

ADOPTED

Representatives Hatchett of the 150th and Powell of the 32nd offer the following amendment:

1 *Amend the House Committee on Education substitute to SB 3 (LC 33 7061S) by inserting*
2 *after "occupations;" on line 6 the following:*

3 to amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
4 traffic, so as to provide for automated traffic enforcement safety devices in school zones; to
5 provide for definitions; to revise civil monetary penalties for a driver of a vehicle meeting
6 or overtaking a school bus stopped on the highway where there are in operation on the school
7 bus certain visual signs; to clarify exceptions; to provide for the operation of automated
8 traffic enforcement safety devices by agents or registered or certified peace officers; to
9 provide for automated traffic enforcement safety device testing exceptions and procedures;
10 to provide for automated traffic enforcement safety device use warning signs; to provide for
11 further exceptions for when case may be made and conviction had for exceeding posted
12 speed limit by less than ten miles per hour; to provide for an exception for the ratio of
13 speeding fines to an agency budget; to provide for civil enforcement of violations recorded
14 by automated traffic enforcement safety devices; to provide for rules, regulations, and terms
15 of use for automated traffic enforcement safety devices;

16 *By redesignating Sections 1 through 11 as Sections 1-1 through 1-11, respectively, and by*
17 *inserting between lines 8 and 9 the following:*

18 **PART I**

19 *By replacing "Act" with "part" on line 10.*

20 *By replacing line 462 with the following:*

21 **PART II**

22 **SECTION 2-1.**

23 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
24 amended by revising subparagraph (d)(3)(A) in Code Section 40-6-163, relating to duty of
25 driver of vehicle meeting or overtaking school bus, reporting of violations, and enforcement,
26 as follows:

27 "(A) The driver of a motor vehicle shall be liable for a civil monetary penalty if such
28 vehicle is found, as evidenced by recorded images, to have been operated in disregard
29 or disobedience of subsection (a) of this Code section and such disregard or

30 disobedience was not otherwise authorized by law; provided, however, that the driver
 31 of a vehicle upon a highway with separate roadways need not stop upon meeting or
 32 passing a school bus which is on a different roadway, or upon a controlled-access
 33 highway when the school bus is stopped in a loading zone which is a part of or adjacent
 34 to such highway and where pedestrians are not permitted to cross the highway as
 35 provided for in subsection (b) of this Code section. The amount of such fine shall be
 36 \$300.00 for a first offense, \$750.00 for a second offense, and \$1,000.00 for each
 37 subsequent offense in a five-year period;"

38 **PART III**
 39 **SECTION 3-1.**

40 Said title is further amended in Article 2 of Chapter 14, relating to speed detection devices,
 41 by adding two new Code sections to read as follows:

42 "40-14-1.1.

43 As used in this article, the term:

44 (1) 'Agent' means a person or entity who is authorized by a law enforcement agency or
 45 governing body to administer the procedures contained herein and:

46 (A) Provides services to such law enforcement agency or governing body;

47 (B) Operates, maintains, leases, or licenses an automated traffic enforcement safety
 48 device; or

49 (C) Is authorized by such law enforcement agency or governing body to review and
 50 assemble the recorded images captured by the automated traffic enforcement safety
 51 device for review by a peace officer.

52 (2) 'Automated traffic enforcement safety device' means a speed detection device that:

53 (A) Is capable of producing photographically recorded still or video images, or both,
 54 of the rear of a motor vehicle or of the rear of a motor vehicle being towed by another
 55 vehicle, including an image of such vehicle's rear license plate;

56 (B) Is capable of monitoring the speed of a vehicle as photographically recorded
 57 pursuant to subparagraph (A) of this paragraph; and

58 (C) Indicates on each of the one or more photographically recorded still or video
 59 images produced the date, time, location, and speed of a photographically recorded
 60 vehicle traveling at a speed above the posted speed limit within a marked school zone.

61 (3) 'Owner' means the registrant of a motor vehicle, except that such term shall not
 62 include a motor vehicle rental company when a motor vehicle registered by such
 63 company is being operated by another person under a rental agreement with such
 64 company.

65 (4) 'Recorded images' means still or video images recorded by an automated traffic
 66 enforcement safety device.

67 (5) 'School zone' means any roadway within 1,000 feet of the perimeter of the property
 68 of any public or private elementary school or secondary school.

69 40-14-1.2.

70 Nothing in this article shall be construed to mean that an agent is providing or participating
 71 in private investigative services or acting in such a manner as would render such agent
 72 subject to the provisions of Article 4 of Chapter 18 of Title 50."

73 **SECTION 3-2.**

74 Said title is further amended by revising subsection (c) of Code Section 40-14-2, relating to
 75 permit required for use of speed detection devices, use not authorized where officers paid on
 76 fee system, and operation by registered or certified peace officers, as follows:

77 "(c) A permit shall not be issued by the Department of Public Safety to an applicant under
 78 this Code section unless the applicant provides law enforcement services by certified peace
 79 officers 24 hours a day, seven days a week on call or on duty or allows only peace officers
 80 employed full time by the applicant to operate speed detection devices. Speed detection
 81 devices can only be operated by registered or certified peace officers of the county sheriff,
 82 county, municipality, college, or university to which the permit is applicable; provided,
 83 however, that an automated traffic enforcement safety device may be operated by an agent
 84 or registered or certified peace officers of the county sheriff, county, or municipality to
 85 which the permit is applicable. Persons operating the speed detection devices must be
 86 registered or certified by the Georgia Peace Officer Standards and Training Council as
 87 peace officers and certified by the Georgia Peace Officer Standards and Training Council
 88 as operators of speed detection devices; provided, however, that agents may operate
 89 automated traffic enforcement safety devices without such registrations or certifications."

90 **SECTION 3-3.**

91 Said title is further amended by revising Code Section 40-14-5, relating to testing and
 92 removal of inaccurate radar devices from service, as follows:

93 "40-14-5.

94 (a) Each state, county, municipal, or campus law enforcement officer using a radar device,
 95 except for an automated traffic enforcement safety device as provided for under Code
 96 Section 40-14-18, shall test the device for accuracy and record and maintain the results of
 97 the test at the beginning and end of each duty tour. Each such test shall be made in
 98 accordance with the manufacturer's recommended procedure. Any radar unit not meeting

99 the manufacturer's minimum accuracy requirements shall be removed from service and
 100 thereafter shall not be used by the state, county, municipal, or campus law enforcement
 101 agency until it has been serviced, calibrated, and recertified by a technician with the
 102 qualifications specified in Code Section 40-14-4.

103 (b) Each county, municipal, or campus law enforcement officer using a radar device,
 104 except for an automated traffic enforcement safety device as provided for under Code
 105 Section 40-14-18, shall notify each person against whom the officer intends to make a case
 106 based on the use of the radar device that the person has a right to request the officer to test
 107 the radar device for accuracy. The notice shall be given prior to the time a citation and
 108 complaint or ticket is issued against the person and, if requested to make a test, the officer
 109 shall test the radar device for accuracy. In the event the radar device does not meet the
 110 minimum accuracy requirements, the citation and complaint or ticket shall not be issued
 111 against the person, and the radar device shall be removed from service and thereafter shall
 112 not be used by the county, municipal, or campus law enforcement agency until it has been
 113 serviced, calibrated, and recertified by a technician with the qualifications specified in
 114 Code Section 40-14-4.

115 (c)(1) The law enforcement agency, or agent on behalf of the law enforcement agency,
 116 operating an automated traffic enforcement safety device provided for under Code
 117 Section 40-14-18 shall maintain a log for the automated traffic enforcement safety device
 118 attesting to the performance of such device's self-test at least once every 30 days and the
 119 results of such self-test pertaining to the accuracy of the automated traffic enforcement
 120 safety device. Such log shall be admissible in any court proceeding for a violation issued
 121 pursuant to Code Section 40-14-18.

122 (2) The law enforcement agency, or agent on behalf of the law enforcement agency,
 123 operating an automated traffic enforcement safety device shall have performed an
 124 independent calibration test on the automated traffic enforcement safety device at least
 125 once every 12 months. The results of such calibration test shall be admissible in any
 126 court proceeding for a violation issued pursuant to Code Section 40-14-18."

127 **SECTION 3-4.**

128 Said title is further amended by adding a new subsection to Code Section 40-14-6, relating
 129 to the requirement for warning signs, to read as follows:

130 "(c) In addition to the signs required under subsections (a) and (b) of this Code section,
 131 each law enforcement agency using an automated traffic enforcement safety device as
 132 provided for in Code Section 40-14-18 shall erect signs warning of the use of a stationary
 133 speed detection device within the approaching school zone. Such signs shall be at least 24
 134 by 30 inches in area, shall be visible plainly from every lane of traffic, shall be viewable

135 in all traffic conditions, and shall not be placed in such a manner that the view of such sign
 136 is subject to being obstructed by any other vehicle on such highway. Such signs shall be
 137 placed within 500 feet prior to the warning sign announcing the reduction of the speed limit
 138 for the school speed zone."

139 **SECTION 3-5.**

140 Said title is further amended by revising Code Section 40-14-7, relating to the visibility of
 141 a vehicle from which a speed detection device is operated, as follows:

142 "40-14-7.

143 ~~No~~ Except as provided for in Code Section 40-14-18, no stationary speed detection device
 144 shall be employed by county, municipal, college, or university law enforcement officers
 145 where the vehicle from which the device is operated is obstructed from the view of
 146 approaching motorists or is otherwise not visible for a distance of at least 500 feet."

147 **SECTION 3-6.**

148 Said title is further amended by revising subsection (b) of Code Section 40-14-8, relating to
 149 when case may be made and conviction had, as follows:

150 "(b) The limitations contained in subsection (a) of this Code section shall not apply in
 151 properly marked school zones one hour before, during, and one hour after the normal hours
 152 of school operation or programs for care and supervision of students before school, after
 153 school, or during vacation periods as provided for under Code Section 20-2-65, in properly
 154 marked historic districts, and in properly marked residential zones. For purposes of this
 155 chapter, thoroughfares with speed limits of 35 miles per hour or more shall not be
 156 considered residential districts. For purposes of this Code section, the term 'historic
 157 district' means a historic district as defined in paragraph (5) of Code Section 44-10-22 and
 158 which is listed on the Georgia Register of Historic Places or as defined by ordinance
 159 adopted pursuant to a local constitutional amendment."

160 **SECTION 3-7.**

161 Said title is further amended by revising subsection (d) of Code Section 40-14-11, relating
 162 to investigations by the commissioner of public safety, issuance of order suspending or
 163 revoking a permit, and ratio of speeding fines to agency's budget, as follows:

164 "(d) There shall be a rebuttable presumption that a law enforcement agency is employing
 165 speed detection devices for purposes other than the promotion of the public health, welfare,
 166 and safety if the fines levied based on the use of speed detection devices for speeding
 167 offenses are equal to or greater than 35 percent of a municipal or county law enforcement
 168 agency's budget. For purposes of this Code section, fines collected for citations issued for

169 violations of Code Section 40-6-180 shall be included when calculating total speeding fine
 170 revenue for the agency; provided, however, that fines for speeding violations exceeding 20
 171 miles per hour over the established speed limit and fines for speeding violations issued
 172 pursuant to Code Section 40-14-18 shall not be considered when calculating total speeding
 173 fine revenue for the agency."

174 SECTION 3-8.

175 Said title is further amended by adding a new Code section to read as follows:

176 "40-14-18.

177 (a) The speed limit within any school zone as provided for in Code Section 40-14-8 and
 178 marked pursuant to Code Section 40-14-6 may be enforced by using recorded images for
 179 violations which occurred during the time periods relative to normal hours of school
 180 operation and programs of care and supervision of students as provided for in Code Section
 181 40-14-8 when such violations are in excess of ten miles per hour over the speed limit.

182 (b) For the purpose of enforcement pursuant to this Code section:

183 (1) The driver of a motor vehicle shall be liable for a civil monetary penalty if such
 184 vehicle is found, as evidenced by recorded images, to have been operated in disregard or
 185 disobedience of the speed limit within any school zone and such disregard or
 186 disobedience was not otherwise authorized by law. The amount of such fine shall be
 187 \$125.00, in addition to fees associated with the electronic processing of such fine which
 188 shall not exceed \$25.00; provided, however, that for a period of 30 days after an
 189 automated traffic enforcement safety device is first introduced within a school system,
 190 other than an automated traffic enforcement safety device replacing a previously used
 191 automated traffic enforcement safety device, the driver of a motor vehicle shall not be
 192 liable for a civil monetary penalty but shall be issued a civil warning for disregard or
 193 disobedience of the speed limit within the school zone;

194 (2) A law enforcement agency authorized to enforce the speed limit of a school zone
 195 shall send by first class mail addressed to the owner of the motor vehicle postmarked
 196 within 30 days after obtaining the name and address of the owner of the motor vehicle but
 197 no later than 60 days after the date of the alleged violation:

198 (A) A citation for the alleged violation, which shall include the date and time of the
 199 violation, the location of the infraction, the maximum speed at which such motor
 200 vehicle was traveling in recorded images, the maximum speed applicable within such
 201 school zone, the civil warning or the amount of the civil monetary penalty imposed, and
 202 the date by which a civil monetary penalty shall be paid;

203 (B) An image taken from the recorded images showing the vehicle involved in the
 204 infraction;

205 (C) A website address where recorded images showing the vehicle involved in the
206 infraction and a duplicate of the information provided for in this paragraph may be
207 viewed;

208 (D) A copy of a certificate sworn to or affirmed by a certified peace officer employed
209 by a law enforcement agency authorized to enforce the speed limit of the school zone
210 and stating that, based upon inspection of recorded images, the owner's motor vehicle
211 was operated in disregard or disobedience of the speed limit in the marked school zone
212 and that such disregard or disobedience was not otherwise authorized by law;

213 (E) A statement of the inference provided by paragraph (4) of this subsection and of
214 the means specified therein by which such inference may be rebutted;

215 (F) Information advising the owner of the motor vehicle of the manner and time in
216 which liability as alleged in the citation may be contested through an administrative
217 hearing; and

218 (G) A warning that failure to pay the civil monetary penalty or to contest liability in
219 a timely manner as provided for in subsection (d) of this Code section shall waive any
220 right to contest liability;

221 (3) Proof that a motor vehicle was operated in disregard or disobedience of the speed
222 limit of the marked school zone shall be evidenced by recorded images. A copy of a
223 certificate sworn to or affirmed by a certified peace officer employed by a law
224 enforcement agency and stating that, based upon inspection of recorded images, a motor
225 vehicle was operated in disregard or disobedience of the speed limit in the marked school
226 zone and that such disregard or disobedience was not otherwise authorized by law shall
227 be prima-facie evidence of the facts contained therein; and

228 (4) Liability under this Code section shall be determined based upon a preponderance of
229 the evidence. Prima-facie evidence that the vehicle described in the citation issued
230 pursuant to this Code section was operated in violation of the speed limit of the school
231 zone, together with proof that the defendant was, at the time of such violation, the
232 registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that
233 such owner of the vehicle was the driver of the vehicle at the time of the alleged
234 violation. Such an inference may be rebutted if the owner of the vehicle:

235 (A) Testifies under oath in open court or submits to the court a sworn notarized
236 statement that he or she was not the operator of the vehicle at the time of the alleged
237 violation and identifies the name of the operator of the vehicle at the time of the alleged
238 violation; or

239 (B) Presents to the court a certified copy of a police report showing that the vehicle had
240 been reported to the police as stolen prior to the time of the alleged violation.

241 (c) A violation for which a civil warning or a civil penalty is imposed pursuant to this
242 Code section shall not be considered a moving traffic violation for the purpose of points
243 assessment under Code Section 40-5-57. Such violation shall be deemed noncriminal, and
244 imposition of a civil warning or civil penalty pursuant to this Code section shall not be
245 deemed a conviction and shall not be made a part of the operating record of the person
246 upon whom such liability is imposed, nor shall it be used for any insurance purposes in the
247 provision of motor vehicle insurance coverage.

248 (d) If a person issued and mailed a citation pursuant to subsection (b) of this Code section
249 fails to pay the penalty for the violation or has not filed a police report or notarized
250 statement pursuant to paragraph (4) of subsection (b) of this Code section in no less than 30
251 nor more than 60 days after such mailing as determined and noticed by the law
252 enforcement agency, the agent or law enforcement agency shall send to such person by first
253 class mail a second notice of any unpaid civil penalty, except in cases where there is an
254 adjudication that no violation occurred or there is otherwise a lawful determination that no
255 civil penalty shall be imposed. The second notice shall include all information required in
256 paragraph (2) of subsection (b) of this Code section and shall include a new date of return
257 which shall be no less than 30 days after such mailing as determined and noticed by the law
258 enforcement agency. If such person notified by second notice again fails to pay the penalty
259 or file a police report or notarized statement pursuant to paragraph (4) of subsection (b) of
260 this Code section by the new date of return, such person shall have waived the right to
261 contest the violation and shall be liable for the civil monetary penalty provided for under
262 this Code section, except in cases where there is an adjudication that no violation occurred
263 or there is otherwise a lawful determination that no civil penalty shall be imposed.

264 (e) Notices mailed by first class mail pursuant to this Code section shall be adequate
265 notification of the fees and penalties imposed by this Code section. No other notice shall
266 be required for the purposes of this Code section.

267 (f) Any court having jurisdiction over violations of the speed limit in the school zone shall
268 have jurisdiction over cases arising under this Code section and shall be authorized to
269 impose the civil monetary penalty. The provisions of law governing jurisdiction,
270 procedure, defenses, adjudication, appeal, and payment and distribution of penalties
271 otherwise applicable to violations of the speed limit in the school zone shall apply to
272 enforcement under this Code section, except as otherwise provided in this Code section;
273 provided, however, that any appeal from superior or state court shall be by application in
274 the same manner as that provided by Code Section 5-6-35.

275 (g) Recorded images made for purposes of this Code section shall not be a public record
276 for purposes of Article 4 of Chapter 18 of Title 50.

277 (h) A civil warning or penalty under this Code section on the owner of a motor vehicle
278 shall not be imposed if the operator of the vehicle was arrested or issued a citation and
279 notice to appear by a peace officer for the same violation."

280

PART IV

281

SECTION 4-1.