

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 562
Committee Substitute Favorable 4/28/03

Short Title: Charlotte Photo Speed Measuring Systems.

(Public)

Sponsors:

Referred to:

March 20, 2003

A BILL TO BE ENTITLED

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

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.

28 (e) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-141
29 and G.S. 20-141.1 by means of a photographic speed-measuring system.

1 Notwithstanding the provisions of G.S. 20-141, 20-141.1, and 20-176, in the event that
2 a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-141
3 or G.S. 20-141.1 detected by a photographic speed-measuring system shall not be an
4 infraction or misdemeanor. An ordinance authorized by this subsection shall provide
5 that:

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

13 a. The name and address of the person or company who leased,
14 rented, or otherwise had the care, custody, or control of the
15 vehicle.

16 b. An affidavit stating that the vehicle involved was, at the time of
17 the violation, stolen or in the care, custody, or control of some
18 person who did not have permission of the owner to use the
19 vehicle.

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

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

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

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

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

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

17 **§ 8-50.3. Results of photographic speed-measuring instruments; admissibility.**

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

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

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

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

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

37 (c) All photographic speed-measuring systems shall be calibrated and tested in
38 accordance with standards established by the North Carolina Criminal Justice Education
39 and Training Standards Commission and the Secretary of Crime Control and Public
40 Safety. A written certificate by a technician certified by the North Carolina Criminal
41 Justice Education and Training Standards Commission showing that a test was made
42 within the required testing period and that the system was accurate shall be competent
43 and prima facie evidence of those facts in a nonjudicial administrative hearing held
44 pursuant to G.S. 160A-300.4(e)(4).

1 (d) In every nonjudicial administrative hearing held pursuant to G.S.
2 160A-300.4(e)(4), where the results of a photographic speed-measuring system are
3 sought to be admitted, notice shall be taken of the rules approving the photographic
4 speed-measuring system and the procedures for calibration or testing for accuracy of the
5 system."

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

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

11 ...

12 (13a) In conjunction with the Secretary of Crime Control and Public Safety,
13 approve use of specific models and types of photographic
14 speed-measuring systems as described in G.S. 160A-300.4(a) and
15 establish the standards for calibration and testing for accuracy of each
16 approved system."

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

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

34 **SECTION 5.** This act becomes effective July 1, 2003, and expires June 30,
35 2006.