

SECOND REGULAR SESSION

HOUSE BILL NO. 1772

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JONES (117) (Sponsor), DEEKEN, VILLA, DAUS, KOMO, VOGT, SUTHERLAND, JONES (89), COOPER (120), PARSON, ST. ONGE, ONDER, SCHLOTTACH, PRATT, WILSON (119) AND ZWEIFEL (Co-sponsors).

Read 1st time January 22, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3139L.02I

AN ACT

To amend chapter 304, RSMo, by adding thereto four new sections relating to the enforcement of traffic control signal violations, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 304, RSMo, is amended by adding thereto four new sections, to be known as sections 304.286, 304.287, 304.289, and 304.290, to read as follows:

304.286. 1. For the purposes of sections 304.286 to 304.290, the following terms mean:

(1) "Agency", any county, city, town, village, municipality, state agency, or other political subdivision of this state that is authorized to issue a notice of violation for a violation of a state or local traffic law or regulation;

(2) "Automated photo red light enforcement system" or "system", a device consisting of a camera or cameras and vehicle sensor or sensors, installed to work in conjunction with a traffic control signal;

(3) "Owner", the owner of a motor vehicle as shown on the motor vehicle registration records of the Missouri department of revenue or the analogous department or agency of another state or country. The term "owner" includes:

(a) A lessee of a motor vehicle under a lease of six months or more; or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 (b) **The lessee of a motor vehicle rented or leased from a motor vehicle rental or**
14 **leasing company, but does not include the motor vehicle rental or leasing company itself.**

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16 **If there is more than one owner of the motor vehicle, the primary owner will be deemed the**
17 **owner. If no primary owner is named, the first-listed owner will be deemed the owner;**

18 (4) **"Recorded image", an image recorded by an automated photo red light**
19 **enforcement system that depicts the rear view of a motor vehicle and is automatically**
20 **recorded by a high-resolution camera as a digital image;**

21 (5) **"Steady red signal indication violation" or "violation", a violation of a steady**
22 **red signal indication under sections 304.271 and 304.281 or substantially similar agency**
23 **ordinance or traffic laws;**

24 (6) **"Traffic control signal", a traffic control device that displays alternating red,**
25 **yellow, and green lights intended to direct traffic when to stop at or proceed through an**
26 **intersection.**

27 **2. No agency shall use an automated photo red light enforcement system unless the**
28 **system is capable of producing at least two high-resolution color digital recorded images**
29 **that show:**

30 (1) **The traffic control signal while it is emitting a steady red signal;**

31 (2) **The offending vehicle; and**

32 (3) **The rear license plate of the offending vehicle.**

33

34 **One of the images must be of sufficient resolution to show clearly, while the vehicle is in**
35 **the intersection and while the traffic signal is emitting a steady red signal, all three**
36 **elements set forth in subdivisions (1), (2), and (3) of this subsection.**

37 **3. The automated photo red light enforcement system shall not capture images of**
38 **the driver of any vehicle. If any system is installed to capture front plates, such frontal**
39 **images shall only store the license plate portion attached to the motor vehicle. No driver**
40 **images shall be retained.**

41 **4. The automated photo red light enforcement system shall utilize a video recording**
42 **component which shall record the period during which the two violation images were**
43 **captured, as well as at least five seconds before and at least five seconds after the violation**
44 **event.**

45 **5. No system may photograph or otherwise capture an image of the driver's face**
46 **or any occupants.**

47 **6. Agencies that utilize automated photo red light enforcement systems to detect**
48 **and enforce steady red signal indication violations are subject to the conditions and**
49 **limitations specified in sections 304.286 to 304.290.**

50 **7. Prior to activation of the system at an intersection:**

51 **(1) If not already present, the roadway first must be clearly marked with a white**
52 **stripe indicating the stop line and/or the perimeter of the intersection;**

53 **(2) Warning signs shall be installed within five hundred feet of the white stripe**
54 **indicating the stop line;**

55 **(3) Signal phase timings at intersections equipped with a system shall be certified**
56 **by the Missouri department of transportation or other such appropriate governmental**
57 **agency before the automated photo red light enforcement systems may be activated for**
58 **enforcement purposes. Any such timing shall be set by the department or other such**
59 **appropriate agency and shall be consistent with traffic engineering standards. In no case,**
60 **however, shall a private vendor have the ability to control the signal phase timing**
61 **connected with a system.**

62 **8. Prior to installing the automated photo red light enforcement system, the agency**
63 **shall give notice of the intersection where the system will be located and of the date on**
64 **which the system will begin to monitor the intersection. The agency shall give reasonable**
65 **notice at least fourteen days prior to the installation of the system in a newspaper of**
66 **general circulation throughout the political subdivision served by the agency.**

67 **9. Any agency that implements a system shall submit an annual report to the**
68 **Missouri department of transportation. The report shall include, at a minimum:**

69 **(1) The number of intersections enforced by active systems;**

70 **(2) The number of notices of violation mailed;**

71 **(3) The number of notices of violation paid;**

72 **(4) The number of hearings; and**

73 **(5) The total revenue collected as a result of the program.**

74 **10. Within three years of the establishment of an automated photo traffic law**
75 **enforcement program, the implementing jurisdiction shall initiate a formal evaluation of**
76 **the program to determine the program's impact on traffic safety. That evaluation shall be**
77 **completed within one year.**

78 **11. An agency that establishes an automated photo red light enforcement system**
79 **may enter into an agreement or agreements for the purpose of compensating a private**
80 **vendor to perform operational and administrative tasks associated with the use of such**
81 **system.**

304.287. 1. Before a notice may be issued, all violation images produced by a system shall be reviewed and approved by a law or code enforcement officer employed by the agency in which the alleged violation occurred. Such review and acceptance shall be based on a full review of the images that clearly demonstrate a violation.

2. Based on inspection of recorded images produced by a system, a notice of violation or copy of such notice alleging that the violation occurred and signed manually or digitally by a duly authorized agent of the agency shall be evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation under sections 304.286 to 304.290.

3. An agency shall mail or cause to be mailed a notice of violation by regular mail to the owner of the motor vehicle, which notice shall include, in addition to the requirements of supreme court rule no. 37:

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

(2) The registration number of the motor vehicle involved in the violation;

(3) A copy of the two recorded images and a zoomed and cropped image of the vehicle license plate which was extracted from one of the two images;

(4) Information advising the registered owner of how he or she can review the video, photographic, and recorded images that captured the alleged violation. The agency may provide access to the video and other recorded images through the Internet. If access to the video and other recorded images is provided through the Internet, the agency shall ensure that such video and recorded images are accessible only to the registered owner or cited violator through a password/PIN-based system;

(5) A manually or digitally signed statement by a law or code enforcement officer employed by the agency that, based on inspection of the two recorded images and video sequence, the motor vehicle was operated in violation of a traffic control device or prevailing traffic laws or statutes;

(6) Information advising the registered owner of the manner, time, and place in which liability as alleged in the notice of violation may be contested, and warning that failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability; and

(7) Information advising the registered owner that he or she may file an affidavit under subsection 8 of this section stating that he or she was not the operator of the vehicle at the time of the violation.

4. A notice of violation issued under this section shall be mailed no later than thirty days after obtaining the name and address of the registered owner but in no event longer

36 than ninety days after the violation was recorded by the automated photo red light
37 enforcement system.

38 **5. The civil penalties and court costs imposed for a violation detected and enforced**
39 **pursuant to a system shall not exceed an amount that would have been imposed if the**
40 **violation had been detected by a law enforcement officer present when the violation**
41 **occurred.**

42 **6. Notwithstanding any provision of law to the contrary, including but not limited**
43 **to, sections 304.271, 304.281, 304.361, and 304.570, any person who commits a steady red**
44 **light violation that is detected and enforced through an automated photo red light**
45 **enforcement system is guilty of an infraction. A penalty imposed by an agency for a**
46 **violation detected pursuant to a system shall not be deemed a moving violation and shall**
47 **not be made part of the operating record of the person upon whom such liability is**
48 **imposed, nor shall such imposition of a penalty be subject to merit rating for insurance**
49 **purposes and no surcharge points shall be imposed in the provision of motor vehicle**
50 **insurance coverage. In no case shall points be assessed against any person under section**
51 **302.302, RSMo, for a violation detected by an automated photo red light enforcement**
52 **system.**

53 **7. Payment of the established fine and any applicable civil penalties shall operate**
54 **as a final disposition of the case. Payment of the fine and any penalties, whether before or**
55 **after hearing, by one motor vehicle owner shall be satisfaction of the fine as to all other**
56 **motor vehicle owners of the same motor vehicle for the same violation.**

57 **8. In the prosecution of a steady red signal indication violation under sections**
58 **304.286 to 304.290, prima facie evidence that the vehicle described in the notice of violation**
59 **issued pursuant to this section was operated in violation of sections 304.286 to 304.290,**
60 **together with proof that the defendant was at the time of such violation the owner of the**
61 **vehicle, shall constitute in evidence a rebuttable presumption that such owner of the vehicle**
62 **was the person who committed the violation. Such presumption shall be rebutted if the**
63 **owner of the vehicle files an affidavit by regular mail with the clerk of the court that he or**
64 **she was not the operator of the vehicle at the time of the alleged violation or testifies in**
65 **open court under oath that he or she was not the operator of the vehicle at the time of the**
66 **alleged violation. Liability for a violation may be transferred to the driver from the owner**
67 **on a form provided with the affidavit. Such presumption shall also be rebutted if a**
68 **certified copy of a police report, showing that the vehicle had been reported to the police**
69 **as stolen prior to the time of the alleged violation of this section, is presented to the court**
70 **adjudicating the alleged violation.**

**304.289. For each automated photo red light enforcement program system that is
2 implemented by an agency, during the first thirty days of the program, the agency shall
3 issue only warning notices and shall not issue any ticket or citation for any violation
4 detected by the system.**

**304.290. Photographic and other recorded evidence obtained through the use of
2 automated photo red light enforcement devices shall be destroyed within one year after
3 final adjudication. Such photographic and other recorded evidence obtained through the
4 use of an automated photo red light enforcement system shall be confidential and shall not
5 be deemed a "public record" under section 610.010, RSMo, and shall not be subject to the
6 provisions of section 109.180, RSMo, or chapter 610, RSMo.**

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