

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL DRS45212-ML-37 (01/11)

Short Title: Durham Speed Device Pilot/School Zones. (Local)

Sponsors: Senator McKissick (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF DURHAM TO ESTABLISH A PILOT PROGRAM FOR THE USE OF ELECTRONIC SPEED-MEASURING SYSTEMS TO DETECT SPEED LIMIT VIOLATIONS IN SCHOOL ZONES.

The General Assembly of North Carolina enacts:

SECTION 1. Definition. – For purposes of this act, the term "electronic speed-measuring system" means a mobile or fixed device (i) consisting of an automated traffic camera and sensor and (ii) capable of measuring speed and producing one or more digital photographs of a motor vehicle violating the speed limit set in a school zone pursuant to G.S. 20-141.1.

SECTION 2. Authorization for Pilot Program. – By no later than December 1, 2018, the City of Durham may establish and implement a pilot program to use electronic speed-measuring systems to detect violations of the speed limit set in school zones pursuant to G.S. 20-141.1.

SECTION 3. Minimum Standards. – An electronic speed-measuring system authorized for use by this act shall produce at least one photograph that clearly shows a recorded image of the vehicle speeding; the vehicle registration number and state of issuance; the date, time, and location of the violation; and the recorded speed.

SECTION 4. Signage. – The City of Durham shall provide notice of the presence of an electronic speed-measuring system by posting a conspicuous warning sign not more than 1,000 feet from the location of the system.

SECTION 5. Penalty. – Except as provided by Section 10 of this act, a violation of a speed limit set in a school zone pursuant to G.S. 20-141.1 that is detected by an electronic speed-measuring system is a noncriminal violation for which a civil penalty shall be assessed and for which no points authorized by G.S. 20-16(c) or G.S. 58-36-65 shall be assigned to the owner or driver of the vehicle. The civil penalty shall be two hundred fifty dollars (\$250.00) for a violation of a speed limit set in a school zone pursuant to G.S. 20-141.1.

SECTION 6. Notification of Violation. – Except as otherwise provided in Section 8 of this act, the City of Durham, through its officials or agents, shall issue to the registered owner of a motor vehicle cited for a speeding violation detected by an electronic speed-measuring system a notice of the violation containing all of the information listed in this section. The notice shall be delivered by first-class United States mail at the address on the current registration of the vehicle's owner and is deemed served on the registered owner five days after the mailing. The notice of the violation shall contain all of the following:

- (1) The recorded image of the vehicle speeding.
- (2) The vehicle registration number and state of issuance.



- 1 (3) The date, time, and location of the violation.
- 2 (4) The recorded speed.
- 3 (5) The process for paying the civil penalty or contesting the owner's
- 4 responsibility for the violation.

5 **SECTION 7.** Liability of Owner. – The registered owner of a vehicle cited for a
6 speeding violation detected by an electronic speed-measuring system shall be responsible for
7 any penalty imposed under this act unless, within 30 days of service of the notification of
8 violation, the owner provides to the City of Durham a sworn affidavit containing the
9 information listed in one of the subdivisions of this section. If the registered owner fails to pay
10 the civil penalty, or fails to respond to the notice, within 30 days of service of the notification
11 of violation, the owner waives the right to contest responsibility for the violation and is subject
12 to an additional civil penalty of one hundred twenty-five dollars (\$125.00).

13 The sworn affidavit shall contain one of the following:

- 14 (1) The name and address of the person who had actual physical control of the
- 15 vehicle at the time of the violation.
- 16 (2) A statement that at the time of the violation the vehicle was under the control
- 17 of a person unknown to the owner without the owner's permission. A
- 18 statement provided under this subdivision shall be accompanied by
- 19 documentation verifying that the owner reported to appropriate law
- 20 enforcement officials the theft or other loss of the vehicle not later than 48
- 21 hours after the time of the violation.

22 **SECTION 8.** Liability of Actual Operator. – If a registered owner provides an
23 affidavit containing the information set forth in subdivision (1) of Section 7 of this act, the
24 person identified in the affidavit may be issued a citation complying with the requirements of
25 Section 6 of this act and, if a citation is issued, shall be responsible for any penalty imposed
26 under this act, including the additional civil penalty of one hundred twenty-five dollars
27 (\$125.00) if the person fails to pay the civil penalty or respond to the notice within 30 days of
28 service of the notification of violation. If issued, the citation shall be sent to the address
29 provided in the affidavit.

30 **SECTION 9.** Use as Evidence in Criminal Proceeding. – Any photographs
31 recorded by an electronic speed-measuring system that capture a speeding violation in a school
32 zone shall also be provided to the investigating law enforcement agency for use as evidence in
33 any proceeding alleging a violation of G.S. 20-141.1.

34 **SECTION 10.** Notification of Criminal Charges. – If a law enforcement officer
35 cites, pursuant to G.S. 15A-302, or arrests, pursuant to G.S. 15A-401, an owner or operator of a
36 vehicle in an area where an electronic speed-measuring system is in use for detecting violations
37 of a speed limit set pursuant to G.S. 20-141.1, then the officer shall notify the City of Durham
38 within 48 hours of the citation or arrest. Upon notification, the City of Durham shall not issue a
39 notice of violation pursuant to Section 6 of this act. If it is determined that a notice of violation
40 was issued in error after proper notification, no penalty may be imposed under this act, and any
41 penalty already paid pursuant to the notice of violation shall be refunded.

42 **SECTION 11.** Administrative Hearings. – The City of Durham shall establish an
43 administrative nonjudicial hearing process to review challenges to penalties assessed under this
44 act. The hearing shall provide a full opportunity for the person charged with the violation, if
45 that person so requests, to present evidence and contest the violation.

46 **SECTION 12.** Appeal. – A person dissatisfied with the decision of the City of
47 Durham under Section 11 of this act may appeal the decision to the district court of the county
48 in which the violation occurred by filing a notice of the appeal with the clerk of superior court
49 in the county where the violation occurred within 30 days of notification of a final decision by
50 the City of Durham. An appeal under this section is for a trial de novo before the district court.

1 An appeal under this section is a civil action but may be heard in either a civil or criminal
2 session of court. An appeal of the district court's determination shall be to the Court of Appeals.

3 **SECTION 13.** Interlocal Agreement. – The City of Durham and the Durham
4 Public Schools Board of Education may enter into an interlocal agreement necessary and
5 proper to effectuate the purpose and intent of this act. Any agreement entered into pursuant to
6 this section may include provisions on cost-sharing and reimbursement that the City of Durham
7 and the Durham Public Schools Board of Education freely and voluntarily agree to for the
8 purpose of effectuating the provisions of this act. Nothing in this section shall be construed as
9 altering or superseding the requirements of Section 7 of Article IX of the North Carolina
10 Constitution.

11 **SECTION 14.** Report. – No later than three years after implementing the pilot
12 program authorized by this act, the City of Durham shall report the results of the pilot program
13 to the chairs of the Joint Legislative Transportation Oversight Committee and the chairs of the
14 Joint Legislative Oversight Committee on Justice and Public Safety. No later than one year
15 after implementing the pilot program required by this section, the State Bureau of Investigation
16 shall report the results of the pilot program to the chairs of the Joint Legislative Oversight
17 Committee on Health and Human Services and the chairs of the Joint Legislative Oversight
18 Committee on Justice and Public Safety. The report may include legislative proposals for
19 expanding the use of electronic speed-measuring systems in school zones.

20 **SECTION 15.** Expiration of the Pilot Program. – If implemented, the pilot
21 program authorized by this act expires upon the submission of the report required by Section 14
22 of this act or three years after the date of implementation of the pilot program, whichever is
23 earlier.

24 **SECTION 16.** Applicability. – This act applies to the City of Durham only.

25 **SECTION 17.** Effective Date. – This act is effective when it becomes law.