

The House Committee on Judiciary Non-civil offers the following substitute to HB 31:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated,
2 relating to traffic signs, signals, and markings, so as to change the inference for identifying
3 the driver in cases involving traffic-control signal monitoring devices; to provide a form
4 response for such citations; to provide for the offense of submitting a false statement in a red
5 light camera form; to provide for related matters; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to
10 traffic signs, signals, and markings, is amended by revising subsection (f) of Code Section
11 40-6-20, relating to enforcement by traffic-control signal monitoring devices, as follows:

12 "(f)(1) As used in this subsection, the term:

13 (A) 'Owner' means the registrant of a motor vehicle, except that such term shall not
14 include a motor vehicle rental company when a motor vehicle registered by such
15 company is being operated by another person under a rental agreement with such
16 company.

17 (B) 'Recorded images' means images recorded by a traffic-control signal monitoring
18 device:

19 (i) On:

20 (I) Two or more photographs;

21 (II) Two or more microphotographs;

22 (III) Two or more electronic images; or

23 (IV) Videotape; and

24 (ii) Showing a traffic-control signal displaying a CIRCULAR RED or RED ARROW
25 signal along with the rear of a motor vehicle apparently operated in disregard or
26 disobedience of such signal and, on at least one image or portion of tape, clearly

27 revealing the number or other identifying designation of the license plate displayed
 28 on the motor vehicle.

29 (C) 'Traffic-control signal monitoring device' means a device with one or more motor
 30 vehicle sensors working in conjunction with a traffic-control signal to produce recorded
 31 images of motor vehicles being operated in disregard or disobedience of a CIRCULAR
 32 RED or RED ARROW signal.

33 (2) Subsection (a) of this Code section may be enforced as provided in this subsection
 34 pursuant to the use of traffic-control signal monitoring devices in accordance with Article
 35 3 of Chapter 14 of this title.

36 (3) For the purpose of enforcement pursuant to this subsection:

37 (A) The driver of a motor vehicle shall be liable for a civil monetary penalty of not
 38 more than \$70.00 if such vehicle is found, as evidenced by recorded images produced
 39 by a traffic-control signal monitoring device, to have been operated in disregard or
 40 disobedience of a CIRCULAR RED or RED ARROW signal in violation of subsection
 41 (a) of this Code section and such disregard or disobedience was not otherwise
 42 authorized by law;

43 (B) The law enforcement agency authorized to enforce the provisions of this Code
 44 section shall send by regular mail addressed to the owner of the motor vehicle
 45 postmarked not later than ten days after the date of the alleged violation:

46 (i) A citation for the alleged violation, which shall include the date and time of the
 47 violation, the location of the intersection, the amount of the civil monetary penalty
 48 imposed, and the date by which the civil monetary penalty shall be paid;

49 (ii) A copy of the recorded image;

50 (iii) A copy of a certificate sworn to or affirmed by a certified peace officer employed
 51 by a law enforcement agency authorized to enforce this Code section and stating that,
 52 based upon inspection of recorded images, the owner's motor vehicle was operated
 53 in disregard or disobedience of a CIRCULAR RED or RED ARROW signal in
 54 violation of subsection (a) of this Code section and that such disregard or
 55 disobedience was not otherwise authorized by law;

56 (iv) A statement of the inference provided by subparagraph (D) of this paragraph and
 57 of the ~~means~~ evidence specified therein by which such inference may be rebutted.

58 The statement required by this division shall be printed in a format that allows the
 59 recipient of the citation to check off one of the methods described in divisions (i)
 60 through (iii) of subparagraph (D) of this paragraph and return the notarized statement
 61 to the law enforcement agency. The statement shall contain a provision notifying the
 62 recipient of the citation that any person who knowingly and willfully makes a false
 63 statement on such form shall be guilty of the misdemeanor offense of making a false

64 statement on a red light camera form and that notwithstanding Code Section
 65 16-10-20, upon conviction, shall be punished by a fine of not less than \$100.00 nor
 66 more than \$1,000.00 or by imprisonment not exceeding 12 months, or both, as
 67 determined by the court;

68 (v) Information advising the owner of the motor vehicle of the manner and time in
 69 which liability as alleged in the citation may be contested in court; and

70 (vi) Warning that failure to pay the civil monetary penalty or to contest liability in a
 71 timely manner shall waive any right to contest liability and result in a civil monetary
 72 penalty;

73 provided, however, that only warning notices and not citations for violations shall be
 74 sent during the 30 day period commencing with the installation of a traffic-control
 75 signal monitoring device at such location;

76 (C) Proof that a motor vehicle was operated in disregard or disobedience of a
 77 CIRCULAR RED or RED ARROW signal in violation of subsection (a) of this Code
 78 section shall be evidenced by recorded images produced by a traffic-control signal
 79 monitoring device authorized pursuant to Article 3 of Chapter 14 of this title. A copy
 80 of a certificate sworn to or affirmed by a certified peace officer employed by a law
 81 enforcement agency and stating that, based upon inspection of recorded images, a
 82 motor vehicle was operated in disregard or disobedience of a CIRCULAR RED or RED
 83 ARROW signal in violation of subsection (a) of this Code section and that such
 84 disregard or disobedience was not otherwise authorized by law shall be prima-facie
 85 evidence of the facts contained therein; and

86 (D) Liability under this subsection shall be determined based upon preponderance of
 87 the evidence. Prima-facie evidence that the vehicle described in the citation issued
 88 pursuant to this subsection was operated in violation of subsection (a) of this Code
 89 section, together with proof that the defendant was at the time of such violation the
 90 registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that
 91 such owner of the vehicle was the driver of the vehicle at the time of the alleged
 92 violation. Evidence that the vehicle was operated in violation of subsection (a) of this
 93 Code section shall ~~Such an inference may~~ be rebutted if the owner of the vehicle:

94 (i) ~~Festifies under oath in open court or submits~~ Submits to the court a sworn
 95 notarized statement that he or she was not the operator of the vehicle at the time of the
 96 alleged violation and identifies by name the operator of the vehicle at the time of the
 97 alleged violation, if the name of such person is known by the owner of the vehicle;

98 (ii) Presents to the court a certified copy of a police report showing that the vehicle
 99 had been reported to the police as stolen prior to the time of the alleged violation; or

100 (iii) Submits to the court a ~~sworn~~ notarized statement ~~identifying the name of the~~
101 ~~operator of~~ that he or she was operating the vehicle as part of a funeral procession at
102 the time of the alleged violation and provides the name of the deceased individual.

103 (4) A violation for which a civil penalty is imposed pursuant to this subsection shall not
104 be considered a moving traffic violation, for the purpose of points assessment under Code
105 Section 40-5-57. Such violation shall be deemed noncriminal, and imposition of a civil
106 penalty pursuant to this subsection shall not be deemed a conviction and shall not be
107 made a part of the operating record of the person upon whom such liability is imposed,
108 nor shall it be used for any insurance purposes in the provision of motor vehicle insurance
109 coverage.

110 (5) If a person summoned by regular mail fails to appear on the date of return set out in
111 the citation and has not paid the penalty for the violation or filed a police report or
112 notarized statement pursuant to subparagraph (D) of paragraph (3) of this subsection, the
113 person shall then be summoned a second time by certified mail with a return receipt
114 requested. The second summons shall include all information required in subparagraph
115 (B) of paragraph (3) of this subsection for the initial summons and shall include a new
116 date of return. If a person summoned by certified mail again fails to appear on the date
117 of return set out in the second citation and has failed to pay the penalty or file an
118 appropriate document for rebuttal, the person summoned shall have waived the right to
119 contest the violation and shall be liable for a civil monetary penalty of not more than
120 \$70.00.

121 (6) Any court having jurisdiction over violations of subsection (a) of this Code section
122 or any ordinance adopting the provisions of said subsection pursuant to Code Section
123 40-6-372 shall have jurisdiction over cases arising under this subsection and shall be
124 authorized to impose the civil monetary penalty provided by this subsection. Except as
125 otherwise provided in this subsection, the provisions of law governing jurisdiction,
126 procedure, defenses, adjudication, appeal, and payment and distribution of penalties
127 otherwise applicable to violations of subsection (a) of this Code section shall apply to
128 enforcement under this subsection; provided, however, that any appeal from superior or
129 state court shall be by application in the same manner as that provided by Code Section
130 5-6-35.

131 (7) Recorded images made for purposes of this subsection shall not be a public record
132 for purposes of Article 4 of Chapter 18 of Title 50.

133 (8) A governing authority shall not impose a civil penalty under this subsection on the
134 owner of a motor vehicle if the operator of the vehicle was arrested or issued a citation
135 and notice to appear by a peace officer for the same violation that is recorded by a
136 traffic-control signal monitoring device.

137 (g) Any person who knowingly and willfully makes a false statement on a red light camera
138 form, as provided for in division (f)(3)(B)(iv) of this Code section, shall be guilty of the
139 misdemeanor offense of making a false statement on a red light camera form and
140 notwithstanding Code Section 16-10-20, upon conviction, shall be punished by a fine of
141 not less than \$100.00 nor more than \$1,000.00 or by imprisonment not exceeding 12
142 months, or both, as determined by the court."

143 **SECTION 2.**

144 All laws and parts of laws in conflict with this Act are repealed.