

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE DRH60131-LK-68 (3/5)

Short Title: Charlotte Photo Speed Measuring Systems.

(Public)

Sponsors: Representatives Alexander and Rhodes (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF CHARLOTTE TO USE PHOTOGRAPHIC SPEED-MEASURING SYSTEMS DURING A THREE-YEAR PILOT PROGRAM IN DESIGNATED CORRIDORS; TO AUTHORIZE THE CITY OF CHARLOTTE TO ESTABLISH CIVIL PENALTIES FOR 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 system that 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) A photographic speed-measuring system shall be monitored by a sworn law enforcement officer at all times that the system is actively in use.

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

1       (e) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-141  
2 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 clearly stating the  
28 manner in which the violation may be challenged. The citation shall be  
29 processed by officials or agents of the municipality and shall be  
30 forwarded by personal service or first-class mail to the address given  
31 on the motor vehicle registration. If the owner fails to pay the civil  
32 penalty or to respond to the citation within the time period specified on  
33 the citation, the owner shall have waived the right to contest  
34 responsibility for the violation and shall be subject to an additional  
35 penalty not to exceed fifty dollars (\$50.00). The municipality may  
36 establish procedures for the collection of these penalties and may  
37 recover the penalties by civil action in the nature of debt.
- 38           (4) The municipality shall provide a nonjudicial administrative hearing  
39 process to review objections to citations or penalties issued or assessed  
40 under this section. An administrative hearing decision shall be subject  
41 to review by the superior court by proceedings in the nature of  
42 certiorari. Any petition for review by the superior court shall be filed  
43 with the clerk of superior court within 30 days after the administrative  
44 hearing decision.

1           (5) After reasonable deduction of costs of administration, the proceeds of  
2           all civil penalties shall be paid to support traffic safety measures in the  
3           jurisdiction employing the photographic speed-measuring systems."

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

6 **"§ 8-50.3. Results of photographic speed-measuring instruments; admissibility.**

7           (a) The results of the use of a photographic speed-measuring system as described  
8 in G.S. 160A-300.2 shall be admissible as evidence in a nonjudicial administrative  
9 hearing held pursuant to G.S. 160A-300.2(e)(4) for the purpose of establishing the  
10 speed of the vehicle detected.

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

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

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

23           (3) At the time the results were obtained, the photographic  
24 speed-measuring system was being monitored by a sworn law  
25 enforcement officer.

26           (c) All photographic speed-measuring systems shall be calibrated and tested in  
27 accordance with standards established by the North Carolina Criminal Justice Education  
28 and Training Standards Commission and the Secretary of Crime Control and Public  
29 Safety. A written certificate by a technician certified by the North Carolina Criminal  
30 Justice Education and Training Standards Commission showing that a test was made  
31 within the required testing period and that the system was accurate shall be competent  
32 and prima facie evidence of those facts in a nonjudicial administrative hearing held  
33 pursuant to G.S. 160A-300.2(e)(4).

34           (d) In every nonjudicial administrative hearing held pursuant to G.S.  
35 160A-300.2(e)(4), where the results of a photographic speed-measuring system are  
36 sought to be admitted, notice shall be taken of the rules approving the photographic  
37 speed-measuring system and the procedures for calibration or testing for accuracy of the  
38 system."

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

40           "(a) In addition to powers conferred upon the Commission elsewhere in this  
41 Chapter, the Commission shall have the following powers, which shall be enforceable  
42 through its rules and regulations, certification procedures, or the provisions of G.S.  
43 17C-10:

44           ...

1           (13a) In conjunction with the Secretary of Crime Control and Public Safety,  
2           approve use of specific models and types of photographic  
3           speed-measuring systems as described in G.S. 160A-300.2(a) and  
4           establish the standards for calibration and testing for accuracy of each  
5           approved system."

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

- 8           (1) South Boulevard between Interstate 485 and Scaleybark.
- 9           (2) Independence between Briarcreek and Sardis Road North.
- 10          (3) East W.T. Harris between The Plaza and Idlewild.
- 11          (4) Tryon Street from 36<sup>th</sup> to Orr Road.
- 12          (5) Tryon Street from Mallard Creek Church Road and University City  
13          Boulevard.
- 14          (6) Eastway between Independence and Sugar Creek.
- 15          (7) West W.T. Harris between North Tryon Street and Technology Drive.
- 16          (8) Albemarle Road between Independence and Lawyers.
- 17          (9) Central between Albemarle and Briar Creek.
- 18          (10) Monroe Road between Sardis Road North and Wendover.
- 19          (11) Providence between McKee and Providence Country Club.
- 20          (12) Highway 51 between Park Road and Alexander Road.
- 21          (13) Sharon Amity between Lyttleton Drive and East W.T. Harris.
- 22          (14) Billy Graham Parkway between Interstate 85 and Woodlawn.

23           **SECTION 5.** This act becomes effective July 1, 2003, and expires June 30,  
24 2006.