

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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SENATE DRS55099-LK-75A (3/5)

Short Title: Charlotte Photo Speed-Measuring Systems.

(Public)

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Sponsors: Senator Dannelly.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE USE OF 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.

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

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

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

43           "§ 8-50.3. Results of photographic speed-measuring instruments; admissibility.

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

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

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

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

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

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

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

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

35       "(a) In addition to powers conferred upon the Commission elsewhere in this  
36 Chapter, the Commission shall have the following powers, which shall be enforceable  
37 through its rules and regulations, certification procedures, or the provisions of G.S.  
38 17C-10:

39       ...

40       (13a) In conjunction with the Secretary of Crime Control and Public Safety,  
41 approve use of specific models and types of photographic  
42 speed-measuring systems as described in G.S. 160A-300.2(a) and  
43 establish the standards for calibration and testing for accuracy of each  
44 approved system."

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**SECTION 4.** This act is effective when it becomes law.