

By: Keough

H.B. No. 113

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the authority of the governing body of a local authority
3 to impose a civil penalty for certain violations recorded by an
4 automated traffic control system or a photographic traffic signal
5 enforcement system; providing a civil penalty.

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

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

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

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

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

24 (2) is used by the local authority to enforce

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

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

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

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

9 ~~or~~

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

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

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

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

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

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

23 (1) evidence of the violation;

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

27 (3) a copy of the written notice the citizen provided

1 the local authority; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (b) The account is composed of money deposited to the credit

1 of the account under Section 542.2035 [~~Sections 542.406 and~~
2 ~~707.008~~], Transportation Code, and under Section 780.002 of this
3 code.

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

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

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

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

14 (3) the filing fee in courts other than district court
15 for basic civil legal services for indigents imposed under Section
16 133.153;

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

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

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

25 (7) fees collected under Section 118.015;

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

1 (9) marriage license or declaration of informal
2 marriage fees for the child abuse and neglect prevention trust fund
3 account collected under Section [118.022](#); and

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

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

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

15 SECTION 5. The following laws are repealed:

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

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

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

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

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

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

16 SECTION 7. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2017.