# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

H HOUSE BILL 786

Short Title: Civil Parking/Red Light Prima Facie Rule. (Public)

Sponsors: Representative Culpepper.

Referred to: Judiciary III.

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#### March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE PRIMA FACIE RULE FOR PARKING APPLIES TO CIVIL PARKING AND RED LIGHT CAMERA ENFORCEMENT ACTIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-162.1 reads as rewritten:

### "§ 20-162.1. Prima facie rule of evidence for enforcement of parking regulations.

Whenever evidence shall be presented in any court or in any civil nonjudicial enforcement hearing or appeal of the fact that any automobile, truck, or other vehicle was found upon any street, alley or other public place contrary to and in violation of the provisions of any statute or of any municipal or Department of Transportation ordinance limiting the time during which any such vehicle may be parked or prohibiting or otherwise regulating the parking of any such vehicle, it shall be prima facie evidence in any court or in any civil nonjudicial enforcement hearing or appeal in the State of North Carolina that such vehicle was parked and left upon such street, alley or public way or place by the person, firm or corporation in whose name such vehicle is then registered and licensed according to the records of the department or agency of the State of North Carolina, by whatever name designated, which is empowered to register such vehicles and to issue licenses for their operation upon the streets and highways of this State; provided, that no evidence tendered or presented under the authorization contained in this section shall be admissible or competent in any respect in any court or tribunal, except in cases concerned solely with violation of statutes or ordinances limiting, prohibiting or otherwise regulating the parking of automobiles or other vehicles upon public streets, highways, or other public places.

Any person found responsible for an infraction pursuant to this section shall be subject to a penalty of not more than five dollars (\$5.00)."

### **SECTION 2.** G.S. 160A-300.1(c) reads as rewritten:

"(c) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this

section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. An ordinance authorized by this subsection shall provide that:

- The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within 21 days after notification of the violation, furnishes the officials or agents of the municipality which issued the citation:
  - a. The name and address of the person or company who leased, rented, or otherwise had the care, custody, and control of the vehicle; or
  - b. An affidavit stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.
- Subdivision (1) of this subsection shall not apply if the registered owner of the vehicle has leased or rented the vehicle to another person or company and if, after receiving notification of the civil violation within 90 days of the date of occurrence, the owner, within 30 days thereafter, files with the officials or agents of the municipality an affidavit including the name and address of the person or company that leased or rented the vehicle. If notification is given to the owner of the vehicle after 90 days have elapsed from the date of the violation, the owner is not required to provide the name and address of the lessee or renter and the owner shall not be held responsible for the violation.
- (2)(3) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars (\$50.00) shall be assessed, and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the vehicle nor insurance points as authorized by G.S. 58-36-65.
- (3)(4) The owner of the vehicle shall be issued a citation which shall clearly state the manner in which the violation may be challenged, and the owner shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the violation, and shall be subject to a civil penalty not to exceed one hundred dollars (\$100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.

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1	(4)(5) The municipality shall institute a nonjudicial administrative hearing to
2	review objections to citations or penalties issued or assessed under this
3	section."
4	<b>SECTION 3.</b> This act is effective when it becomes law.