/20/03

Short Title: Charlotte Photo Speed-Measuring Systems.

(Public)

Sponsors:

Referred to:

March 20, 2003

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE THE CITY OF CHARLOTTE TO USE PHOTOGRAPHIC
3 SPEED-MEASURING SYSTEMS DURING A THREE-YEAR PILOT PROGRAM
4 IN DESIGNATED CORRIDORS; TO AUTHORIZE THE CITY OF CHARLOTTE
5 TO ESTABLISH CIVIL PENALTIES FOR SPEED LIMIT AND SCHOOL ZONE
6 SPEED LIMIT VIOLATIONS; AND TO AUTHORIZE THE NORTH CAROLINA
7 CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS
8 COMMISSION AND THE SECRETARY OF CRIME CONTROL AND PUBLIC
9 SAFETY TO APPROVE STANDARDS FOR THE PHOTOGRAPHIC
10 SPEED-MEASURING SYSTEMS.

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** Chapter 160A of the General Statutes is amended by adding a
13 new section to read:

14 **"§ 160A-300.4. Use of photographic speed-measuring systems.**

15 (a) A photographic speed-measuring system is a speed-measuring system that
16 works in conjunction with a photographic, video, or electronic camera to automatically
17 measure the speed and produce photographs, video, or digital images of vehicles
18 violating a speed limit or speed restriction.

19 (b) A photographic speed-measuring system shall be approved, calibrated, and
20 tested for accuracy in accordance with G.S. 8-50.3.

21 (c) A photographic speed-measuring system shall be monitored by a sworn law
22 enforcement officer at all times that the system is actively in use.

23 (d) Any photographic speed-measuring system installed or in use on a street or
24 highway shall be identified by appropriate advance warning signs conspicuously posted
25 not more than 1,000 feet from the location of a photographic speed-measuring system.
26 All advance warning signs shall be consistent with a statewide standard adopted by the
27 Department of Transportation.

1 (e) A municipality may adopt ordinances for the civil enforcement of G.S.
2 20-141 and G.S. 20-141.1 by means of a photographic speed-measuring system.
3 Notwithstanding the provisions of G.S. 20-141, 20-141.1, and 20-176, in the event that
4 a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-141
5 or G.S. 20-141.1 detected by a photographic speed-measuring system shall not be an
6 infraction or misdemeanor. An ordinance authorized by this subsection shall provide
7 that:

8 (1) The owner of a vehicle shall be responsible for a violation unless the
9 owner can furnish evidence that the vehicle was, at the time of the
10 violation, in the care, custody, or control of another person. The owner
11 of the vehicle shall not be responsible for the violation if the owner of
12 the vehicle furnishes, within 21 days of notification of the violation, to
13 the officials or agents of the municipality that issued the citation either
14 of the following:

- 15 a. The name and address of the person or company who leased,
16 rented, or otherwise had the care, custody, or control of the
17 vehicle.
18 b. An affidavit stating that the vehicle involved was, at the time of
19 the violation, stolen or in the care, custody, or control of some
20 person who did not have permission of the owner to use the
21 vehicle.

22 (2) A violation detected by a photographic speed-measuring system shall
23 be deemed a noncriminal violation for which a civil penalty of fifty
24 dollars (\$50.00) shall be assessed and for which no points authorized
25 by G.S. 20-16(c) or G.S. 58-36-65 shall be assigned to the owner or
26 driver of the vehicle.

27 (3) The owner of the vehicle shall be issued a citation, written in both
28 English and Spanish, clearly stating the manner in which the violation
29 may be challenged and containing both a street address within the
30 municipality and a local or toll-free telephone number at which the
31 owner may challenge the citation. The citation shall be processed by
32 officials or agents of the municipality and shall be forwarded by
33 personal service or first-class mail to the address given on the motor
34 vehicle registration. If the owner fails to pay the civil penalty or to
35 respond to the citation within the time period specified on the citation,
36 the owner shall have waived the right to contest responsibility for the
37 violation and shall be subject to an additional penalty not to exceed
38 fifty dollars (\$50.00). The municipality may establish procedures for
39 the collection of these penalties and may recover the penalties by civil
40 action in the nature of debt.

41 (4) The municipality shall provide a nonjudicial administrative hearing
42 process to review objections to citations or penalties issued or assessed
43 under this section. The administrative hearing process shall include
44 methods for challenging the violation or penalty either in person, at the

1 street address provided on the citation, or through the telephone, at the
2 telephone number provided on the citation. The municipality shall
3 ensure that a Spanish-speaking person is available both at the street
4 address and through the telephone number to assist Spanish-speaking
5 persons. An administrative hearing decision shall be subject to review
6 by the superior court by proceedings in the nature of certiorari. Any
7 petition for review by the superior court shall be filed with the clerk of
8 superior court within 30 days after the administrative hearing decision.

9 (5) The clear proceeds from the citations issued pursuant to the ordinance
10 authorized by this section shall be paid to the county school fund. The
11 clear proceeds from the citations shall mean the funds remaining after
12 paying for the lease, lease-purchase, or purchase of the photographic
13 speed-measuring system; paying for operation of the system, either by
14 the municipality or by a contractor; paying for a program to provide
15 public awareness of the system; and paying any administrative costs
16 incurred by the municipality related to the use of the system."

17 **SECTION 2.** Chapter 8 of the General Statutes is amended by adding a new
18 section to read:

19 **"§ 8-50.3. Results of photographic speed-measuring instruments; admissibility.**

20 (a) The results of the use of a photographic speed-measuring system as described
21 in G.S. 160A-300.4 shall be admissible as evidence in a nonjudicial administrative
22 hearing held pursuant to G.S. 160A-300.4(e)(4) for the purpose of establishing the
23 speed of the vehicle detected.

24 (b) Notwithstanding the provisions of subsection (a) of this section, the results of
25 a photographic speed-measuring system are not admissible unless all of the following
26 are established:

27 (1) The photographic speed-measuring system employed was approved for
28 use by the North Carolina Criminal Justice Education and Training
29 Standards Commission and the Secretary of Crime Control and Public
30 Safety pursuant to G.S. 17C-6.

31 (2) The photographic speed-measuring system had been calibrated and
32 tested for accuracy in accordance with the standards established by the
33 North Carolina Criminal Justice Education and Training Standards
34 Commission and the Secretary of Crime Control and Public Safety for
35 that particular system.

36 (3) At the time the results were obtained, the photographic
37 speed-measuring system was being monitored by a sworn law
38 enforcement officer who has been certified by the North Carolina
39 Criminal Justice Education and Training Standards Commission under
40 G.S. 17-6(a).

41 (c) All photographic speed-measuring systems shall be calibrated and tested in
42 accordance with standards established by the North Carolina Criminal Justice Education
43 and Training Standards Commission and the Secretary of Crime Control and Public
44 Safety. A written certificate by a technician certified by the North Carolina Criminal

1 Justice Education and Training Standards Commission showing that a test was made
2 within the required testing period and that the system was accurate shall be competent
3 and prima facie evidence of those facts in a nonjudicial administrative hearing held
4 pursuant to G.S. 160A-300.4(e)(4).

5 (d) In every nonjudicial administrative hearing held pursuant to G.S.
6 160A-300.4(e)(4), where the results of a photographic speed-measuring system are
7 sought to be admitted, notice shall be taken of the rules approving the photographic
8 speed-measuring system and the procedures for calibration or testing for accuracy of the
9 system."

10 **SECTION 3.** G.S. 17C-6(a) reads as rewritten:

11 "(a) In addition to powers conferred upon the Commission elsewhere in this
12 Chapter, the Commission shall have the following powers, which shall be enforceable
13 through its rules and regulations, certification procedures, or the provisions of G.S.
14 17C-10:

15 ...

16 (13a) In conjunction with the Secretary of Crime Control and Public Safety,
17 approve use of specific models and types of photographic
18 speed-measuring systems as described in G.S. 160A-300.4(a) and
19 establish the standards for calibration and testing for accuracy of each
20 approved system."

21 **SECTION 4.** Section 1 of this act applies to the City of Charlotte only, and
22 the photographic speed-measuring systems may only be used in the following corridors:

- 23 (1) South Boulevard between Interstate 485 and Scaleybark.
- 24 (2) Independence between Briarcreek and Sardis Road North.
- 25 (3) East W.T. Harris between The Plaza and Idlewild.
- 26 (4) Tryon Street from 36th to Orr Road.
- 27 (5) Tryon Street from Mallard Creek Church Road and University City
28 Boulevard.
- 29 (6) Eastway between Independence and Sugar Creek.
- 30 (7) West W.T. Harris between North Tryon Street and Technology Drive.
- 31 (8) Albemarle Road between Independence and Lawyers.
- 32 (9) Central between Albemarle and Briar Creek.
- 33 (10) Monroe Road between Sardis Road North and Wendover.
- 34 (11) Providence between McKee and Providence Country Club.
- 35 (12) Highway 51 between Park Road and Alexander Road.
- 36 (13) Sharon Amity between Lyttleton Drive and East W.T. Harris.
- 37 (14) Billy Graham Parkway between Interstate 85 and Woodlawn.

38 **SECTION 5.** This act becomes effective July 1, 2003, and expires June 30,
39 2006.