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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- AUTOMATED TRAFFIC SPEED
ENFORCEMENT SYSTEM

Introduced By: Representative John J. McCauley

Date Introduced: February 25, 2010

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 31 of the General Laws entitled "MOTOR AND OTHER
2 VEHICLES" is hereby amended by adding thereto the following chapter:

3 CHAPTER 41.3

4 AUTOMATED TRAFFIC SPEED ENFORCEMENT SYSTEMS ACT OF 2010

5 **31-41.3-1. Short title. --** This act shall be known and may be cited as the "Rhode Island
6 Automated Traffic Speed Enforcement System Act of 2010."

7 **31-41.3-2. Legislative finding. --** It is hereby found and declared that ever increasing
8 violations of the state's traffic speed laws and regulations place both motorists and pedestrians
9 using the state's streets, roadways and highways in danger. The legislature hereby declares that
10 the use of technology to reduce aggressive and dangerous speeding is in the best interest of public
11 safety and therefore adopts a policy of authorizing the use of automated traffic speed enforcement
12 systems within the State of Rhode Island to be used in conjunction with civil penalties imposed
13 upon the owners of speeding vehicles in order to reduce speeding violations. Nothing in this
14 chapter shall supersede criminal or civil sanctions being taken against the driver of a vehicle who
15 is cited by a law enforcement officer for a speeding violation.

16 **31-41.3-3. Automated traffic speed enforcement system authorized and defined. --**
17 The state department of transportation and the municipalities of this state are hereby authorized to
18 operate "automated traffic speed enforcement systems." For the purpose of this chapter an

1 automated traffic speed enforcement system is defined as a system using one or more vehicle
2 detectors in combination with photography to identify and provide a photographic image of
3 vehicles which are exceeding the posted speed limit or the speed limit designated by state law or
4 regulation for a given street, roadway or highway, and may be fixed or mobile configurations.

5 **31-41.3-4. Automated traffic speed enforcement system operational requirements**
6 **and certification.** – No automated traffic speed enforcement system shall be used in the state of
7 Rhode Island unless the system has been approved and certified for use in the state by the director
8 of the department of transportation. The director of the department of transportation, in
9 cooperation with the state police, shall require that any automated traffic speed enforcement
10 system approved and certified for use in the state of Rhode Island meets the following
11 requirements:

12 (1) All automated traffic speed enforcement systems operated under this chapter shall
13 record the speed of vehicles within plus or minus one mile per hour of the actual speed.

14 (2) All automated traffic speed enforcement systems operated under this chapter shall
15 record at least two (2) photographic images of the vehicle exceeding the speed limit, one of which
16 shall include the license plate attached to the rear of the vehicle.

17 (3) All automated traffic speed enforcement systems operated under this chapter shall, at
18 the time of violation, imprint upon the photographic images of vehicles exceeding the speed limit:

19 (i) The date and time of the violation.

20 (ii) The identity of the street, roadway or highway being monitored and location upon
21 that roadway or highway including direction of travel and lane of travel; this requirement may be
22 met with code designations.

23 (iii) The posted or lawfully designated speed limit for the street, roadway or highway
24 being monitored.

25 (iv) The monitored speed of the vehicle identified in the photographic images as
26 exceeding the posted or lawfully designated speed limit.

27 (v) The consecutive event number of each photograph taken.

28 **31-41.3-5. Operation of system.** -- In the event a fixed or mobile automated traffic speed
29 enforcement system is to be installed or used by any person other than state department of
30 transportation or state police personnel on a state maintained street, roadway or highway, the
31 director of transportation shall approve installation or use of the system.

32 **31-41.3-6. Maintenance of system.** -- The state department of transportation and/or the
33 municipalities may enter into an agreement with a private corporation or other entity to provide
34 automated traffic speed enforcement systems equipment services and to maintain the systems. A

1 contract between a government agency and a manufacturer or supplier of automated traffic speed
2 enforcement systems shall be based on the value of such equipment and related support services
3 and shall not be based on a percentage of the revenue generated by the automated traffic speed
4 enforcement system.

5 **31-41.3-7. Citation precedent.** -- In the event a law enforcement officer stops and issues
6 a citation to the driver of a vehicle for a speeding violation which violation is also captured by an
7 automated traffic speed enforcement system the citation issued to the driver shall have precedent
8 and the automated traffic speed enforcement system citation shall be dismissed.

9 **31-41.3-8. Procedure notice.** – (a) Except as expressly provided in this chapter, all
10 prosecutions based on evidence produced by an automated traffic speed enforcement system shall
11 follow the procedures established in chapter 41.1 of this title, chapter 8-18 of these general laws
12 and the rules promulgated by the chief judge of the district court for the hearing of civil traffic
13 violations. Citations may be issued by an officer solely based on evidence obtained by use of an
14 automated traffic speed enforcement system. All citations issued based on evidence obtained
15 from an automated traffic speed enforcement system shall be issued within fourteen (14) days of
16 the violation.

17 (b) It shall be sufficient to commence a prosecution based on evidence obtained from an
18 automated traffic speed enforcement system provided that a copy of the citation and supporting
19 documentation be mailed to the address of the registered owner kept on file by the registry of
20 motor vehicles pursuant to section 31-3-34 of these general laws. For purposes of this section, the
21 date of issuance shall be the date of mailing.

22 (c) The officer issuing the citation shall certify under penalties of perjury that the
23 evidence obtained from the automated traffic speed enforcement system was sufficient to
24 demonstrate a violation of the motor vehicle code. Such certification shall be sufficient in all
25 prosecutions pursuant to this chapter to justify the entry of a default judgment upon sufficient
26 proof of actual notice in all cases where the citation is not answered within the time period
27 permitted.

28 (d) The citation shall contain all the information provided for in the uniform summons as
29 referred to in section 31-41.1-1 of the general laws and the rules of procedure promulgated by the
30 chief judge of the district court for the traffic tribunal.

31 (e) In addition to the information in the uniform summons, the following information
32 shall be attached to the citation:

33 (1) Copies of two (2) or more photographs, or microphotographs, or other recorded
34 images taken as proof of the violation; and

1 (2) A signed statement by a trained law enforcement officer that, based on inspection of
2 recorded images, the motor vehicle was being operated in violation of chapter 31-14 relating to
3 speed restrictions; and

4 (3) A statement that recorded images are evidence of a violation of this chapter; and

5 (4) A statement that the person who receives a summons under this chapter may either
6 pay the civil penalty in accordance with the provisions of section 31-41.1-3, or elect to stand trial
7 for the alleged violation.

8 **31-41.3-9. Hearings.** -- Evidence from an automated traffic speed enforcement system
9 shall be considered substantive evidence in the prosecution of all civil traffic violations. Evidence
10 from an automated traffic speed enforcement system approved by the director of the department
11 of transportation shall be admitted without further authentication and such evidence may be
12 deemed sufficient to sustain a civil traffic violation. In addition to any other defenses as set forth
13 herein, any defenses cognizable at law, with the exception of that available under section 31-41.3-
14 7, shall be available to the individual who receives the citation commencing a prosecution under
15 this chapter.

16 **31-41.3-10. Driver/registered owner liability.** -- (a) The registered owner of the motor
17 vehicle shall be primarily responsible in all prosecutions brought pursuant to the provisions of
18 this chapter except as otherwise provided in this section.

19 (b) In all prosecutions of civil traffic violations based on evidence obtained from an
20 automated traffic speed enforcement system, the registered owner of a vehicle which has been
21 operated in violation of a civil traffic violation, may be liable for such violation. The registered
22 owner of the vehicle may assume liability for the violation by paying the fine, or by defending the
23 violation pursuant to the remedies available under the law.

24 (c) The lessee of a leased vehicle shall be considered the owner of a motor vehicle for
25 purposes of this section.

26 **31-41.3-11. Use of evidence in criminal and civil cases.** -- Nothing in this chapter shall
27 prohibit the use of evidence produced by an automated traffic speed enforcement system in a
28 criminal or private civil proceeding; provided, that the admissibility of such evidence shall follow
29 the applicable laws and rules of procedure and rules of evidence which apply in criminal and civil
30 cases.

31 **31-41.3-12. Nature of violations.** -- Notwithstanding any other provision of law:

32 (1) No violation for which a civil penalty is imposed under this chapter shall be
33 considered a moving violation, nor shall be included on the driving record of the person on whom
34 the liability is imposed, nor shall it be used for insurance rating purposes in providing motor

1 vehicle insurance coverage until there is a final adjudication of the violation.

2 (2) Impositions of a penalty pursuant to this chapter shall not be deemed a criminal
3 conviction of an owner or operator.

4 (3) The defense available under section 31-41.1-7 shall not be available for any violation
5 imposed under this chapter.

6 **31-41.3-13. Security of records. --** (a) The recorded images produced by an automated
7 traffic speed enforcement system shall not be deemed "public records" subject to disclosure
8 pursuant to paragraph 38-2-2(4)(i).

9 (b) All recorded images that do not identify a violation shall be destroyed within ninety
10 (90) days of the date the image was recorded, unless otherwise ordered by a court of competent
11 jurisdiction.

12 (c) All recorded images that identify a violation shall be destroyed within one year after
13 the citation is resolved by administrative payment, trial or other final disposition of the citation,
14 unless otherwise ordered by a court of competent jurisdiction.

15 (d) The privacy of records produced pursuant to this chapter shall be maintained;
16 provided, that aggregate data not containing personal identifying information may be released.

17 **31-41.3-14. Reports. --** (a) The agency or municipality authorizing the installation of
18 automated traffic speed enforcement systems shall prepare an annual report containing data on:

- 19 (1) The number of citations issued at each particular intersection;
- 20 (2) The number of those violations paid by mail;
- 21 (3) The number of those violations found after trial or hearing;
- 22 (4) The number of violations dismissed after trial or hearing;
- 23 (5) The number of accidents at each intersection;
- 24 (6) A description as to the type of accident;
- 25 (7) An indication regarding whether there were any injuries involved in any accident
26 reported;
- 27 (8) The cost to maintain the automated traffic speed enforcement system; and
- 28 (9) The amount of revenue obtained from the automated traffic system enforcement
29 system.

30 SECTION 2. This act shall take effect upon passage.

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO MOTOR AND OTHER VEHICLES -- AUTOMATED TRAFFIC SPEED
ENFORCEMENT SYSTEM

- 1 This act would create a procedure to issue speeding violations using an automated traffic
- 2 speed enforcement system.
- 3 This act would take effect upon passage.

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