

House Bill 386

By: Representatives Bazemore of the 69<sup>th</sup>, Beverly of the 143<sup>rd</sup>, Jackson of the 128<sup>th</sup>, Frazier of the 126<sup>th</sup>, Bennett of the 94<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 14 of Title 40 of the Official Code of Georgia Annotated, relating to use  
2 of speed detection devices and red light cameras, so as to provide for the enforcement of  
3 operating a commercial motor vehicle upon a highway in violation of a local ordinance  
4 through the use of recorded images by an automated truck route monitoring device; to  
5 provide for procedures, conditions, and limitations upon operation of an automated truck  
6 route monitoring device; to provide for issuance of civil monetary penalties; to provide  
7 notice of penalty; to prohibit the renewal of registration of a motor vehicle upon failure to  
8 pay a civil monetary penalty; to provide for definitions; to provide for related matters; to  
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 14 of Title 40 of the Official Code of Georgia Annotated, relating to use of speed  
13 detection devices and red light cameras, is amended by adding a new article to read as  
14 follows:

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15 "ARTICLE 416 40-14-40.17 As used in this article, the term:18 (1) 'Agent' means a person or entity that is authorized by a law enforcement agency or  
19 governing authority to administer the procedures of this article and:20 (A) Provides services to such law enforcement agency or governing authority thereof;21 (B) Operates, maintains, leases, or licenses an automated truck route monitoring  
22 device; or23 (C) Is authorized by such law enforcement agency or governing authority to review  
24 and assemble the recorded images captured by the automated truck route monitoring  
25 device for review by a peace officer.26 (2) 'Automated truck route monitoring device' means a device that:27 (A) Is capable of producing recorded images of the rear of a commercial motor vehicle,  
28 including such vehicle's rear license plate; and29 (B) Indicates on each recorded image produced the date, time, and location of a  
30 photographically recorded vehicle traveling on a restricted local truck route.31 (3) 'Commercial motor vehicle' means any self-propelled or towed motor vehicle used  
32 on a highway in intrastate or interstate commerce or both to transport passengers or  
33 property when the vehicle has a gross vehicle weight rating, gross combination weight  
34 rating, gross vehicle weight, or gross combination weight of 4,536 kg (10,001 lbs.) or  
35 more.36 (4) 'Department' means the Department of Transportation.37 (5) 'Governing authority' means any county, municipality, or consolidated government.38 (6) 'Owner' means a person, other than a lienholder or security interest holder, having the  
39 property in or title to a vehicle.

40 (7) 'Recorded images' means still or video images recorded by an automated truck route  
41 monitoring device.

42 (8) 'Restricted local truck route' means a highway located within the jurisdiction of a  
43 governing authority upon which the operation of commercial motor vehicles is limited  
44 based upon passage of an ordinance by such governing authority.

45 40-14-41.

46 (a) Any governing authority may apply with the department for a permit to operate an  
47 automated truck route monitoring device for the enforcement of operating restrictions on  
48 a restricted local truck route.

49 (b) The department shall prescribe by appropriate rules and regulations the manner and  
50 procedure in which applications shall be made for automated truck route monitoring device  
51 permits and to prescribe the required information to be submitted by an applicant consistent  
52 with the requirements of this title. The department may deny an application or suspend or  
53 revoke a permit for failure of the governing authority to provide requested information or  
54 documentation or for any other violation of this article or violation of the rules and  
55 regulations of the department.

56 (c) An application for the operation of an automated truck route monitoring device shall  
57 name the restricted local truck route on which the device is to be used. The revenue  
58 generated by the use of an automated truck route monitoring device shall not be considered  
59 when determining whether to issue a permit for the operation of such devices.

60 (d) Permits shall be issued by the department within three months of receiving a completed  
61 permit application from a governing authority where such governing authority is otherwise  
62 in compliance with the provisions of this article. An application for amendment to an  
63 existing permit and an application for a renewal permit following a suspension or  
64 revocation of a permit shall be processed within three months of receipt of such

65 application, provided that the application is complete and complies with the provisions of  
66 this article.

67 (e) A governing authority utilizing an automated truck route monitoring device shall at all  
68 times cooperate fully with the department. The department is authorized, at any time, to  
69 inspect an automated truck route monitoring device used by a governing authority or agent  
70 and any records pertaining to revenues collected from the use of such devices.

71 (f) A permit may be amended at any time by amended application submitted by a  
72 governing authority. The request to amend an application and to add a new restricted local  
73 truck route to the list of authorized locations for the operation of an automated truck route  
74 monitoring device shall be considered by the department in the same manner as original  
75 permit applications.

76 (g) The department is authorized to set reasonable application fees to compensate the  
77 department for necessary costs in issuing, amending, or reviewing a permit to operate an  
78 automated truck route monitoring device.

79 40-14-42.

80 Each governing authority using an automated truck route monitoring device shall erect  
81 signs warning of the use of an automated truck route monitoring device on a restricted local  
82 truck route. Such signs shall be at least 24 by 30 inches in size, shall be visible plainly  
83 from every lane of traffic, shall be viewable in all traffic conditions, and shall not be placed  
84 in such a manner that the view of such sign is subject to being obstructed by any other  
85 vehicle on such highway.

86 40-14-43.

87 (a) The operator of a commercial motor vehicle operating such vehicle on a restricted local  
88 truck route enforced by an automated truck route monitoring device shall be liable for a  
89 civil monetary penalty to the governing authority if such vehicle is found, as evidenced by

90 recorded images, to have been operated on a restricted local truck route. The amount of  
91 such civil monetary penalty shall be \$175.00 for a first violation and \$350.00 for a second  
92 or any subsequent violation, in addition to fees associated with the electronic processing  
93 of such civil monetary penalty which shall not exceed \$25.00; provided, however, that for  
94 a period of 30 days after an automated truck route monitoring device has been placed on  
95 a restricted local truck route, the operator of a commercial motor vehicle shall not be liable  
96 for a civil monetary penalty but shall be issued a warning.

97 (b) The law enforcement agency or agent thereof authorized to enforce the traffic laws  
98 within the jurisdiction of a governing authority shall send by first-class mail addressed to  
99 the owner of the commercial motor vehicle within 30 days after obtaining the name and  
100 address of such owner from the Department of Revenue but no later than 60 days after the  
101 date of the alleged violation:

102 (1) A citation or warning for the alleged violation, which shall include the date and time  
103 of the violation, the location of the infraction, a citation to the local truck ordinance, the  
104 warning or the amount of the civil monetary penalty imposed, and the date by which the  
105 civil monetary penalty shall be paid;

106 (2) An image taken from the recorded images showing the vehicle involved in the  
107 infraction;

108 (3) A website address where recorded images showing the vehicle involved in the  
109 infraction and a duplicate of the information provided for in this subsection may be  
110 viewed;

111 (4) A copy of a certificate sworn to or affirmed by a certified peace officer employed by  
112 a law enforcement agency authorized to enforce the traffic laws where the restricted local  
113 truck route is located and stating that, based upon inspection of recorded images, the  
114 owner's commercial motor vehicle was operated on a restricted local truck route and that  
115 such operation was not otherwise authorized by law;

116 (5) A statement of the inference provided by Code Section 40-14-44 and of the means  
117 specified therein by which such inference may be rebutted;

118 (6) Information advising the owner of the commercial motor vehicle of the manner in  
119 which liability as alleged in the citation may be contested; and

120 (7) A warning that failure to pay the civil monetary penalty or to contest liability in a  
121 timely manner as provided for in this article may result in assessment of late fees in  
122 addition to the civil monetary penalty owed and a prohibition on vehicle registration  
123 renewal.

124 40-14-44.

125 (a) Proof that a commercial motor vehicle was operated on a restricted local truck route  
126 may be evidenced by recorded images. A copy of a certificate sworn to or affirmed by a  
127 certified peace officer employed by a law enforcement agency authorized to enforce traffic  
128 laws in the jurisdiction of the restricted local truck route and stating that, based upon  
129 inspection of recorded images, a commercial motor vehicle was operated on a restricted  
130 local truck route and that such operation was not otherwise authorized by law shall be  
131 prima-facie evidence of the facts contained therein.

132 (b) Liability under this article shall be determined based upon a preponderance of the  
133 evidence. Prima-facie evidence that the vehicle described in the citation was operated on  
134 a restricted local truck route, together with proof that the defendant was, at the time of such  
135 violation, the owner of the vehicle, shall permit the trier of fact in its discretion to infer that  
136 such owner of the vehicle was the operator of the vehicle at the time of the alleged  
137 violation. Such inference may be rebutted if the owner of the vehicle:

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

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

142 40-14-45.

143 A violation for which a warning or a civil monetary penalty is imposed pursuant to this  
144 article shall not be considered a moving traffic violation for the purpose of points  
145 assessment under Code Section 40-5-57. Such violation shall be deemed noncriminal, and  
146 imposition of a warning or civil monetary penalty pursuant to this article shall not be  
147 deemed a conviction and shall not be made a part of the operating record of the person  
148 upon whom such liability is imposed, nor shall it be used for any insurance purposes in the  
149 provision of motor vehicle insurance coverage.

150 40-14-46.

151 (a) A law enforcement agency or agent thereof which sent notice of a citation pursuant to  
152 Code Section 40-14-43 shall send a second notice of the unpaid civil monetary penalty to  
153 any person who fails to pay the civil monetary penalty for the violation or has not filed a  
154 police report or notarized statement pursuant to Code Section 40-14-44 within 60 days of  
155 such mailing; provided, however, that such second notice shall not be sent in cases in  
156 which an adjudication that no violation occurred has been issued or there is an otherwise  
157 lawful determination that no civil monetary penalty shall be imposed. Such second notice  
158 shall include all information required in the original citation and a new date of return which  
159 shall be no less than 30 days after such mailing. If such person notified by second notice  
160 again fails to pay the civil monetary penalty or file a police report or notarized statement  
161 pursuant to Code Section 40-14-44 by the new date of return, such person shall have  
162 waived the right to contest the violation and shall be liable for the civil monetary penalty  
163 provided for under this article, except in cases in which an adjudication that no violation  
164 occurred has been issued or there is an otherwise lawful determination that no civil  
165 monetary penalty shall be imposed.

166 (b) Notices mailed by first-class mail shall be adequate notification of the fees and  
167 penalties imposed by this article.

168 40-14-47.

169 Any court having jurisdiction over traffic violations within the jurisdiction in which an  
170 automated truck route monitoring device is located shall have jurisdiction over cases  
171 arising under this article and shall be authorized to impose the civil monetary penalty  
172 provided by this article. The provisions of law governing jurisdiction, procedure, defenses,  
173 adjudication, appeal, and payment and distribution of penalties otherwise applicable to  
174 traffic violations within the jurisdiction in which such automated truck route monitoring  
175 device is located shall apply to enforcement under this article, except as otherwise provided  
176 to the contrary; provided, however, that any appeal from superior or state court shall be by  
177 application in the same manner as provided by Code Section 5-6-35.

178 40-14-48.

179 (a) If a citation issued pursuant to this article has not been contested and the civil monetary  
180 penalty has not been paid, the agent or governing authority shall mail a final notice of any  
181 unpaid civil monetary penalty to the owner, except in cases in which an adjudication that  
182 no violation occurred has been issued or there is an otherwise lawful determination that no  
183 civil monetary penalty shall be imposed. Such notice shall inform the owner that the agent  
184 or governing authority shall send a referral to the Department of Revenue if the assessed  
185 penalty is not paid within 30 days after the final notice was mailed and that such referral  
186 shall result in the nonrenewal of the registration of such motor vehicle and shall prohibit  
187 the title transfer of such motor vehicle within this state.

188 (b) The agent or governing authority shall send a referral to the Department of Revenue  
189 not sooner than 30 days after the final notice required under subsection (a) of this Code  
190 section was mailed if a citation issued pursuant to this article has not been contested and  
191 the assessed penalty has not been paid. The referral to the Department of Revenue shall  
192 include the following:



193 (1) Any information known or available to the agent or governing authority concerning  
194 the license plate number, the motor vehicle year of registration, and the name of the  
195 owner of the motor vehicle;

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

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

198 (4) The date when the notices required under this article were mailed.

199 (c) When the Department of Revenue receives a referral pursuant to this Code section,  
200 such referral shall be entered into the motor vehicle database within five days of receipt,  
201 and the Department of Revenue shall refuse to renew the registration of such vehicle unless  
202 and until the civil monetary penalty plus any late fee is paid to the governing authority.  
203 The Department of Revenue shall mail a notice to the registered owner of such motor  
204 vehicle that informs such owner:

205 (1) That the registration of the vehicle involved in the violation will not be permitted to  
206 be renewed;

207 (2) That the aforementioned restriction is being imposed due to the failure to pay the  
208 civil monetary penalty and any late fee owed under authority of this article; and

209 (3) Of the procedure that the owner may follow to remove the restrictions.

210 (d) No later than ten days after receipt from an agent or governing authority that the  
211 amount owed has been paid, the Department of Revenue shall remove the restrictions on  
212 a vehicle upon submission of adequate proof that the penalty and any late fee, if applicable,  
213 has been paid.

214 40-14-49.

215 (a) Recorded images produced by an automated truck route monitoring device shall not  
216 be a public record for purposes of Article 4 of Chapter 18 of Title 50.

217 (b) Any money collected and remitted to the governing authority pursuant to this article  
218 shall be used by such governing authority to fund local law enforcement or public safety

219 initiatives. This subsection shall not preclude the appropriation of a greater amount than  
220 collected and remitted under this article."

221 **SECTION 2.**

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