

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 857

Short Title: Charlotte Photo Radar.

(Public)

Sponsors: Senators Odom; Clodfelter and Dannelly.

Referred to: Judiciary II.

April 4, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE LOCAL GOVERNMENTS TO USE PHOTOGRAPHIC
SPEED-MEASURING SYSTEMS TO ESTABLISH 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 instrument or system which 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) Any photographic speed-measuring system shall be monitored by a sworn law enforcement officer during all times the system is actively in use.

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

(e) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-141 and G.S. 20-141.1 by means of a photographic speed-measuring system. Notwithstanding the provisions of G.S. 20-141, 20-141.1, and 20-176, in the event that

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

- 5 (1) The owner of a vehicle shall be responsible for a violation unless the
6 owner can furnish evidence that the vehicle was, at the time of the
7 violation, in the care, custody, or control of another person. The owner
8 of the vehicle shall not be responsible for the violation if the owner of
9 the vehicle, within 21 days after notification of violation, furnishes the
10 officials or agents of the municipality which issued the citation:
11 a. The name and address of the person or company who leased,
12 rented, or otherwise had the care, custody, and control of the
13 vehicle; or
14 b. An affidavit stating that the vehicle involved was, at the time,
15 stolen or in the care, custody, or control of some person who
16 did not have permission of the owner to use the vehicle.
- 17 (2) A violation detected by a photographic speed-measuring system shall
18 be deemed a noncriminal violation for which a civil penalty of fifty
19 dollars (\$50.00) shall be assessed and for which no points authorized
20 by G.S. 20-16(c) or G.S. 58-36-65 shall be assigned to the owner or
21 driver of the vehicle.
- 22 (3) The owner of the vehicle shall be issued a citation which shall clearly
23 state the manner in which the violation may be challenged. The
24 citation shall be processed by officials or agents of the municipality
25 and shall be forwarded by personal service or first-class mail to the
26 address given on the motor vehicle registration. If the owner fails to
27 pay the civil penalty or to respond to the citation within the time period
28 specified on the citation, the owner shall have waived the right to
29 contest responsibility for the violation and shall be subject to an
30 additional civil penalty not to exceed fifty dollars (\$50.00). The
31 municipality may establish procedures for the collection of these
32 penalties and may recover the penalties by civil action in the nature of
33 debt.
- 34 (4) The municipality shall provide a nonjudicial administrative hearing
35 process to review objections to citations or penalties issued or assessed
36 under this section. An administrative hearing decision shall be subject
37 to review by the superior court by proceedings in the nature of
38 certiorari. Any petition for review by the superior court shall be filed
39 with the clerk of superior court within 30 days after the administrative
40 hearing decision.
- 41 (5) After reasonable deduction of costs for administration, the proceeds of
42 all civil penalties paid shall be used solely for the purpose of
43 improving the safety of the streets and highways of the municipality."

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

3 **"§ 8-50.3. Results of photographic speed-measuring instruments; admissibility.**

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

8 (b) Notwithstanding the provisions of subsection (a) of this section, the results of
9 a photographic speed-measuring system are not admissible unless it is found that:

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

15 (2) The photographic speed-measuring system had been calibrated and
16 tested for accuracy in accordance with the standards established by the
17 Commission and Secretary for that particular system.

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

21 (c) All photographic speed-measuring systems shall be calibrated and tested in
22 accordance with standards established by the Commission and Secretary. A written
23 certificate by a technician certified by the Commission showing that a test was made
24 within the required testing period and that the system was accurate shall be competent
25 and prima facie evidence of those facts in a nonjudicial administrative hearing held
26 pursuant to G.S. 160A-300.2(c)(4).

27 (d) In every nonjudicial administrative hearing held pursuant to G.S. 160A-
28 300.2(c)(4), where the results of a photographic speed-measuring system are sought to
29 be admitted, notice shall be taken of the rules approving the photographic speed-
30 measuring system and the procedures for calibration or testing for accuracy of such
31 system."

32 **SECTION 3.** G.S. 17C-6(a) is amended by adding a new subdivision to
33 read:

34 "(13a) In conjunction with the Secretary of Crime Control and Public Safety,
35 approve use of specific models and types of photographic speed-
36 measuring systems as described in G.S. 160A-300.2(a) and establish
37 the standards for calibration and testing for accuracy of each approved
38 system."

39 **SECTION 4.** Section 1 of this act applies to the City of Charlotte only.

40 **SECTION 5.** This act is effective when it becomes law.