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Summary: Traffic laws

**HISTORY OF LEGISLATIVE ACTIONS**

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**VERSIONS OF THIS BILL**

[5/3/2018](file:///p:\pprever\2017-18\5371_20180503.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56‑5‑830 SO AS TO AUTHORIZE LOCAL GOVERNMENTS TO ADOPT ORDINANCES FOR THE CIVIL ENFORCEMENT OF CERTAIN TRAFFIC LAWS BY THE USE OF TRAFFIC‑CONTROL SIGNAL MONITORING SYSTEMS; TO AMEND SECTION 14‑25‑45, RELATING TO THE JURISDICTION OF SUMMARY COURTS, SO AS TO PROVIDE FOR JURISDICTION OVER NONCRIMINAL CITATIONS ISSUED PURSUANT TO SECTION 56‑5‑830; TO AMEND SECTION 56‑5‑710, RELATING TO THE POWERS OF LOCAL AUTHORITIES TO ENFORCE TRAFFIC LAWS, SO AS TO ADD THE AUTHORITY TO ADOPT ORDINANCES FOR THE CIVIL ENFORCEMENT OF CERTAIN TRAFFIC LAWS BY THE USE OF TRAFFIC‑CONTROL SIGNAL MONITORING SYSTEMS; AND TO AMEND SECTION 56‑5‑970, RELATING TO TRAFFIC‑CONTROL SIGNALS, SO AS TO PROVIDE THAT VEHICULAR TRAFFIC, WHEN SAFE, MUST SLOW DOWN IMMEDIATELY WHEN FACING A STEADY YELLOW INDICATION SIGNAL.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 5, Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56‑5‑830. (A) It is hereby found and declared as follows:

(1) the frequency of red light running within the State of South Carolina continues to increase as the number of vehicles on our roads increases;

(2) an automated red light camera program will assist state and local governments by reducing the necessity for conducting extensive conventional traffic enforcement at heavily traveled, high‑risk intersections; and

(3) based on results of similar programs, the adoption of an automated red light camera program will result in a significant reduction in the number of red light violations and accidents within the State of South Carolina.

(B) For purposes of this section, the following definitions shall apply:

(1) ‘Agency’ means both the state and local law enforcement agency primarily responsible for a traffic‑control signal operated and maintained at an intersection under its control, and the political subdivision, or law enforcement agency of the political subdivision that is authorized to issue citations for a violation of the South Carolina law or of local traffic laws or regulations.

(2) ‘Owner’ means the registered owner of a motor vehicle or a lessee of a motor vehicle under a lease of six months or more. ‘Owner’ does not include a motor vehicle rental or leasing company.

(3) ‘Recorded images’ means images recorded by a traffic‑ control signal monitoring system shown on one or more of the following:

(a) two or more photographs;

(b) two or more microphotographs;

(c) two or more electronic images;

(d) digital video; or

(e) any other medium.

Recorded images must show the traffic‑control signal on at least one image or digital video frame, clearly identify the registration plate number of the motor vehicle, and provide full evidentiary documentation, including a sequence of the front of the offending vehicle approaching the intersection.

(4) ‘Traffic‑control signal monitoring system’ means a device with one or more above ground motor vehicle sensors working in conjunction with a traffic signal to produce recorded images of motor vehicles entering the intersection against a red signal indication. The traffic‑control signal monitoring system must incorporate both a method of detecting motor vehicles entering an intersection against a red signal indication and a method of monitoring and reporting any change in the duration of the yellow phase at an enforced intersection.

(5) ‘Summary court’ means either municipal court or magistrate court.

(C) This article applies to a violation at an intersection monitored by a traffic‑control signal monitoring system.

(D) Local governments may adopt ordinances for the civil enforcement of Section 56‑5‑710 by means of traffic‑control signal monitoring systems, as described in subsection (B)(4). Notwithstanding other provisions of law, all ordinances adopted by a local governing body pursuant to this section shall comport with the provisions set forth in this section.

(E) A violation detected solely by a traffic‑control signal monitoring system is deemed a noncriminal violation for which a civil penalty shall be assessed. No court costs, assessments, or surcharges may be assessed against the owner or driver of the vehicle, and no points authorized by Section 56‑1‑720 may be assigned to the owner or driver of the vehicle. A civil penalty under this chapter may not exceed one hundred dollars.

(F) Subject to the provisions of this section:

(1) an agency shall mail, by certified mail, to the owner liable under this section a citation, which shall include all of the following:

(a) the name and address of the registered owner of the vehicle;

(b) the registration number of the motor vehicle involved in the violation;

(c) the violation charged;

(d) the location of the intersection;

(e) the date and time of the violation;

(f) a copy of the recorded images;

(g) the amount of the civil penalty imposed, and the date by which the civil penalty should be paid;

(h) a signed statement by a technician employed by the agency that states in pertinent part that based upon the technician’s inspection of recorded images, the motor vehicle was being operated in violation of state or local traffic laws;

(i) a statement that recorded images are evidence of a violation of this section; and

(j) information advising the person alleged to be liable under this section of the manner and time in which liability as alleged in the citation may be contested, and warning that failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability, and may result in the refusal to register or reregister the motor vehicle or the suspension of the motor vehicle registration.

(2) A citation issued under this section shall be mailed by certified mail no later than two weeks after the alleged violation.

(3) An agency may not mail a citation to a person who is not an owner under subsection (B)(2).

(4) A person who receives a citation under item (1) may pay the civil penalty, in accordance with the instructions on the citation, directly to the political subdivision or to the court, or elect to stand trial for the alleged violation. Jurisdiction over citations issued pursuant to this section shall be exclusively with the summary courts.

(G) Adjudication of liability shall be based on a preponderance of evidence. A certificate, sworn to or affirmed by a duly authorized agent of the agency that states that based upon an inspection of recorded images produced by a traffic‑control monitoring system a violation of the traffic laws occurred, shall be evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation under this section.

(H)(1) The summary court may consider any of the following in defense of a violation:

(a) the driver of the vehicle passed through the intersection in violation of this chapter in order to yield the right‑of‑way to an emergency vehicle or as part of a funeral procession;

(b) the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation;

(c) this subsection is unenforceable against the owner because at the time and place of the alleged violation the traffic‑control signal was not in proper position and able to be seen by an ordinary observant individual;

(d) subject to item (3), evidence that the person named in the citation was not operating the vehicle at the time of the violation; or

(e) any other issues and evidence that the summary court deems relevant.

(2) In order to demonstrate that the motor vehicle or registration plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a police report concerning the stolen motor vehicle or registration plates was filed in a timely manner prior to the alleged violation.

(3) To satisfy the evidentiary burden under subsection (H)(1)(d), the person named in the citation must provide to the summary court a letter sworn to or affirmed by the person and sent by certified mail, return receipt requested, that states that the person named in the citation was not operating the vehicle at the time of the violation. The affidavit also must provide the name, address, and driver’s license identification number of the person who was operating the vehicle at the time of the violation.

(4) If the summary court finds that the person named in the citation was not operating the vehicle at the time of the violation or receives evidence identifying the person driving the vehicle at the time of the violation, the clerk shall provide to the agency issuing the citation a copy of any evidence substantiating who was operating the vehicle at the time of the violation. Upon receipt of substantiating evidence from the summary court, an agency may issue a citation as provided in subsection (F)(1) to the person that the evidence indicates was operating the vehicle at the time of the violation.

The citation must be mailed no later than two weeks after receipt of the evidence from the municipal court.

(I) If the civil penalty is not paid and the violation is not contested, the agency electronically shall send to the Department of Motor Vehicles the information contained in subsection (F)(1), along with a statement that the owner of the motor vehicle involved in the violation has not paid the penalty, or that the owner failed to contest the citation, or both. Upon receipt of such information, the Department of Motor Vehicles shall suspend the vehicle’s current registration and shall not register or reregister the motor vehicle until it receives withdrawal of the suspension electronically from the agency that the owner has paid the penalty, or has otherwise resolved the payment of the citation with the agency. A reinstatement fee of fifty dollars must be paid to the Department of Motor Vehicles for each suspension. The reinstatement fee collected must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the costs of this program.

(J) A violation of this section is not a moving violation and may not be recorded on the driving record of the owner or driver of the vehicle. The violation must be treated as a parking violation for purposes of this section and may not be considered in the provision of motor vehicle insurance coverage.”

SECTION 2. Section 14‑25‑45 of the 1976 Code is amended to read:

“Section 14‑25‑45. Each municipal court shall have jurisdiction to try all cases arising under the ordinances of the municipality for which established. The court shall also have all such powers, duties, and jurisdiction in criminal cases made under state law and conferred upon magistrates. The court shall have the power to punish for contempt of court by imposition of sentences up to limits imposed on municipal courts. The court shall have no jurisdiction in civil matters. However, the court has jurisdiction over noncriminal violations cited pursuant to Section 56‑5‑830.”

SECTION 3. Section 56‑5‑710(A) of the 1976 Code is amended to read:

“(A) Subject to the limitations prescribed in Section 56‑5‑930, the provisions of this chapter shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from:

(1) regulating the standing or parking of vehicles;

(2) regulating traffic by means of police officers or traffic‑control signals;

(3) regulating or prohibiting processions or assemblages on the highways;

(4) designating particular highways as one‑way highways and requiring that all vehicles thereon be moved in one specific direction;

(5) regulating the speed of vehicles in public parks;

(6) designating any highway as a through highway and requiring that all vehicles stop before entering or crossing it or designating any intersection as a stop intersection and requiring all vehicles to stop at one or more entrances at such intersection;

(7) restricting the use of highways as authorized in Sections 56‑5‑4210 and 56‑5‑4220;

(8) regulating the operation of bicycles and requiring the registration and licensing of them, including the requirement of a registration fee;

(9) regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections;

(10) altering the prima facie speed limits as authorized herein; ~~or~~

(11) adopting such other traffic regulations as are specifically authorized by this chapter; or

(12) adopting ordinances to use traffic‑control photographic systems for civil enforcement of traffic laws pursuant to Section 56‑5‑830.”

SECTION 4. Section 56‑5‑970(B)(1) of the 1976 Code is amended to read:

“(1) Vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter and, when it is safe, must slow down immediately.”

SECTION 5. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 6. This act takes effect upon approval by the Governor.

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