

The Senate Committee on Public Safety offered the following substitute to HB 348:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
2 traffic, so as to provide for the offense of operation of a motor vehicle with a fraudulent
3 license plate; to provide for definitions; to provide for violations and penalties; to authorize
4 civil forfeiture in certain instances; to provide for punishment for commission of such
5 offense while committing a felony; to repeal provisions relating to obscuring a license plate
6 in order to impede detection; to repeal and designate as reserved provisions relating to
7 removing or affixing a license plate with the intent to conceal; to provide for suspension and
8 revocation of a vehicle registration for certain offenses of operating a motor vehicle with a
9 fraudulent license plate; to revise provisions on acceptable proof of motor vehicle insurance
10 on a temporary basis; to provide for standards for signs warning of the use of automated
11 traffic enforcement safety devices; to revise a definition; to provide standards for warning
12 signs; to revise provisions relative to application and issuance of speed detection device
13 permits; to provide for investigations by the commissioner of public safety relating to
14 unauthorized use of automated traffic enforcement safety devices; to provide for penalties;
15 to provide for times when a school zone speed limit may be enforced through the use of an
16 automated traffic enforcement safety device; to authorize a local governing body to apply for
17 a permit to operate automated traffic enforcement safety devices; to provide for admissible
18 evidence for proof of a violation of speed limit through the use of speed detection devices;

19 to provide for procedures, conditions, and limitations for issuing citations for the violation
20 of speed limit through the use of automated traffic enforcement safety devices; to provide for
21 notice of procedures for contesting such citations; to limit additional fees relating to such
22 citations; to amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so
23 as to authorize district attorneys, solicitors-general, and prosecuting attorneys to enforce civil
24 monetary penalties relative to the enforcement of laws regarding speeding in a school zone
25 using recorded images; to provide for related matters; to provide for an effective date and
26 applicability; to repeal conflicting laws; and for other purposes.

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

28 **SECTION 1.**

29 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
30 amended by revising Code Section 40-2-6, relating to alteration of license plates and
31 operation of vehicle with altered or improperly transferred plate, as follows:

32 "40-2-6.

33 ~~Except as otherwise provided in this chapter, any person who shall willfully mutilate,~~
34 ~~obliterate, deface, alter, change, or conceal any numeral, letter, character, county~~
35 ~~designation, or other marking of any license plate issued under the motor vehicle~~
36 ~~registration laws of this state; who shall knowingly operate a vehicle bearing a license plate~~
37 ~~on which any numeral, letter, character, county designation, or other marking has been~~
38 ~~willfully mutilated, obliterated, defaced, altered, changed, or concealed; or who shall~~
39 ~~knowingly operate a vehicle bearing a license plate issued for another vehicle and not~~
40 ~~properly transferred as provided by law shall be guilty of a misdemeanor.~~

41 (a) As used in this Code section, the term:

42 (1) 'Automated license plate recognition system' shall have the same meaning as set forth
43 in Code Section 35-1-22.

44 (2) 'Conceal' includes:

45 (A) The use of any material, device, or part of an individual's body to cover or
46 significantly interfere with the readability of a license plate; or

47 (B) The positioning of a license plate in a manner which is not authorized by law and
48 that significantly interferes with readability of the license plate.

49 (3) 'License plate' includes a temporary operating permit issued or purported to be issued
50 pursuant to this chapter.

51 (4) 'Readability' means ability of the human eye, a camera, or an automated license plate
52 recognition system to detect, comprehend, or deduce the name of the state or the letters
53 or numbers upon a license plate.

54 (b)(1) A person commits the offense of operation of a motor vehicle with a fraudulent
55 license plate when he or she, willfully and with an intent to obscure or misrepresent the
56 identity of a vehicle or its owner, operates a motor vehicle while:

57 (A) Concealing any portion of the license plate displayed on such motor vehicle;

58 (B) Displaying a license plate issued to a different motor vehicle;

59 (C) Displaying a revalidation decal other than one issued to the motor vehicle; or

60 (D) Displaying a license plate not issued by the department which has the appearance
61 of one validly issued by the department.

62 (2) Any person who violates this Code section shall be guilty of a misdemeanor and
63 punished as follows:

64 (A) For a first conviction, a fine of \$250.00; provided, however, that such fine shall not
65 exceed \$25.00 if a person proves to the court having jurisdiction of the offense that the
66 item causing the obscurity or misrepresentation has been removed;

67 (B) For a second conviction, a fine of \$500.00; and

68 (C) For a third or subsequent conviction, a fine of not less than \$750.00 and
69 confinement for not less than 15 days which shall not be suspended, probated, deferred,
70 or withheld by a sentencing court without consent of the prosecuting attorney and,

71 when such conviction involved operation of the same motor vehicle for the previous
72 two offenses, the court shall issue an order requiring that the license plate of such
73 vehicle be surrendered to the court pursuant to Code Section 40-2-135.

74 (3)(A) Any motor vehicle operated by a person who has been convicted of a fourth or
75 subsequent violation of this Code section is declared to be contraband and subject to
76 forfeiture in accordance with the procedures set forth in Chapter 16 of Title 9.

77 (B) In any case where a vehicle which is the only family vehicle is determined to be
78 subject to forfeiture, the court may, if it determines that the financial hardship to the
79 family as a result of the forfeiture and sale outweighs the benefit to the state from such
80 forfeiture, order the title to the vehicle transferred to another family member who is a
81 duly licensed operator and who requires the use of such vehicle for employment or
82 family transportation purposes. Such transfer shall be subject to any valid liens and
83 shall be granted only once.

84 (4) For the purpose of imposing a sentence under this Code section, a plea of nolo
85 contendere or first offender treatment by a court of competent jurisdiction based on a
86 violation of this Code section shall constitute a conviction.

87 (c) Any person who violates this Code section during the commission of a felony shall be
88 guilty of a misdemeanor and punished by a fine of not less than \$750.00 and confinement
89 for not less than nine months, and the first 30 days of such sentence shall not be suspended,
90 probated, deferred, or withheld by a sentencing court."

91 **SECTION 2.**

92 Said title is further amended by repealing Code Section 40-2-6.1, relating to obscuring
93 license plate in order to impede surveillance equipment.

94

SECTION 3.

95 Said title is further amended by repealing and designating as reserved Code Section 40-2-7,
96 relating to removing or affixing license plate with intent to conceal or misrepresent.

97

SECTION 4.

98 Said title is further amended by revising Code Section 40-2-41, relating to display of license
99 plates, as follows:

100 "40-2-41.

101 Unless otherwise permitted under this chapter, every vehicle required to be registered under
102 this chapter, which is in use upon the highways, shall at all times display the license plate
103 issued to the owner for such vehicle, and the plate shall be fastened to the rear of the
104 vehicle in a position so as not to swing and shall be at all times plainly visible. No person
105 shall display on the rear of a motor vehicle any temporary operating permit or permanent
106 license plate or tag not issued by the State of Georgia which is intended to resemble a
107 temporary operating permit or permanent license plate which is issued by the State of
108 Georgia. The commissioner is authorized to adopt rules and regulations so as to permit the
109 display of a license plate on the front of certain vehicles. ~~It shall be the duty of the operator~~
110 ~~of any vehicle to keep the license plate legible at all times. No license plate shall be~~
111 ~~covered with any material unless the material is colorless and transparent. No apparatus~~
112 ~~that obstructs or hinders the clear display and legibility of a license plate shall be attached~~
113 ~~to the rear of any motor vehicle required to be registered in the state. Any person who~~
114 ~~violates any provision of this Code section shall be guilty of a misdemeanor."~~

115

SECTION 5.

116 Said title is further amended by revising Code Section 40-2-135, relating to revocation and
117 seizure of license plates and renewal decals, as follows:

118 "40-2-135.

119 (a)(1) The commissioner shall revoke any regular, prestige, special, or distinctive license
120 plate which the commissioner determines was issued in error and shall revoke the special
121 and distinctive license plate issued to a member of the General Assembly at such time as
122 the holder ceases to hold such public office. ~~The commissioner or his or her designated~~
123 ~~agent may revoke any license plate purchased with a check which was returned for any~~
124 ~~reason.~~ The commissioner shall notify the holder of such regular, prestige, special, or
125 distinctive license plate or of such other license plate of such revocation. The holder of
126 such revoked license plate shall return the license plate to the commissioner or the
127 commissioner's designated agent and register his or her vehicle as otherwise required by
128 this chapter.

129 ~~(b)(2) The commissioner or his or her designated agent may revoke any license plate~~
130 ~~purchased with a check which was returned for any reason.~~ The commissioner shall
131 suspend or revoke any permanent registration and license plate issued in accordance with
132 Code Section 40-2-47 when the owner has not complied with the annual requirement of
133 the payment of ad valorem taxes and is delinquent for more than 12 months from the last
134 date of ad valorem tax payment.

135 (3) Any state or county law enforcement officer or any special agent or enforcement
136 officer appointed under Code Section 40-2-134 may, upon the direction or request of the
137 commissioner, go upon public or private property to seize a license plate or renewal decal
138 which has been revoked pursuant to this subsection.

139 ~~(e)(b)(1) Upon a third conviction under Code Section 40-2-6 with the same motor~~
140 ~~vehicle by any owner or operator of such vehicle, the court shall issue an order requiring~~
141 ~~that the license plate of the vehicle be surrendered to the court. The court shall notify the~~
142 ~~commissioner within ten days after issuing any such order and send by first-class mail a~~
143 ~~copy of such order to the vehicle owner when the conviction was entered against an~~
144 ~~operator other than the owner of the vehicle. The commissioner shall suspend the~~

145 registration for such vehicle upon receipt of such notice and, if such license plate is a
146 digital license plate, shall inform the digital license plate provider of the suspension of
147 vehicle registration. The court shall issue a receipt for the license plate surrendered
148 pursuant to this paragraph. The court shall forward a license plate surrendered pursuant
149 to this paragraph to the local tag agent immediately upon receipt; provided, however, that,
150 if the surrendered license plate is a digital license plate, the court shall allow such person
151 to retain the digital license plate. Upon the passage of 180 days and payment of a
152 \$160.00 restoration fee, an owner whose vehicle registration was suspended pursuant to
153 this paragraph may apply for registration of such motor vehicle.

154 (2) Upon a fourth or subsequent conviction of Code Section 40-2-6 with the same motor
155 vehicle by any owner or operator of such vehicle, the court shall issue an order requiring
156 that the license plate of such vehicle be surrendered to the court. The court shall notify
157 the commissioner within ten days after issuing any such order and send by first-class mail
158 a copy of such order to the vehicle owner when the conviction was entered against an
159 operator other than the owner of the vehicle. The commissioner shall revoke the
160 registration for such vehicle upon receipt of such notice and, if such license plate is a
161 digital license plate, shall inform the digital license plate provider of the revocation of
162 vehicle registration. The court shall issue a receipt for the license plate surrendered
163 pursuant to this paragraph. The court shall forward a license plate surrendered pursuant
164 to this paragraph to the local tag agent immediately upon receipt; provided, however, that,
165 if the surrendered license plate is a digital license plate, the court shall allow such person
166 to retain the digital license plate.

167 (3) For purposes of this subsection, a plea of nolo contendere shall constitute a
168 conviction. Any state or county law enforcement officer or any special agent or
169 enforcement officer appointed under Code Section 40-2-134 may, upon the direction or
170 request of the commissioner, go upon public or private property to seize a license plate

171 ~~or renewal decal which has been revoked as provided in subsection (a) of this Code~~
172 ~~section."~~

173 **SECTION 6.**

174 Said title is further amended in Code Section 40-6-10, relating to insurance requirements for
175 operation of motor vehicles generally, by revising paragraph (2) of subsection (a) as follows:

176 "(2) The following shall be acceptable proof of insurance on a temporary basis:

177 (A) If the policy providing such coverage was applied for within the last ~~30~~ 45 days,
178 a current written binder for such coverage for a period not exceeding ~~30~~ 45 days from
179 the date such binder was issued shall be considered satisfactory proof or evidence of
180 required minimum insurance coverage;

181 (B) If the vehicle is operated under a rental agreement, a duly executed vehicle rental
182 agreement shall be considered satisfactory proof or evidence of required minimum
183 insurance coverage; and

184 (C) If the owner acquired ownership of the vehicle within the past ~~30~~ 45 days, if the
185 type of proof described in subparagraph (A) of this paragraph is not applicable but the
186 vehicle is currently effectively provided with required minimum insurance coverage
187 under the terms of a policy providing required minimum insurance coverage for another
188 motor vehicle, then a copy of the insurer's declaration of coverage under the policy
189 providing such required minimum insurance coverage for such other vehicle shall be
190 considered satisfactory proof or evidence of required minimum insurance coverage for
191 the vehicle, but only if accompanied by proof or evidence that the owner acquired
192 ownership of the vehicle within the past ~~30~~ 45 days."

193 **SECTION 7.**

194 Said title is further amended in Code Section 40-14-1.1, relating to definitions, by revising
195 paragraph (5) as follows:

196 "(5) 'School zone' means the area ~~within 1,000 feet of the boundary of~~ defined in an
197 existing master state order or local ordinance as a school zone area for any public or
198 private elementary or secondary school."

199

SECTION 8.

200 Said title is further amended by revising Code Section 40-14-2, relating to permit required
201 for use, use not authorized where officers paid on fee system, and operation by registered or
202 certified peace officers, as follows:

203 "40-14-2.

204 (a) The law enforcement officers of the various counties, municipalities, colleges, and
205 universities may use speed detection devices only if the sheriffs of such counties, or the
206 governing authorities of such counties, or the governing authorities of such municipalities,
207 or the president of such college or university shall approve of and desire the use of such
208 devices and shall apply to the Department of Public Safety for a permit to use such devices
209 in accordance with this chapter.

210 (b) No county sheriff, county or municipal governing authority, college, or university shall
211 be authorized to use speed detection devices where any arresting officer or official of the
212 court having jurisdiction of traffic cases is paid on a fee system. This subsection shall not
213 apply to any official receiving a recording fee.

214 (c) A permit shall not be issued by the Department of Public Safety to an applicant under
215 this Code section unless the applicant provides law enforcement services by certified peace
216 officers 24 hours a day, seven days a week on call or on duty or allows only peace officers
217 employed full time by the applicant to operate speed detection devices. Speed detection
218 devices ~~can~~ shall only be operated by registered or certified peace officers of the county
219 sheriff, county, municipality, college, or university to which the permit is applicable;
220 provided, however, that an automated traffic enforcement safety device may be operated
221 by an agent or registered or certified peace officers of the county sheriff, county, or

222 municipality to which the permit issued pursuant to Code Section 40-14-18 is applicable.
 223 Persons operating the speed detection devices ~~must~~ shall be registered or certified by the
 224 Georgia Peace Officer Standards and Training Council as peace officers and certified by
 225 the Georgia Peace Officer Standards and Training Council as operators of speed detection
 226 devices; provided, however, that agents may operate automated traffic enforcement safety
 227 devices without such registrations or certifications."

228 **SECTION 9.**

229 Said title is further amended by revising Code Section 40-14-3, relating to application for
 230 permit and use of device while application pending, as follows:

231 "40-14-3.

232 (a) A county sheriff, county or municipal governing authority, or the president of a college
 233 or university may apply to the Department of Public Safety for a permit to authorize the use
 234 of speed detection devices for purposes of traffic control within such counties,
 235 municipalities, colleges, or universities on ~~streets, roads, and~~ highways, provided that such
 236 application shall name the ~~street or road~~ highway on which the device is to be used and the
 237 speed limits on such ~~street or road~~ highway shall have been approved by the Office of
 238 Traffic Operations of the Department of Transportation. Law enforcement agencies are
 239 authorized to use speed detection devices ~~on streets and roads~~ other than automated traffic
 240 enforcement safety devices on highways for which an application is pending as long as all
 241 other requirements for the use of speed detection devices are met. Nothing in this
 242 subsection shall be construed to affect the provisions of Code Section 40-14-9.

243 (b) The Department of Public Safety is authorized to prescribe by appropriate rules and
 244 regulations the manner and procedure in which applications shall be made for ~~such~~ permits
 245 to operate speed detection devices and to prescribe the required information to be submitted
 246 by the applicants. The Department of Public Safety may deny the application or suspend

247 the speed detection device permit for failure to provide information or documentation at
248 the department's request."

249 **SECTION 10.**

250 Said title is further amended in Code Section 40-14-6, relating to warning signs required and
251 signage requirements, by revising subsection (c) as follows:

252 "(c) In addition to the signs required under subsections (a) and (b) of this Code section,
253 each law enforcement agency using an automated traffic enforcement safety device as
254 provided for in Code Section 40-14-18 shall erect signs warning of the use of a stationary
255 speed detection device within the approaching school zone. Such signs shall be at least 24
256 by 30 inches in area, shall be visible plainly from every lane of traffic, shall be viewable
257 in all traffic conditions, and shall not be placed in such a manner that the view of such sign
258 is subject to being obstructed by any other vehicle on such highway. An automated traffic
259 enforcement safety device warning sign ~~Such signs~~ shall be placed within 500 feet prior
260 to the warning sign announcing the reduction of the speed limit for the school ~~speed~~ zone,
261 shall include lights that flash yellow when the school zone speed limit reduction is in effect
262 and an automated traffic enforcement safety device is authorized to issue citations pursuant
263 to Code Section 40-14-18, and shall comply with any rule or regulation established by the
264 Department of Transportation. There shall be a rebuttable presumption that such signs are
265 properly installed pursuant to this subsection at the time of any alleged violation under this
266 article."

267 **SECTION 11.**

268 Said title is further amended by revising Code Section 40-14-8, relating to when case may
269 be made and conviction had, as follows:

270 "40-14-8.

271 (a) No county, city, or campus officer shall be allowed to make a case based on the use of
272 any speed detection device, unless the speed of the vehicle exceeds the posted speed limit
273 by more than ten miles per hour and no conviction shall be had thereon unless such speed
274 is more than ten miles per hour above the posted speed limit.

275 (b) The limitations contained in subsection (a) of this Code section shall not apply in
276 ~~properly marked school zones one hour before, during, and one hour after the normal hours~~
277 ~~of school operation or programs for care and supervision of students before school, after~~
278 ~~school, or during vacation periods as provided for under Code Section 20-2-65, in properly:~~

279 (1) School zones properly marked with warning signs while the reduction of the speed
280 limit for the school zone is in effect, when the speed detection device is one other than
281 an automated traffic enforcement safety device and is operated by an on-site law
282 enforcement officer;

283 (2) Properly marked historic districts; ~~in properly;~~ and

284 (3) Properly marked residential zones.

285 (c) For purposes of this chapter, thoroughfares with speed limits of 35 miles per hour or
286 more shall not be considered residential ~~districts~~ zones. For purposes of this Code section
287 the term 'historic district' means a historic district as defined in ~~paragraph (5) of Code~~
288 Section 44-10-22 and which is listed on the Georgia Register of Historic Places or as
289 defined by ordinance adopted pursuant to a local constitutional amendment."

290

SECTION 12.

291 Said title is further amended by revising Code Section 40-14-11, relating to investigations
292 by commissioner of public safety, issuance of order suspending or revoking permit, and ratio
293 of speeding fines to agency's budget, as follows:

294 "40-14-11.

295 (a) Upon a complaint being made to the commissioner of public safety that any county,
296 municipality, college, or university is employing speed detection devices for purposes other
297 than the promotion of the public health, welfare, and safety or in a manner which violates
298 this chapter or violates its speed detection device permit, the commissioner or the
299 commissioner's designee is authorized and empowered to conduct an investigation into the
300 acts and practices of such county, municipality, college, ~~or~~ university with respect to speed
301 detection devices. If, as a result of ~~this~~ such investigation, the commissioner or the
302 commissioner's designee finds that there is probable cause to suspend or revoke the speed
303 detection device permit of such county, municipality, college, or university, he or she shall
304 issue an order to that effect.

305 (b) Upon the suspension or revocation of any speed detection device permit for the reasons
306 set forth in this Code section, the commissioner of public safety shall notify the executive
307 director of the Georgia Peace Officer Standards and Training Council of the action taken.
308 When the speed detection device is an automated traffic enforcement safety device, the
309 commissioner shall send a copy of such order to the Department of Transportation.

310 (c) Upon receipt from the executive director of the Georgia Peace Officer Standards and
311 Training Council that an officer's certification to operate speed detection devices has been
312 withdrawn or suspended pursuant to Code Section 35-8-12, the commissioner of public
313 safety or the commissioner's designee shall suspend the speed detection device permit for
314 the employing agency. The period of suspension or revocation shall be consistent with the
315 action taken by the Georgia Peace Officer Standards and Training Council.

316 (d) Upon the conclusion of an investigation pursuant to subsection (a) of this Code section,
317 any agent, law enforcement agency, or governing body found to have intentionally violated
318 any provision of this chapter relating to automated traffic enforcement safety devices,
319 including, but not limited to, the unauthorized issuance of a civil monetary penalty for a
320 violation of this title other than as provided for in this chapter, shall be assessed a fine by

321 the commissioner of public safety of \$2,500.00 for the first violation and \$5,000.00 for a
 322 second violation. The commissioner of public safety shall be further authorized to suspend
 323 all speed detection device permits relating to the operation of an automated traffic
 324 enforcement safety device for a jurisdiction upon a third or subsequent finding of a
 325 violation of this chapter. The commissioner of public safety shall notify the Department
 326 of Transportation of any such suspension and the Department of Transportation shall
 327 suspend the operating permit for an automated traffic enforcement safety device for such
 328 jurisdiction upon receipt of such notice.

329 (d)(e) There shall be a rebuttable presumption that a law enforcement agency is employing
 330 speed detection devices for purposes other than the promotion of the public health, welfare,
 331 and safety if the fines or civil penalties levied based on the use of speed detection devices
 332 for speeding offenses are equal to or greater than ~~35~~ 30 percent of a municipal or county
 333 law enforcement agency's budget. For purposes of this Code section, fines collected for
 334 citations issued for violations of Code Section 40-6-180 shall be included when calculating
 335 ~~total speeding fine~~ such speeding offenses revenue for the agency; provided, however, that
 336 fines for speeding violations exceeding 20 miles per hour over the established speed limit
 337 and civil monetary penalties for speeding violations issued pursuant to Code
 338 Section 40-14-18 shall not be considered when calculating total speeding ~~fine~~ offenses
 339 revenue for the agency."

340

SECTION 13.

341 Said title is further amended by revising Code Section 40-14-18, relating to enforcement of
 342 speed limit in school zones with recorded images, civil monetary penalty, and vehicle
 343 registration and transfer of title restrictions for failure to pay penalty, as follows:

344 "40-14-18.

345 (a)(1) The speed limit within any school zone ~~as provided for in Code Section 40-14-8~~
 346 ~~and~~ marked pursuant to Code Section 40-14-6 may be enforced by using ~~photographically~~

347 recorded images for violations which occurred ~~only~~ on a school day during the time in
348 which instructional classes are taking place and one hour before such classes are
349 scheduled to begin and for one hour after such classes have concluded ~~when such~~
350 ~~violations are in excess of ten miles per hour over the speed limit; provided, however,~~
351 that a governing body of a county or municipality may enact an ordinance or resolution
352 which provides for further limitations upon the hours when enforcement may take place
353 than those provided by this paragraph. Violations enforced pursuant to this paragraph
354 shall be based upon ten miles per hour over the reduced speed limit when the reduction
355 for the speed limit for the school zone is in effect and ten miles per hour over the posted
356 speed limit for all other times when the reduction for the speed limit for the school zone
357 is not in effect.

358 (2) Prior to the placement of ~~a~~ an automated traffic enforcement safety device within a
359 school zone, ~~each school within whose school zone such~~ the governing body of the
360 county or municipality law enforcement agency authorized to enforce the speed limit
361 where such automated traffic enforcement safety device is to be placed and which holds
362 a valid permit for the operation of speed detection devices issued by the Department of
363 Public Safety pursuant to Code Section 40-14-2 shall first apply for and secure a permit
364 from the Department of Transportation for the use of such automated traffic enforcement
365 safety device. Such permit shall be awarded based upon need. The Department of
366 Transportation shall promulgate rules and regulations for the implementation of this
367 paragraph.

368 (b) For the purpose of enforcement pursuant to this Code section:

369 (1) The owner of a motor vehicle shall be liable for a civil monetary penalty to the
370 governing body of the law enforcement agency provided for in paragraph (2) of this
371 subsection if such vehicle is found, as evidenced by ~~photographically~~ recorded images,
372 to have been operated in disregard or disobedience of the speed limit within ~~any~~ a school
373 zone and such disregard or disobedience was not otherwise authorized by law. The

374 amount of such civil monetary penalty shall be \$75.00 for a first violation and \$125.00
375 for a second or any subsequent violation, in addition to fees associated with the electronic
376 processing of such civil monetary penalty which shall not exceed \$25.00; provided,
377 however, that for a period of 30 days after the first automated traffic enforcement safety
378 device is introduced by a law enforcement agency within a school zone, the ~~driver~~ owner
379 of a motor vehicle shall not be liable for a civil monetary penalty but shall be issued a
380 civil warning for disregard or disobedience of the speed limit within the school zone;

381 (2) A law enforcement agency authorized to enforce the speed limit of a school zone, or
382 an agent working on behalf of a law enforcement agency or governing body, shall send
383 by ~~first-class~~ first-class mail addressed to the owner of the motor vehicle within 30 days
384 after obtaining the name and address of the owner of the motor vehicle from the
385 Department of Revenue but no later than 60 days after the date of the alleged violation:

386 (A) A citation for the alleged violation, which shall include the date and time of the
387 violation, the location of the infraction, the maximum speed at which such motor
388 vehicle was traveling ~~in photographically~~ as evidenced by recorded images, the
389 maximum speed applicable within such school zone, the civil warning or the amount
390 of the civil monetary penalty imposed, ~~and~~ the date by which a civil monetary penalty
391 shall be paid, and a statement that informs the recipient of the consequences for failure
392 to pay the civil monetary penalty;

393 (B) An image taken from ~~the photographically~~ recorded images showing the vehicle
394 involved in the infraction;

395 (C) A website address where ~~photographically~~ recorded images showing the vehicle
396 involved in the infraction and a duplicate of the information provided for in this
397 paragraph may be viewed;

398 (D) A copy of a certificate sworn to or affirmed by a certified peace officer employed
399 by a law enforcement agency authorized to enforce the speed limit of the school zone
400 and stating that, based upon inspection of ~~photographically~~ recorded images, the

401 owner's motor vehicle was operated in disregard or disobedience of the speed limit in
402 the marked school zone and that such disregard or disobedience was not otherwise
403 authorized by law;

404 (E) A statement of the inference provided by paragraph (4) of this subsection and of
405 the means specified therein by which such inference may be rebutted;

406 (F) Information advising the owner of the motor vehicle of the manner in which
407 liability as alleged in the citation may be contested through an administrative hearing,
408 including the name and contact information for the court in which such liability may
409 be contested and a statement which reads: 'YOU HAVE A RIGHT TO CONTEST
410 LIABILITY BY CONTACTING YOUR LOCAL COURT'; and

411 (G) A warning that failure to pay the civil monetary penalty or to contest liability in
412 a timely manner as provided for in subsection (d) of this Code section shall waive any
413 right to contest liability;

414 (3) Proof that a motor vehicle was operated in disregard or disobedience of the speed
415 limit of the marked school zone shall be evidenced by ~~photographically~~ recorded images.
416 A copy of a certificate sworn to or affirmed by a certified peace officer employed by a
417 law enforcement agency and stating that, based upon inspection of ~~photographically~~
418 recorded images, a motor vehicle was operated in disregard or disobedience of the speed
419 limit in the marked school zone and that such disregard or disobedience was not
420 otherwise authorized by law shall be prima-facie evidence of the facts contained therein;
421 and

422 (4) Liability under this Code section shall be determined based upon a preponderance of
423 the evidence. Prima-facie evidence that the vehicle described in the citation issued
424 pursuant to this Code section was operated in violation of the speed limit of the school
425 zone, together with proof that the defendant was, at the time of such violation, the
426 registered owner of the vehicle, shall permit the trier of fact ~~in its discretion~~ to infer that

427 such owner of the vehicle was the ~~driver~~ operator of the vehicle at the time of the alleged
428 violation. Such an inference may be rebutted if the owner of the vehicle:

429 (A) Testifies under oath in open court or submits to the court a sworn notarized
430 statement that he or she was not the operator of the vehicle at the time of the alleged
431 violation; or

432 (B) Presents to the court a certified copy of a police report showing that the vehicle had
433 been reported to the police as stolen prior to the time of the alleged violation.

434 (c) A violation for which a civil warning or a civil monetary penalty is imposed pursuant
435 to this Code section shall not be considered a moving traffic violation for the purpose of
436 points assessment under Code Section 40-5-57. Such violation shall be deemed
437 noncriminal, and imposition of a civil warning or civil monetary penalty pursuant to this
438 Code section shall not be deemed a conviction and shall not be made a part of the operating
439 record of the person upon whom such liability is imposed, nor shall it be used for any
440 insurance purposes in the provision of motor vehicle insurance coverage. A civil monetary
441 penalty imposed pursuant to this Code section shall not be taxed nor shall any additional
442 penalty, fee, or surcharge to a fine be assessed.

443 (d) If a person issued and mailed a citation pursuant to subsection (b) of this Code section
444 fails to pay the civil monetary penalty for the violation, ~~or~~ has not filed a police report or
445 notarized statement pursuant to paragraph (4) of subsection (b) of this Code section in no
446 less than ~~30~~ 60 nor more than ~~60~~ 90 days after such mailing as determined and noticed by
447 the law enforcement agency, the agent or law enforcement agency shall send to such person
448 by ~~first-class~~ first-class mail a second notice of any unpaid civil monetary penalty, except
449 in cases where there is an adjudication that no violation occurred or there is otherwise a
450 lawful determination that no civil monetary penalty shall be imposed. No more than a
451 \$5.00 late fee shall be imposed for any unpaid civil monetary penalty imposed under this
452 Code section. The second notice shall include all information required in paragraph (2) of
453 subsection (b) of this Code section and shall include a new date ~~of return~~ by which the civil

454 monetary penalty shall be paid which shall be no less than 30 days after such mailing as
455 determined and noticed by the law enforcement agency. If such person notified by second
456 notice again fails to pay the civil monetary penalty or file a police report or notarized
457 statement pursuant to paragraph (4) of subsection (b) of this Code section by the new date
458 of return, such person shall have waived the right to contest the violation and shall be liable
459 for the civil monetary penalty provided for under this Code section, except in cases where
460 there is an adjudication that no violation occurred or there is otherwise a lawful
461 determination that no civil monetary penalty shall be imposed.

462 (e) Notices mailed by ~~first class~~ first-class mail pursuant to this Code section shall be
463 adequate notification of the fees and penalties imposed by this Code section. No other
464 notice shall be required for the purposes of this Code section.

465 (f) Any court having jurisdiction over violations of subsection (a) of this Code section
466 shall have jurisdiction over cases arising under this subsection and shall be authorized to
467 impose the civil monetary penalty provided by this subsection. Except as otherwise
468 provided in this subsection, the provisions of law governing jurisdiction, procedure,
469 defenses, adjudication, appeal, and payment and distribution of penalties otherwise
470 applicable to violations of subsection (a) of this Code section shall apply to enforcement
471 under this Code section except as provided in subsection (b) of this Code section; provided,
472 however, that any appeal from superior or state court shall be by application in the same
473 manner as that provided by Code Section 5-6-35.

474 (g) If a violation has not been contested and the assessed penalty has not been paid, the
475 agent or governing body shall send to the person who is the registered owner of the motor
476 vehicle a final notice of any unpaid civil monetary penalty authorized by this Code section,
477 except in cases where there is an adjudication that no violation occurred or there is
478 otherwise a lawful determination that no civil monetary penalty shall be imposed. The
479 notice shall inform the registered owner that the agent or governing body shall send a
480 referral to the Department of Revenue if the assessed penalty is not paid within 30 days

481 after the final notice was mailed and of the consequences for failure to pay such penalty
482 and any late fee.

483 (h) The agent or governing body shall send a referral to the Department of Revenue not
484 sooner than 30 days after the final notice required under subsection (g) was mailed if a
485 violation has not been contested and the assessed penalty has not been paid, except in cases
486 where there is an adjudication that no violation occurred or there is otherwise a lawful
487 determination that no civil monetary penalty shall be imposed. The referral to the
488 Department of Revenue shall include the following:

489 (1) Any information known or available to the agent or governing body concerning the
490 license plate number, year of registration, and the name of the owner of the motor
491 vehicle;

492 (2) The date on which the violation occurred;

493 (3) The citation number issued for the violation; and

494 (4) The date when the notice required under this Code section was mailed.

495 (i) If the Department of Revenue receives a referral under subsection (h) of this Code
496 section, such referral shall be entered into the motor vehicle data base within five days of
497 receipt and the Department of Revenue shall refuse to renew the registration of the motor
498 vehicle unless and until the civil monetary penalty plus any late fee is paid to the agent or
499 governing body.

500 (j) The Department of Revenue shall remove the penalty on a vehicle registration if any
501 person presents the Department of Revenue with adequate proof from the agent or
502 governing body that the penalty and any late fee, if applicable, has been paid.

503 (k) Recorded images made for purposes of this Code section shall not be a public record
504 for purposes of Article 4 of Chapter 18 of Title 50.

505 (l) A civil warning or civil monetary penalty under this Code section on the owner of a
506 motor vehicle shall not be imposed if the operator of the vehicle was arrested or issued a
507 citation and notice to appear by a certified peace officer for the same violation.

508 (m) The money collected and remitted to the governing body pursuant to paragraph (1) of
509 subsection (b) of this Code section shall only be used by such governing body to fund local
510 law enforcement or public safety initiatives. This subsection shall not preclude the
511 appropriation of a greater amount than collected and remitted under this subsection."

512 **SECTION 14.**

513 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended in Code
514 Section 15-9-155, relating to prosecuting attorney's duties and authority in probate courts in
515 counties in which there are no state courts, by revising subparagraph (a)(1)(A) as follows:

516 "(A) In the prosecution of any violation of the laws or ordinances of such county which
517 is within the jurisdiction of such probate court and punishable by confinement or a fine
518 or both or by a civil penalty authorized by Code Section 40-6-163 or 40-14-18;"

519 **SECTION 15.**

520 Said title is further amended in Code Section 15-18-6, relating to duties of district attorney,
521 by revising paragraph (6) as follows:

522 "(6) To prosecute civil actions to enforce any civil penalty set forth in Code
523 Section 40-6-163 or 40-14-18 and to prosecute or defend any other civil action in the
524 prosecution or defense of which the state is interested, unless otherwise specially
525 provided for;"

526 **SECTION 16.**

527 Said title is further amended in Code Section 15-18-66, relating to duties and authority of
528 solicitors-general of state courts, by revising paragraph (4) of subsection (b) as follows:

529 "(4) To prosecute civil actions to enforce any civil penalty set forth in Code
530 Section 40-6-163 or 40-14-18 and when authorized by law to prosecute or defend any

531 civil action in the state court in the prosecution or defense of which the state is interested,
532 unless otherwise specially provided for;"

533 **SECTION 17.**

534 Said title is further amended in Code Section 15-18-96, relating to authority of prosecuting
535 attorney of municipal courts, by revising subparagraph (a)(1)(A) as follows:

536 "(A) In the prosecution of any violation of the laws or ordinances of such municipality
537 which is within the jurisdiction of such municipal court and punishable by confinement
538 or a fine or both or by a civil penalty authorized by Code Section 40-6-163 or 40-14-18;
539 and"

540 **SECTION 18.**

541 This Act shall become effective upon its approval by the Governor or upon its becoming law
542 without such approval; provided, however, that any law enforcement agency that has erected
543 an automated traffic enforcement safety device warning sign prior to such date shall have
544 six months to comply with the provisions of Section 10 of this Act.

545 **SECTION 19.**

546 All laws and parts of laws in conflict with this Act are repealed.