

Amendment No. 1 to HB3024

Harmon
Signature of Sponsor

AMEND Senate Bill No. 2918

House Bill No. 3024*

by deleting all language after the enacting clause and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Section 55-8-198, is amended by deleting the present language in its entirety and by substituting instead the following language:

(a) A traffic citation that is based solely upon evidence obtained from a traffic enforcement camera that has been installed to enforce or monitor traffic violations shall be considered a nonmoving traffic violation. Notwithstanding any provision of law to the contrary, no such traffic citation shall be reported to the department of safety or used by any insurance provider or credit reporting agency for any purpose.

(b) An officer, certified by the peace officer standards and training commission, of the applicable law enforcement office shall review video evidence from a traffic enforcement camera and make a determination as to whether a violation has occurred. If a determination is made that a violation has occurred, a notice of violation or a citation shall be sent by first class mail to the registered owner of the vehicle that was captured by the traffic enforcement camera system. Such notice shall be sent by the applicable law enforcement office. Any such notice sent by a private vendor shall be invalid. All photographic and video evidence of a violation shall be made available to the registered owner of the vehicle electronically by secured Internet connection. A notice of violation or citation shall allow for payment of the traffic violation or citation within thirty (30) days of the mailing of the notice.

(c)

(1) Effective July 1, 2010, a state agency or political subdivision of the state that installs, owns, operates or maintains either a traffic-control signal light

located in an intersection that employs a traffic enforcement camera or any other fixed or mobile traffic enforcement camera for the enforcement or monitoring of traffic violations shall ensure that:

(A) The traffic enforcement camera does not identify as a violation of § 55-8-110(a)(3), or any municipal law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of § 55-8-110(a)(3), any vehicle that legally entered the intersection during the green or yellow intervals in accordance with § 55-8-110(a)(1) and (2); and

(B) Appropriate signage is located not less than five hundred feet (500') but not more than one thousand feet (1,000') in advance of the enforcement area of the traffic enforcement camera informing drivers as to the presence of traffic enforcement cameras at the approaching location.

(2) If a court of competent jurisdiction finds that a traffic enforcement camera is operated in violation of subdivision (c)(1), any traffic citation based solely on evidence generated by such camera is invalid.

(d) The following vehicles are exempt from receiving a notice of violation:

(1) Emergency vehicles with active emergency lights;

(2) Vehicles moving through the intersection to avoid or clear the way for a marked emergency vehicle;

(3) Vehicles under police escort; and

(4) Vehicles in a funeral procession.

(e)

(1) Except as otherwise provided in this subsection (e), the registered owner of the motor vehicle shall be responsible for payment of any notice of violation or citation issued as the result of a traffic enforcement camera.

(2) An owner of a vehicle shall not be responsible for the violation if, on or before the designated court date, the owner furnishes the court an affidavit stating the name and address of the person or entity that leased, rented or otherwise had care, custody or control of the motor vehicle at the time of the violation.

(3) If a motor vehicle or its plates were stolen at the time of the alleged violation, the registered owner must provide an affidavit denying the owner was an operator and provide a certified copy of the police report reflecting such theft.

(4) An affidavit alleging theft of a motor vehicle or its plates must be provided by the registered owner of a vehicle receiving a notice of violation within thirty (30) days of the mailing date of the notice of violation.

(f) No traffic enforcement cameras shall be permitted on federal interstate highways except for Smart Way cameras, other intelligent transportation system cameras or, when employees of the department or construction workers are present, traffic enforcement cameras used to enforce or monitor traffic violations within work zones designated by the department of transportation; provided, that the cameras shall be operated only by a state entity.

(g)

(1) Prior to implementation of any new traffic enforcement camera used to enforce or monitor traffic violations, the local governing body, by majority vote, shall first request that a traffic engineering study be performed for the area being considered. The study shall assure that all reasonable engineering solutions have been exhausted and document the need for such traffic enforcement camera. The study shall follow standard engineering practices as determined by the Institute of Transportation Engineers (ITE) and shall be stamped by a professional engineer specializing in traffic engineering and licensed to practice in Tennessee. A vendor of traffic enforcement camera systems shall not be allowed to conduct the traffic engineering study, or to participate in the selection

of such traffic engineer, to document the need for a traffic enforcement camera.

At a minimum, the study shall include the following:

(A) For a traffic enforcement camera employed at an intersection for the enforcement or monitoring of traffic violations:

(i) Verification that the intersection meets signal warrants as defined in the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD);

(ii) Verification that the intersection meets all the requirements in the MUTCD with regard to signal layout, signing, and marking;

(iii) Verification that the signal head displays are at least twelve inches (12") in diameter and have back plates with yellow retro-reflective strips. The number and configuration of the signal head displays shall meet the latest edition of the MUTCD to maximize visibility of the displays;

(iv) An overall crash rate shall be determined based on at least the last three (3) years of crash history. Such crash history shall establish a rate higher than the statewide crash rate for similar intersections across the state, as such information is supplied to or otherwise available from the department of safety;

(v) The crash rate for angle crashes shall be calculated and compared to the overall crash rate at the intersection. Angle crashes shall compose ten percent (10%) or more of the overall crash rate;

(vi) Signal timing at the intersection shall be reviewed and optimized for the intersection. Yellow clearance intervals shall be calculated by standard engineering practices as outlined by the ITE. If the intersection is part of a coordinated signal system, the

system timing shall be reviewed and optimized. All-red clearance intervals shall have been tried for at least six (6) months without significantly reducing angle crashes prior to traffic enforcement camera implementation;

(vii) The violation rate for motor vehicles running the red light at the intersection shall be calculated. Counts of red light violations shall be done either manually or through the use of video cameras over at least a twenty-four (24) hour period;

(viii) Documentation that traditional enforcement methods are cost-prohibitive or of considerable risk to law enforcement, motorists or pedestrians; and

(ix) All documentation, including traffic engineering and traffic safety studies, compiled by the governing body maintaining such traffic enforcement camera establishing the need for such traffic enforcement camera. Such documentation shall be made a public record; and

(B) For a traffic enforcement camera, not employed at intersection, for the enforcement or monitoring of motor vehicle speeding violations:

(i) Verification that the current speed limit has been established by an engineering study and posted in accordance with the requirements of the MUTCD;

(ii) Verification that all reasonable engineering solutions have been exhausted and document the need for such traffic enforcement camera. Reasonable engineering solution shall include, but not be limited to, speed limit signing in advance of the detection area and, if the enforcement zone is in an area of reduced speed, advanced speed reduction warning signs installed

in accordance with the MUTCD. All regulatory, speed limit and warning signs shall meet the conventional road size or larger requirements of the MUTCD. Minimum size signing shall not be allowed;

(iii) A calculation of the violation rate for the posted speed limit. Counts of speed violations shall be done manually, through the use of video cameras or by the use of generally accepted speed monitoring equipment over at least a seven-day period;

(iv) Documentation that traditional enforcement methods are cost-prohibitive or of considerable risk to law enforcement, motorists or pedestrians; and

(v) All documentation, including traffic engineering and traffic safety studies, compiled by the governing body maintaining such traffic enforcement camera establishing the need for such traffic enforcement camera. Such documentation shall be made a public record.

(2) Upon complying with subdivision (g)(1), the local governing body, by majority vote, shall approve the installation of any traffic enforcement cameras used to enforce or monitor traffic violations at a new location based on the documentation provided pursuant to subdivision (g)(1) prior to any such traffic enforcement camera at a new location becoming operational.

(3) On or after January 1, 2011, any traffic enforcement camera in operation shall be based on a traffic engineering study performed for the location of such traffic enforcement camera. The study shall assure that all reasonable engineering solutions have been exhausted and document the need for such traffic enforcement camera. In addition, all traffic enforcement cameras shall be operated in accordance with the following operational protocols:

(A) For a traffic enforcement camera employed at an intersection for the enforcement or monitoring of traffic violations:

(i) The intersection shall have a minimum one-half (0.5) second all-red clearance interval;

(ii) For an intersection in which right turn on a red signal violations are enforced in accordance with § 55-8-110(a)(3), right turn on a red signal violations are not eligible to be cited based solely on evidence obtained from a traffic enforcement camera unless signage is posted at the stop line with the following language "STOP HERE ON RED" in accordance with the MUTCD;

(iii) Signage indicating that the intersection is video enforced shall be placed in advance of the zone in accordance with current state law. All regulatory and warning signs relating to the intersection shall meet the conventional road size or larger requirements of the MUTCD. Minimum size signing shall not be allowed;

(iv) No citation shall be issued based solely upon evidence obtained from a traffic enforcement camera that has been installed to enforce or monitor traffic violations pursuant to § 55-8-110(a)(3), or any municipal law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of § 55-8-110(a)(3), unless the evidence collected shows the target vehicle with its front tire or tires on or before the stop line when the signal is red, and subsequently shows the same vehicle with its rear tire or tires past the stop line while the signal is red;

(v) The governing body maintaining such traffic enforcement camera shall:

(a) Verify that the intersection meets signal warrants as defined in the latest edition of the MUTCD;

(b) Verify that the intersection meets all the requirements in the MUTCD with regard to signal layout, signing and marking;

(c) Verify that the signal head displays are at least twelve inches (12") in diameter and have back plates with yellow retro-reflective strips. The number and configuration of the signal head displays shall meet the latest edition of the MUTCD to maximize visibility of the displays;

(d) Review and optimize the signal timing for the intersection. Yellow and all-red clearance intervals shall be calculated by standard engineering practices as outlined by the ITE. If the intersection is part of a coordinated signal system, the system timing shall be reviewed and optimized;

(e) Evaluate the system on at least a monthly basis to ensure all traffic enforcement cameras and traffic signals are functioning properly. Evaluation results shall be made available to the public; and

(f) Compile all documentation establishing the need for such traffic enforcement camera and make such documentation a public record; and

(vi) If a court of competent jurisdiction finds that a traffic enforcement camera is operated in violation of this subdivision (g)(3)(A), any traffic citation based solely on evidence generated by such camera is invalid; and

(B) For a traffic enforcement camera, not employed at an intersection, for the enforcement or monitoring of motor vehicle speeding violations:

(i) Verification that the current speed limit has been established by an engineering study and posted in accordance with the requirements of the MUTCD;

(ii) Signage indicating that the location is video enforced shall be placed in advance of the zone in accordance with current state law. All regulatory and warning signs shall meet the conventional road size or larger requirements of the MUTCD. Minimum size signing shall not be allowed;

(iii) The governing body maintaining such traffic enforcement camera shall maintain written documentation that all speed monitoring equipment is verified for accuracy, at least every six (6) months, by a qualified equipment technician. No employee of a vendor of traffic enforcement camera systems shall be allowed to conduct or participate in the accuracy verification for such speed monitoring equipment;

(iv) The governing body maintaining such traffic enforcement camera shall compile all documentation establishing the need for such traffic enforcement camera and make such documentation a public record;

(v) The governing body maintaining such traffic enforcement camera shall evaluate the system on at least a monthly basis to ensure all traffic enforcement cameras are functioning properly. Evaluation results shall be made available to the public; and

(vi) If a court of competent jurisdiction finds that a traffic enforcement camera is operated in violation of this subdivision (g)(3)(B), any traffic citation based solely on evidence generated by such camera is invalid.

(h) After January 1, 2011, no local government may place or operate a traffic enforcement camera on any highway receiving state financial aid unless any contract for the operation of such traffic enforcement camera by a private vendor provides only for payment for services rendered, and no payment is based on a percentage or number of traffic citations generated by such traffic enforcement camera.

(i) Each local governing body placing or operating a traffic enforcement camera by contract with a private vendor pursuant to this section after July 1, 2010, shall limit the terms of such contract to four (4) years or less.

(j) Any contract between a state agency or political subdivision and a private vendor for goods or services involving a traffic enforcement camera operated in accordance with this section, that is entered into or renewed after enactment, shall include the following language, in clear and conspicuous print:

"The operation of traffic enforcement cameras in Tennessee is governed by state law as enacted by the General Assembly. The parties hereby stipulate that any subsequent change in Tennessee Code Annotated, § 55-8-198, shall require the parties to modify the terms of this contract in accordance with such statutory change."

(k) Each local governing body placing or operating a traffic enforcement camera by contract with a private vendor pursuant to this section after July 1, 2010, shall submit the signed contract to the comptroller of the treasury. The comptroller of the treasury may conduct audits of any local governing body that has placed or is operating a traffic enforcement camera to ensure compliance with this section.

(l) Each local governing body operating or placing a traffic enforcement camera authorized by this section shall notify the comptroller of the treasury of the locations of all

traffic enforcement cameras by August 1, 2010, if such traffic enforcement camera is in operation on the effective date of this act, and within thirty (30) days any such traffic camera becomes operational at a new location. Each local governing body operating a traffic enforcement camera shall provide the locations of such traffic enforcement cameras on the local governing body's official web site. The comptroller of the treasury shall compile the locations of all traffic enforcement cameras in operation in the state and make such information available on the comptroller's official web site.

(m) Prior to issuing citations for violations based on evidence solely from fixed or mobile traffic enforcement cameras at any new location, the local governing body shall conduct a public awareness program, advising the public that the locality is implementing or expanding a traffic enforcement camera system at least thirty (30) days prior to the commencement of the traffic enforcement camera program at the new location. In addition, a local governing body utilizing a fixed or mobile traffic enforcement camera at any new location shall commence a program to issue only warning notices for at least thirty (30) days following the date such traffic enforcement camera becomes operational.

(n) A violation of this section is a non-moving violation, subject only to imposition of a fine not to exceed fifty dollars (\$50.00), including court costs. No additional penalty or other costs shall be assessed for nonpayment of a traffic violation or citation that is based solely on evidence obtained from a traffic enforcement camera installed to enforce or monitor traffic violations.

SECTION 2. Tennessee Code Annotated, Section 55-8-101, is amended by adding the following language as a new, appropriately designated subdivision and redesignating the present language accordingly:

() "Stop line" means a white line placed generally in conformance with the Manual on Uniform Traffic Control Devices (MUTCD), as adopted by the department of transportation, denoting the point where an intersection begins;

SECTION 3 . Tennessee Code Annotated, Section 55-8-110(a), is amended by deleting subdivision (3)(A) in its entirety and by substituting instead the following language:

(A) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or if there is a clearly marked stop line preceding the crosswalk, then before such stop line, but if there is neither a crosswalk nor a stop line, then before entering the intersection, and the vehicular traffic shall remain standing until green or “Go” is shown alone. A right turn on a red signal shall be permitted at all intersections within the state; provided, that the prospective turning car shall come to a full and complete stop before turning and that the turning car shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with their traffic signal; provided, further, such turn will not endanger other traffic lawfully using the intersection. A right turn on red shall be permitted at all intersections, except those that are clearly marked by a “No Turns On Red” sign, which may be erected by the responsible municipal or county governments at intersections which they decide require no right turns on red in the interest of traffic safety;

SECTION 4. Tennessee Code Annotated, Section 55-8-110, is further amended in subdivision (a)(5) by deleting the following language in its entirety:

Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any sign or marking the stop shall be made at the signal;

And by substituting instead the following language:

Any stop required shall be made at a sign or before the stop line, but in the absence of any sign or stop line the stop shall be made at the signal;

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 6 This act shall take effect upon becoming a law, the public welfare requiring

it.