

By: Thompson of Brazoria

H.B. No. 262

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the authority of the governing body of a local authority
3 to operate an automated traffic control system; providing a civil
4 penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section [542.2035](#), Transportation Code, is
7 amended to read as follows:

8 Sec. 542.2035. AUTOMATED TRAFFIC CONTROL SYSTEMS
9 PROHIBITED [~~LIMITATION ON MUNICIPALITIES~~]. (a) A local authority
10 [~~municipality~~] may not implement or operate an automated traffic
11 control system with respect to a highway or street under its
12 jurisdiction [~~for the purpose of enforcing compliance with posted~~
13 ~~speed limits~~]. The attorney general shall enforce this subsection.

14 (b) In this section, "automated traffic control system"
15 means a system consisting of a photographic device, radar device,
16 laser device, or other electrical or mechanical device that
17 [~~designed to~~]:

18 (1) is capable of producing one or more recorded
19 photographic or digital images depicting the license plate attached
20 to the front or rear of a motor vehicle that is not operated in
21 compliance with a posted speed limit or the instructions of a
22 traffic-control signal; and

23 (2) is used by the local authority to enforce
24 compliance with a posted speed limit or the instructions of a

1 traffic-control signal by imposition of a civil or administrative
2 penalty against the owner or operator of the motor vehicle [~~record~~
3 ~~the speed of a motor vehicle; and~~

4 [~~(2) obtain one or more photographs or other recorded~~
5 ~~images of:~~

6 [~~(A) the vehicle;~~

7 [~~(B) the license plate attached to the vehicle;~~

8 ~~or~~

9 [~~(C) the operator of the vehicle].~~

10 (c) A local authority that violates Subsection (a) is liable
11 for a civil penalty of:

12 (1) not less than \$1,000 and not more than \$1,500 for
13 the first violation; and

14 (2) not less than \$10,000 and not more than \$10,500 for
15 the second or a subsequent violation.

16 (d) Each day of a continuing violation of Subsection (a)
17 constitutes a separate violation.

18 (e) A citizen of this state may file a complaint with the
19 attorney general that a local authority is in violation of
20 Subsection (a). A complaint filed under this subsection must
21 include:

22 (1) evidence of the violation;

23 (2) evidence that the citizen provided the local
24 authority written notice that described the violation, including
25 the specific location of the automated traffic control system;

26 (3) a copy of the written notice the citizen provided
27 the local authority; and

1 (4) evidence that the local authority did not cure the
2 violation before the fourth business day after the date the local
3 authority received the notice.

4 (f) A civil penalty collected by the attorney general under
5 this section shall be deposited to the credit of the designated
6 trauma facility and emergency medical services account under
7 Section 780.003, Health and Safety Code.

8 (g) Before a suit may be brought against a local authority
9 for a violation of Subsection (a), the attorney general must
10 investigate the complaint to determine whether legal action is
11 warranted. If legal action is warranted, the attorney general must
12 give the chief administrative officer of the local authority
13 charged with the violation a written notice that:

14 (1) describes the violation and specific location of
15 the automated traffic control system found to be in violation;

16 (2) states the amount of the proposed penalty for the
17 violation; and

18 (3) gives the local authority 15 days from receipt of
19 the notice to remove the automated traffic control system and cure
20 the violation to avoid the penalty, unless the local authority was
21 found liable by a court for previously violating Subsection (a).

22 (h) If the attorney general determines that legal action is
23 warranted and that the local authority has not cured the violation
24 within the 15-day period provided by Subsection (g)(3), the
25 attorney general or the appropriate county or district attorney may
26 sue to collect the civil penalty provided by Subsection (c). The
27 attorney general may also file a petition for a writ of mandamus or

1 apply for other appropriate equitable relief. A suit or petition
2 under this subsection may be filed in a district court in Travis
3 County or in a county in which the principal office of the local
4 authority is located. The attorney general may recover reasonable
5 expenses incurred in obtaining relief under this subsection,
6 including court costs, reasonable attorney's fees, investigative
7 costs, witness fees, and deposition costs.

8 (i) Sovereign immunity to suit is waived and abolished to
9 the extent of liability created by this section.

10 SECTION 2. Section 27.031(a), Government Code, is amended
11 to read as follows:

12 (a) In addition to the jurisdiction and powers provided by
13 the constitution and other law, the justice court has original
14 jurisdiction of:

15 (1) civil matters in which exclusive jurisdiction is
16 not in the district or county court and in which the amount in
17 controversy is not more than \$10,000, exclusive of interest;

18 (2) cases of forcible entry and detainer; and

19 (3) foreclosure of mortgages and enforcement of liens
20 on personal property in cases in which the amount in controversy is
21 otherwise within the justice court's jurisdiction[~~, and~~

22 [~~(4) cases arising under Chapter 707, Transportation~~
23 ~~Code, outside a municipality's territorial limits].~~

24 SECTION 3. Section 780.003(b), Health and Safety Code, is
25 amended to read as follows:

26 (b) The account is composed of money deposited to the credit
27 of the account under Section 542.2035 [~~Sections 542.406 and~~

1 ~~707.008~~], Transportation Code, and under Section 780.002 of this
2 code.

3 SECTION 4. Section 133.004, Local Government Code, as
4 amended by Chapters 718 (H.B. 2359), 1027 (H.B. 1623), and 1149
5 (S.B. 1119), Acts of the 80th Legislature, Regular Session, 2007,
6 is reenacted and amended to read as follows:

7 Sec. 133.004. CIVIL FEES. This chapter applies to the
8 following civil fees:

9 (1) the consolidated fee on filing in district court
10 imposed under Section 133.151;

11 (2) the filing fee in district court for basic civil
12 legal services for indigents imposed under Section 133.152;

13 (3) the filing fee in courts other than district court
14 for basic civil legal services for indigents imposed under Section
15 133.153;

16 (4) the filing fees for the judicial fund imposed in
17 certain statutory county courts under Section 51.702, Government
18 Code;

19 (5) the filing fees for the judicial fund imposed in
20 certain county courts under Section 51.703, Government Code;

21 (6) the filing fees for the judicial fund imposed in
22 ~~[certain]~~ statutory probate courts under Section 51.704,
23 Government Code;

24 (7) fees collected under Section 118.015;

25 (8) marriage license fees for the family trust fund
26 collected under Section 118.018;

27 (9) marriage license or declaration of informal

1 marriage fees for the child abuse and neglect prevention trust fund
2 account collected under Section [118.022](#); and

3 (10) the filing fee for the judicial fund imposed in
4 district court, statutory county court, and county court under
5 Section [133.154](#)~~[, and~~

6 ~~[(11) the portion of the civil or administrative~~
7 ~~penalty described by Section [542.406](#)(c)(1), Transportation Code,~~
8 ~~imposed by a local authority to enforce compliance with the~~
9 ~~instructions of a traffic-control signal~~

10 ~~[(11) the portion of the civil or administrative~~
11 ~~penalty described by Section [707.008](#)(a)(1), Transportation Code,~~
12 ~~imposed by a local authority to enforce compliance with the~~
13 ~~instructions of a traffic-control signal].~~

14 SECTION 5. The following laws are repealed:

15 (1) Section [29.003](#)(g), Government Code;

16 (2) Sections [542.405](#), [542.406](#), and [544.012](#),
17 Transportation Code; and

18 (3) Chapter [707](#), Transportation Code.

19 SECTION 6. (a) The repeal by this Act of Sections [542.405](#)
20 and [542.406](#) and Chapter [707](#), Transportation Code, does not affect
21 the validity of a proceeding initiated or a civil penalty imposed
22 under those provisions before the effective date of this Act. A
23 proceeding initiated or a civil penalty imposed under those
24 provisions before the effective date of this Act is governed by the
25 applicable law in effect before the effective date of this Act, and
26 the former law is continued in effect for that purpose.

27 (b) Notwithstanding the repeal by this Act of Sections

1 542.405 and 542.406 and Chapter 707, Transportation Code, if before
2 the effective date of this Act a local authority enacted an
3 ordinance under those provisions to implement an automated traffic
4 control system and entered into a contract for the administration
5 and enforcement of the system, the local authority may continue to
6 operate the system under that ordinance and under the terms of that
7 contract until the expiration date specified in the contract as the
8 contract existed on the effective date of this Act.

9 (c) Subsection (b) of this section does not apply to a
10 contract for the administration and enforcement of an automated
11 traffic control system entered into before the effective date of
12 this Act that explicitly authorizes termination of the contract on
13 the basis of adverse state legislation.

14 SECTION 7. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2019.

By: Hall

S.B. No. 77

A BILL TO BE ENTITLED

AN ACT

relating to the use of information from traffic surveillance technology by governmental entities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle I, Title 7, Transportation Code, is amended by adding Chapter 709 to read as follows:

CHAPTER 709. TRAFFIC SURVEILLANCE

Sec. 709.001. DEFINITION. In this chapter, "traffic surveillance technology" means technology that:

(1) records a photographic or digital image of a motor vehicle operator or license plate; or

(2) automatically reads a motor vehicle license plate.

Sec. 709.002. USE OF INFORMATION FROM TRAFFIC SURVEILLANCE TECHNOLOGY PROHIBITED. (a) Except as otherwise provided by this chapter, a governmental entity may not use information from traffic surveillance technology for any purpose, including the issuance of a civil or criminal charge or citation for an offense or violation based on a recorded image or reading produced by traffic surveillance technology.

(b) The attorney general shall enforce this section.

Sec. 709.003. TOLL ENFORCEMENT EXCEPTION. Section 709.002 does not apply to the use of traffic surveillance technology information for the purpose of collecting or enforcing tolls.

Sec. 709.004. CRIMINAL CITATION EXCEPTION: TRAFFIC

1 MONITORING BY LAW ENFORCEMENT OFFICER. Section 709.002 does not
2 apply to the use of information for the issuance of a criminal
3 citation if:

4 (1) the information is from traffic surveillance
5 technology that is:

6 (A) used to monitor traffic offenses;

7 (B) handheld by a law enforcement officer or
8 mounted on a law enforcement vehicle; and

9 (C) actively operated and monitored on site by a
10 law enforcement officer; and

11 (2) the citation is issued in person by a law
12 enforcement officer at the time the offense was alleged to have been
13 committed.

14 Sec. 709.005. CRIMINAL CITATION EXCEPTION: SCHOOL BUS
15 CAMERAS. Section 709.002 does not apply to the use of information
16 from traffic surveillance technology that captures images of
17 vehicles that pass a school bus if:

18 (1) the information is used only for the prosecution
19 of an offense; and

20 (2) the person who is cited for the offense is
21 authorized to contest the citation in court.

22 SECTION 2. Section 27.031(a), Government Code, is amended
23 to read as follows:

24 (a) In addition to the jurisdiction and powers provided by
25 the constitution and other law, the justice court has original
26 jurisdiction of:

27 (1) civil matters in which exclusive jurisdiction is

1 not in the district or county court and in which the amount in
2 controversy is not more than \$10,000, exclusive of interest;

3 (2) cases of forcible entry and detainer; and

4 (3) foreclosure of mortgages and enforcement of liens
5 on personal property in cases in which the amount in controversy is
6 otherwise within the justice court's jurisdiction[~~, and~~

7 [~~(4) cases arising under Chapter 707, Transportation
8 Code, outside a municipality's territorial limits~~].

9 SECTION 3. Section 780.003(b), Health and Safety Code, is
10 amended to read as follows:

11 (b) The account is composed of money deposited to the credit
12 of the account under [~~Sections 542.406 and 707.008, Transportation
13 Code, and under~~] Section 780.002 [~~of this code~~].

14 SECTION 4. Section 133.004, Local Government Code, as
15 amended by Chapters 718 (H.B. 2359), 1027 (H.B. 1623), and 1149
16 (S.B. 1119), Acts of the 80th Legislature, Regular Session, 2007,
17 is reenacted and amended to read as follows:

18 Sec. 133.004. CIVIL FEES. This chapter applies to the
19 following civil fees:

20 (1) the consolidated fee on filing in district court
21 imposed under Section 133.151;

22 (2) the filing fee in district court for basic civil
23 legal services for indigents imposed under Section 133.152;

24 (3) the filing fee in courts other than district court
25 for basic civil legal services for indigents imposed under Section
26 133.153;

27 (4) the filing fees for the judicial fund imposed in

1 certain statutory county courts under Section 51.702, Government
2 Code;

3 (5) the filing fees for the judicial fund imposed in
4 certain county courts under Section 51.703, Government Code;

5 (6) the filing fees for the judicial fund imposed in
6 ~~certains~~ statutory probate courts under Section 51.704,
7 Government Code;

8 (7) fees collected under Section 118.015;

9 (8) marriage license fees for the family trust fund
10 collected under Section 118.018;

11 (9) marriage license or declaration of informal
12 marriage fees for the child abuse and neglect prevention trust fund
13 account collected under Section 118.022; and

14 (10) the filing fee for the judicial fund imposed in
15 district court, statutory county court, and county court under
16 Section 133.154[~~, and~~

17 ~~[(11) the portion of the civil or administrative
18 penalty described by Section 542.406(c)(1), Transportation Code,
19 imposed by a local authority to enforce compliance with the
20 instructions of a traffic-control signal~~

21 ~~[(11) the portion of the civil or administrative
22 penalty described by Section 707.008(a)(1), Transportation Code,
23 imposed by a local authority to enforce compliance with the
24 instructions of a traffic-control signal].~~

25 SECTION 5. The following laws are repealed:

26 (1) Section 29.003(g), Government Code;

27 (2) Sections 542.2035, 542.405, 542.406, and 544.012,

1 Transportation Code; and

2 (3) Chapter 707, Transportation Code.

3 SECTION 6. (a) Chapter 709, Transportation Code, as added
4 by this Act, and the repeal by this Act of Sections 542.405 and
5 542.406 and Chapter 707, Transportation Code, do not affect the
6 validity of a proceeding initiated or a civil penalty imposed
7 before the effective date of this Act. A proceeding initiated or a
8 civil penalty imposed before the effective date of this Act is
9 governed by the applicable law in effect before the effective date
10 of this Act, and the former law is continued in effect for that
11 purpose.

12 (b) Notwithstanding Chapter 709, Transportation Code, as
13 added by this Act, and the repeal by this Act of Sections 542.405
14 and 542.406 and Chapter 707, Transportation Code, if before June 1,
15 2019, a local authority enacted an ordinance under those repealed
16 provisions to implement a photographic traffic signal enforcement
17 system and entered into a contract for the administration and
18 enforcement of the system:

19 (1) the local authority may continue to operate and
20 use information from the system under that ordinance and under the
21 terms of that contract until the expiration date specified in the
22 contract as the contract existed on June 1, 2019; and

23 (2) the contract is governed by the law in effect on
24 the date the contract was entered into, and the former law is
25 continued in effect for that purpose.

26 (c) Subsection (b) of this section does not apply to a
27 contract for the administration and enforcement of a photographic

1 traffic signal enforcement system entered into before June 1, 2019,
2 that explicitly authorizes termination of the contract on the basis
3 of adverse state legislation.

4 SECTION 7. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2019.