As Introduced

136th General Assembly
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H. B. No. 843

Representative Craig

To amend sections 4511.092, 4511.093, 4511.096, 4511.097, 4511.098, 4511.099, and 4511.0911; to enact new section 4511.094; and to repeal sections 4511.094, 4511.095, 4511.0912, 4511.0913, and 4511.0914 of the Revised Code to require elector approval for a municipal traffic camera program and to streamline the traffic camera laws.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4511.092, 4511.093, 4511.096, 4511.097, 4511.098, 4511.099, and 4511.0911 be amended and new section 4511.094 of the Revised Code be enacted to read as follows:

Sec. 4511.092. As used in sections 4511.092 to ~~4511.0914~~ 4511.0911 of the Revised Code:

(A) "Designated party" means the person whom the registered owner of a motor vehicle, upon receipt of a ticket based upon images recorded by a traffic law photo-monitoring device that indicate a traffic law violation, identifies as the person who was operating the vehicle of the registered owner at the time of the violation.

(B) "Law enforcement officer" means a police officer who is employed on a permanent, full-time basis by the law enforcement agency of a ~~local authority that assigns such person to the location of a traffic law photo-monitoring device~~ municipal corporation.

(C) ~~"Local authority" means a municipal corporation.~~

~~(D)~~ "Motor vehicle leasing dealer" has the same meaning as in section 4517.01 of the Revised Code.

~~(E)~~ (D) "Motor vehicle renting dealer" has the same meaning as in section 4549.65 of the Revised Code.

~~(F)~~ (E) "Recorded images" means any of the following images recorded by a traffic law photo-monitoring device that show, on at least one image or on a portion of the videotape, the rear of a motor vehicle and the letters and numerals on the rear license plate of the vehicle:

(1) Two or more photographs, microphotographs, electronic images, or digital images;

(2) Videotape.

~~(G)~~ (F) "Registered owner" means all of the following:

(1) Any person or entity identified by the bureau of motor vehicles or any other state motor vehicle registration bureau, department, or office as the owner of a motor vehicle;

(2) The lessee of a motor vehicle under a lease of six months or longer;

(3) The renter of a motor vehicle pursuant to a written rental agreement with a motor vehicle renting dealer.

~~(H)~~ (G) "System location" means the approach to an

intersection or area of roadway toward which a traffic law photo-monitoring device is directed and is in operation.

~~(I)~~ (H) "Ticket" means any traffic ticket, citation, summons, or other ticket issued in response to an alleged traffic law violation detected by a traffic law photo-monitoring device, that represents a civil violation.

~~(J)~~ (I) "Traffic law photo-monitoring device" means an electronic system consisting of a photographic, video, or electronic camera and a means of sensing the presence of a motor vehicle that automatically produces recorded images.

~~(K)~~ (J) "Traffic law violation" means either of the following:

(1) A violation of section 4511.12 of the Revised Code based on the failure to comply with section 4511.13 of the Revised Code or a substantially equivalent municipal ordinance that occurs at an intersection due to failure to obey a highway traffic signal;

(2) A violation of section 4511.21 or 4511.211 of the Revised Code or a substantially equivalent municipal ordinance due to failure to observe the applicable speed limit.

Sec. 4511.093. ~~(A)~~ A ~~local authority~~ municipal corporation may utilize a traffic law photo-monitoring device for the purpose of detecting traffic law violations only after obtaining the approval of the electors of the municipal corporation under section 4511.094 of the Revised Code. No county, township, or representative of a county or township shall utilize a traffic law photo-monitoring device to detect and enforce traffic law violations.

~~(B) The use of a traffic law photo-monitoring device is~~

~~subject to the following conditions:~~

~~(1) A local authority shall use a traffic law photo-monitoring device to detect and enforce traffic law violations only if a law enforcement officer is present at the location of the device at all times during the operation of the device and if the local authority complies with sections 4511.094 and 4511.095 of the Revised Code.~~

~~(2) A law enforcement officer who is present at the location of any traffic law photo-monitoring device and who personally witnesses a traffic law violation may issue a ticket for the violation. Such a ticket shall be issued in accordance with section 2935.26 of the Revised Code and is not subject to sections 4511.096 to 4511.0910 and section 4511.912 of the Revised Code.~~

~~(3) If a traffic law photo-monitoring device records a traffic law violation and the law enforcement officer who was present at the location of the traffic law photo-monitoring device does not issue a ticket as provided under division (B)(2) of this section, the local authority may only issue a ticket in accordance with sections 4511.096 to 4511.0912 of the Revised Code.~~

Sec. 4511.094. (A)(1) The legislative authority of a municipal corporation shall adopt a resolution by a majority vote to submit a proposal to the electors of the municipal corporation if either of the following apply:

(a) After the effective date of this section, the municipal corporation wishes to begin utilizing a traffic law photo-monitoring device for the purpose of detecting traffic law violations.

(b) On or before the effective date of this section, the municipal corporation utilized a traffic law photo-monitoring device for purposes of detecting traffic law violations and wishes to modify, extend, or renew a contract in order to continue to utilize the device for the purpose of detecting traffic law violations.

(2) The legislative authority shall certify the resolution to the board of elections of the county in which the most populous portion of the municipal corporation is located not later than ninety days before the day of the general or special election at which the proposal is to appear on the ballot.

(B) The form of the ballot shall be as follows:

"Shall the use of automated traffic cameras be allowed in (municipal corporation) to detect traffic law violations?

Yes	For the use of automated traffic cameras
No	Against the use of automated traffic cameras

"

(C) If the proposal is approved by a majority of the electors voting on it, the municipal corporation may utilize or continue to utilize a traffic law photo-monitoring device for the purpose of detecting traffic law violations.

Sec. 4511.096. (A) A law enforcement officer employed by a ~~local authority~~ municipal corporation utilizing a traffic law photo-monitoring device shall examine evidence of alleged

traffic law violations recorded by the device to determine whether such a violation has occurred. If the image recorded by the traffic law photo-monitoring device shows such a violation, contains the date and time of the violation, and shows the letter and numerals on the license plate of the vehicle involved as well as the state that issued the license plate, the officer may use any lawful means to identify the registered owner.

(B) The fact that a person or entity is the registered owner of a motor vehicle is prima facie evidence that that person or entity is the person who was operating the vehicle at the time of the traffic law violation.

(C) Within thirty days of the traffic law violation, the ~~local authority~~ municipal corporation or its designee may issue and send by regular mail a ticket charging the registered owner with the violation. The ticket shall comply with section 4511.097 of the Revised Code. If the ~~local authority~~ municipal corporation mails a ticket charging the registered owner with the violation, the ~~local authority~~ municipal corporation shall file a certified copy of the ticket with the municipal court or county court with jurisdiction over the civil action.

(D) A certified copy of the ticket alleging a traffic law violation, sworn to or affirmed by a law enforcement officer employed by the ~~local authority~~ municipal corporation, including by electronic means, and the recorded images produced by the traffic law photo-monitoring device, is prima facie evidence of the facts contained therein and is admissible in a civil action or proceeding concerning the ticket issued under this section.

Sec. 4511.097. (A) A traffic law violation for which a ticket is issued by a ~~local authority~~ municipal corporation based on evidence recorded by a traffic law photo-monitoring

device is a civil violation. If a ~~local authority~~ municipal corporation issues a ticket for such a violation, the ticket shall comply with the requirements of this section and the fine for such a ticket shall not exceed the amount of the fine that may be imposed for a substantially equivalent criminal traffic law violation.

(B) A ~~local authority~~ municipal corporation or its designee shall process such a ticket for a civil violation and shall send the ticket by ordinary mail to any registered owner of the motor vehicle that is the subject of the traffic law violation. The ~~local authority~~ municipal corporation or designee shall ensure that the ticket contains all of the following:

(1) The name and address of the registered owner;

(2) The letters and numerals appearing on the license plate issued to the motor vehicle;

(3) The traffic law violation charged;

(4) The system location;

(5) The date and time of the violation;

(6) A copy of the recorded images;

(7) The name and badge number of the law enforcement officer who was present at the system location at the time of the violation, if applicable;

(8) The amount of the civil penalty imposed, the date by which the civil penalty is required to be paid, and the address of the municipal court or county court with jurisdiction over the civil action to which the payment is to be sent;

(9) A statement signed by a law enforcement officer

employed by the ~~local authority~~ municipal corporation indicating that, based on an inspection of recorded images, the motor vehicle was involved in a traffic law violation, and a statement indicating that the recorded images are prima facie evidence of that traffic law violation both of which may be signed electronically;

(10) Information advising the person or entity alleged to be liable of the options prescribed in section 4511.098 of the Revised Code, specifically to include the time, place, and manner in which the person or entity may appear in court to contest the violation and ticket and the procedure for disclaiming liability by submitting an affidavit to the municipal court or county court as prescribed in that section;

(11) A warning that failure to exercise one of the options prescribed in section 4511.098 of the Revised Code is deemed to be an admission of liability and waiver of the opportunity to contest the violation.

(C) A ~~local authority~~ municipal corporation or its designee shall send a ticket not later than thirty days after the date of the alleged traffic law violation.

(D) The ~~local authority~~ municipal corporation or its designee may elect to send by ordinary mail a warning notice in lieu of a ticket under this section.

Sec. 4511.098. (A) A person or entity who receives a ticket for a civil violation sent in compliance with section 4511.097 of the Revised Code shall elect to do one of the following:

(1) In accordance with instructions on the ticket, pay the civil penalty, thereby admitting liability and waiving the

opportunity to contest the violation;

(2)(a) Within thirty days after receipt of the ticket, provide the municipal court or county court with jurisdiction over the civil action with either of the following affidavits:

(i) An affidavit executed by the registered owner stating that another person was operating the vehicle of the registered owner at the time of the violation, identifying that person as a designated party who may be held liable for the violation, and containing at a minimum the name and address of the designated party;

(ii) An affidavit executed by the registered owner stating that at the time of the violation, the motor vehicle or the license plates issued to the motor vehicle were stolen and therefore were in the care, custody, or control of some person or entity to whom the registered owner did not grant permission to use the motor vehicle. In order to demonstrate that the motor vehicle or the license plates were stolen prior to the traffic law violation and therefore were not under the control or possession of the registered owner at the time of the violation, the registered owner shall submit proof that a report about the stolen motor vehicle or license plates was filed with the appropriate law enforcement agency prior to the violation or within forty-eight hours after the violation occurred.

(b) A registered owner is not responsible for a traffic law violation if, within thirty days after the date of mailing of the ticket, the registered owner furnishes an affidavit specified in division (A)(2)(a)(i) or (ii) of this section to the court with jurisdiction in a form established by the court and the following conditions are met:

(i) If the registered owner submits an affidavit as specified in division (A)(2)(a)(i) of this section, the designated party either accepts liability for the violation by paying the civil penalty or by failing to request a court hearing within thirty days or is determined liable in a court hearing;

(ii) If the registered owner submits an affidavit as specified in division (A)(2)(a)(ii) of this section, the affidavit is supported by a stolen vehicle or stolen license plate report as required in that division.

(3) If the registered owner is a motor vehicle leasing dealer or a motor vehicle renting dealer, notify the court with jurisdiction of the name and address of the lessee or renter of the motor vehicle at the time of the traffic law violation. The court shall establish the form of the notice. A motor vehicle leasing dealer or motor vehicle renting dealer who receives a ticket for an alleged traffic law violation detected by a traffic law photo-monitoring device is not liable for a ticket issued for a motor vehicle that was in the care, custody, or control of a lessee or renter at the time of the alleged violation. The dealer shall not pay such a ticket and subsequently attempt to collect a fee or assess the lessee or renter a charge for any payment of such a ticket made on behalf of the lessee or renter.

(4) If the vehicle involved in the traffic law violation is a commercial motor vehicle and the ticket is issued to a corporate entity, provide to the court with jurisdiction an affidavit in a form established by the court, sworn to or affirmed by an agent of the corporate entity, that provides the name and address of the employee who was operating the motor

vehicle at the time of the alleged violation and who is the designated party.

(5) Contest the ticket by filing a written request for a court hearing to review the ticket in a form established by the court. The person or entity shall file the written request not later than thirty days after receipt of the ticket. The failure to request a hearing within this time period constitutes a waiver of the right to contest the violation and ticket, and is deemed to constitute an admission of liability and waiver of the opportunity to contest the violation.

(B) A court with jurisdiction that receives an affidavit described in division (A)(2)(a)(i) or (A)(4) of this section or a notification under division (A)(3) of this section from a registered owner may proceed to notify the ~~local authority~~ municipal corporation to send a ticket that conforms with division (B) of section 4511.097 of the Revised Code to the designated party. The ~~local authority~~ municipal corporation shall send the ticket to the designated party by ordinary mail not later than twenty-one days after receipt of the notification.

Sec. 4511.099. (A) Subject to division (B) of this section and notwithstanding any other provision in the Revised Code to the contrary, when a certified copy of a ticket issued by a ~~local authority~~ municipal corporation based on evidence recorded by a traffic law photo-monitoring device is filed with the municipal court or county court with jurisdiction over the civil action, the court shall require the ~~local authority~~ municipal corporation to provide an advance deposit for the filing of the civil action. The advance deposit shall consist of all applicable court costs and fees for the civil action. The court

shall retain the advance deposit regardless of which party prevails in the civil action and shall not charge to the registered owner or designated party any court costs and fees for the civil action.

(B) Division (A) of this section does not apply to any civil action related to a ticket issued by a ~~local authority~~ municipal corporation based on evidence recorded by a traffic law photo-monitoring device when the traffic law photo-monitoring device was located in a school zone. The court shall charge the applicable court costs and fees for such a civil action to the party that does not prevail in the action.

As used in this division, "school zone" has the same meaning as in section 4511.21 of the Revised Code.

Sec. 4511.0911. (A) Upon request, each manufacturer of a traffic law photo-monitoring device shall provide to a ~~local authority~~ municipal corporation utilizing its devices the maintenance record of any such device used in that ~~local authority~~municipal corporation.

~~(B)(1)~~(B) Commencing January 2015, not later than the last day of January of each year, the manufacturer of a traffic law photo-monitoring device shall provide to the applicable ~~local authority~~ municipal corporation a certificate of proper operation that attests to the accuracy of the device in recording a traffic law violation.

~~(2) In addition to the requirement prescribed in division (B)(1) of this section, for every such device that is considered mobile, meaning it is attached to a trailer, vehicle, or other wheeled apparatus so that it is easily moved to different system locations, both of the following apply:~~

~~(a) Each local authority shall test the accuracy of each such device with an independent, certified speed measuring device or some other commonly accepted method prior to its use at each system location.~~

~~(b) Each local authority shall clearly and conspicuously mark on the outside of the trailer, vehicle, or wheeled apparatus that contains the traffic law photo-monitoring device that the device is contained therein and that the trailer, vehicle, or wheeled apparatus is the property of the local authority.~~

~~(C) In the case of a traffic law photo-monitoring device that is used at an intersection to detect violations of section 4511.12 of the Revised Code based on the failure to comply with section 4511.13 of the Revised Code or a substantially equivalent municipal ordinance, the local authority shall not issue a ticket for a violation based upon evidence recorded by a traffic law photo-monitoring device when a vehicle makes a legal right or left turn-on-red-signal if all of the following apply:~~

~~(1) The vehicle can make the turn safely.~~

~~(2) The vehicle comes to a complete stop at any point prior to completing the turn.~~

~~(3) No pedestrians are in the crosswalk, or are about to enter the crosswalk, of any approach to the intersection the vehicle occupies while commencing or making the turn.~~

Section 2. That existing sections 4511.092, 4511.093, 4511.096, 4511.097, 4511.098, 4511.099, and 4511.0911 of the Revised Code are hereby repealed.

Section 3. That sections 4511.094, 4511.095, 4511.0912, 4511.0913, and 4511.0914 of the Revised Code are hereby

repealed.