

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL DRH40305-NEfa-93

Short Title: Phoebe's Law/Speed Measuring in School Zones.

(Public)

Sponsors: Representative Prather.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A PILOT PROGRAM TO IMPROVE PUBLIC SAFETY BY AUTHORIZING THE USE OF ELECTRONIC SPEED-MEASURING SYSTEMS BY THE DEPARTMENT OF TRANSPORTATION TO DETECT SPEED LIMIT VIOLATIONS IN SCHOOL ZONES; TO ESTABLISH STANDARDS FOR THE APPROVAL, USE, AND CALIBRATION OF ELECTRONIC SPEED-MEASURING SYSTEMS; TO ESTABLISH A CIVIL PENALTY FOR SPEED VIOLATIONS IN SCHOOL ZONES THAT ARE DETECTED BY THOSE SYSTEMS; TO CREATE A NEW SPECIAL FUND WITHIN THE STATE CIVIL PENALTY AND FORFEITURE FUND; AND TO PROVIDE FOR THE PAYMENT OF THE PENALTIES INTO THE DESIGNATED SPECIAL FUND.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-141.7. Use of electronic speed-measuring systems to detect speed limit violations in school zones.

(a) Authorization. – Electronic speed-measuring systems may be used to detect violations of the speed limit set by G.S. 20-141.1 for State-maintained highways in school zones.

(b) Definition. – As used in this section, an electronic speed-measuring system is a mobile or fixed device (i) consisting of an automated traffic camera and sensor and (ii) capable of measuring the speed and producing one or more digital photographs of a motor vehicle violating a speed limit set by G.S. 20-141.1.

(c) Minimum Standards. – An electronic speed-measuring system authorized for use by this section shall produce at least one photograph that clearly shows a recorded image of the vehicle speeding; the vehicle registration number and state of issuance; the date, time, and location of the violation; and the recorded speed.

(d) Signage. – The Department of Transportation shall provide notice of the presence of an electronic speed-measuring system by posting a conspicuous warning sign not more than 1,000 feet from the location of the system. All warning signs shall be consistent with a statewide standard adopted by the Department of Transportation.

(e) Use. – An electronic speed-measuring system authorized for use by this section shall be approved by the Secretary of Transportation. No local government may operate an electronic speed-measuring system.

(f) Penalty. – Except as provided by subsection (i) of this section, a violation of a speed limit on a State-maintained highway within a school zone established pursuant to G.S. 20-141.1 that is detected by an electronic speed-measuring system is a noncriminal violation for which a civil penalty shall be assessed and for which no points authorized by G.S. 20-16(c) shall be



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1 assigned to the owner or driver of the vehicle nor insurance points as authorized by
2 G.S. 58-36-65. The civil penalty shall be two hundred fifty dollars (\$250.00) for a violation of a
3 speed limit on a State-maintained highway within a school zone established pursuant to
4 G.S. 20-141.1.

5 (g) Notification of Violation. – The Department of Transportation shall issue to the
6 registered owner of a motor vehicle cited for a speeding violation detected by an electronic
7 speed-measuring system a notice of the violation containing all of the information listed in this
8 subsection. The notice shall be delivered by first-class United States mail at the address on the
9 current registration of the vehicle's owner and is deemed served on the registered owner five days
10 after the mailing. The notice of the violation shall contain all of the following:

- 11 (1) The recorded image of the vehicle speeding.
- 12 (2) The vehicle registration number and state of issuance.
- 13 (3) The date, time, and location of the violation.
- 14 (4) The recorded speed.
- 15 (5) The process for paying the civil penalty or contesting the owner's
16 responsibility for the violation.

17 (h) Liability. – The registered owner of a vehicle cited for a speeding violation detected
18 by an electronic speed-measuring system shall be responsible for any penalty imposed under this
19 section unless, within 30 days of service of the notification of violation, the owner provides to
20 the Division of Motor Vehicles a sworn affidavit containing the information listed in one of the
21 subdivisions of this subsection. If the registered owner fails to pay the civil penalty or fails to
22 respond to the notice within 30 days of service of the notification of violation, the owner waives
23 the right to contest responsibility for the violation and is subject to an additional civil penalty of
24 one hundred twenty-five dollars (\$125.00).

25 The sworn affidavit shall contain one of the following:

- 26 (1) The name and address of the person or persons who had or may have had
27 actual physical control of the vehicle at the time of the violation.
- 28 (2) A statement that at the time of the violation the vehicle was under the control
29 of a person unknown to the owner, without the owner's permission. A
30 statement provided under this subdivision shall be accompanied by
31 documentation verifying that the owner reported to appropriate law
32 enforcement officials the theft or other loss of the vehicle not later than 48
33 hours after the time of the violation.

34 (i) Notification of Criminal Charges. – If a law enforcement officer cites, pursuant to
35 G.S. 15A-302, or arrests, pursuant to G.S. 15A-401, an owner of a vehicle in an area where an
36 electronic speed-measuring system is in use for detecting violations of a speed limit set pursuant
37 to G.S. 20-141.1, then the officer shall notify the Department of Transportation within 48 hours
38 of the citation or arrest. Upon notification, the Department shall not issue a notice of violation
39 pursuant to subsection (g) of this section. If it is determined that a notice of violation was issued
40 in error after proper notification, no penalty may be imposed under this section and any penalty
41 already paid pursuant to the notice of violation shall be refunded.

42 (j) Administrative Hearings. – The Division of Motor Vehicles shall establish an
43 administrative nonjudicial hearing process to review challenges to penalties assessed pursuant to
44 this section. The hearing shall provide a full opportunity for the person charged with the violation,
45 if that person so requests, to present evidence and contest the violation.

46 (k) Appeal. – A person dissatisfied with the decision of the Division of Motor Vehicles
47 may appeal the decision to the district court of the county in which the violation occurred by
48 filing a notice of the appeal with the clerk of superior court in the county where the violation
49 occurred within 30 days of notification of a final decision by the Division. An appeal under this
50 section is for a trial de novo before the district court. An appeal under this section is a civil action
51 but may be heard in either a civil or criminal session of court. The Attorney General shall

1 represent the State in the appeal unless otherwise agreed upon by the Attorney General and the
2 district attorney in the county where the violation occurred. The district court's determination
3 shall be based upon a preponderance of the evidence. An appeal of the district court's
4 determination shall be to the Court of Appeals."

5 **SECTION 2.** Article 7D of Chapter 8 of the General Statutes is amended by adding
6 a new section to read:

7 **"§ 8-54.1. Results of electronic speed-measuring systems; admissibility.**

8 (a) Admissibility. – The results of the use of an electronic speed-measuring system
9 satisfying the requirements of subsection (b) of this section and authorized by G.S. 20-141.7 shall
10 be admissible as prima facie evidence for the purpose of establishing the speed of the vehicle
11 detected.

12 (b) Calibration and Testing. – All electronic speed-measuring systems shall be calibrated
13 and tested at regular intervals pursuant to standards established by the Department of
14 Transportation. A written certificate by a certified technician meeting the standards established
15 by the Department of Transportation showing that a test was made within the required testing
16 period and that the system was accurate shall be competent and prima facie evidence of those
17 facts.

18 (c) Judicial Notice. – In every proceeding in which the results of an electronic
19 speed-measuring system are sought to be admitted for the purpose of enforcement of
20 G.S. 20-141.7, notice shall be taken of the rules approving the electronic speed-measuring system
21 and the procedures for calibration or testing for accuracy of the system."

22 **SECTION 3.** Article 31A of Chapter 115C of the General Statutes is amended by
23 adding a new section to read:

24 **"§ 115C-457.4. Civil Penalty Litigation Fund.**

25 There is established within the Civil Penalty and Forfeiture Fund a special fund entitled the
26 Civil Penalty Litigation Fund to be administered by the Office of State Budget and Management.
27 The Civil Penalty Litigation Fund shall include seventy-five percent (75%) of civil penalties paid
28 pursuant to G.S. 20-141.7 and any other moneys appropriated or otherwise directed by the
29 General Assembly. Moneys paid into the Civil Penalty Litigation Fund shall be allocated to local
30 school administrative units on a per pupil basis, based on the student population for the current
31 school year. The moneys in this fund shall be expended in accordance with the provisions of the
32 State School Technology Fund pursuant to G.S. 115C-102.6D."

33 **SECTION 4.** Of the total amount collected in fines and penalties pursuant to this act,
34 seventy-five percent (75%) shall be paid into the Civil Penalty Litigation Fund and twenty-five
35 percent (25%) shall be paid to the State Public School Fund. The payments to the Civil Penalty
36 Litigation Fund are intended to satisfy the judgment entered on August 8, 2008, in North Carolina
37 School Boards Association, et al., v. Moore, et al., Wake County Superior Court, No.
38 98-CVS-14158.

39 **SECTION 5.** There is appropriated from the General Fund to the Office of State
40 Budget and Management the sum of one hundred thousand dollars (\$100,000) for the 2023-2024
41 fiscal year in nonrecurring funds. These funds shall be allocated to the Civil Penalty Litigation
42 Fund to be used for implementing the pilot program authorized by this act.

43 **SECTION 6.** For the purposes of implementing this act, the Secretary of
44 Transportation, or the Secretary's designee, may designate no more than 25 school zones on
45 State-maintained highways at one time throughout the State to pilot this program.

46 **SECTION 7.** The Secretary of Transportation shall report to the Joint Legislative
47 Transportation Oversight Committee, the Joint Legislative Education Oversight Committee, and
48 the Joint Legislative Commission on Governmental Operations on the pilot program authorized
49 by this act and shall include recommendations for extension, alteration, or continuance of the
50 program. The report shall include the process and costs of purchasing equipment and contracting
51 for services necessary for implementation, the number of violations detected, the number of

1 violations appealed, the number and amount of penalties collected, the amount paid into the Civil
2 Penalty Litigation Fund, the amount paid into the State Public School Fund, the cost to the
3 Department of Transportation for operating the program, and any other matter that will assist in
4 evaluating the effectiveness of the program. The report required by this section shall be made no
5 later than May 1, 2024, and annually thereafter.

6 **SECTION 8.** This act becomes effective October 1, 2023, and applies to all civil
7 penalties assessed for speeding violations in school zones on State-maintained highways on or
8 after that date. This act expires October 1, 2038.