

- SUBJECT:** Municipal authority to implement a photographic traffic system
- COMMITTEE:** Public Safety — committee substitute recommended
- VOTE:** 7 ayes — B. Turner, Berman, Carter, Gutierrez, Hupp, P. King, Najera
1 nay — Keel
1 absent — Driver
- WITNESSES:** For — Karen Akins, Austin Neighborhoods Council; Sam Cox, Texas Municipal Police Association; Susan Douglass, Texas Emergency Nurses Association; Jeryl Hart, City of Lubbock; Anna Jenkin, Lubbock Citizen Traffic Commission; Claude Jones, Lubbock Police Department; James Kelly, Aviar; Steve Lyons, Houston Police Department; Thomas McClure; Michael Moon, Texas State Council of Emergency Nurses Association; Bob Nusser, City of Richardson and Institute of Transportation Engineers of Texas; David M. Smith, City of Plano; Lt. Howard E. Williams, Austin Police Department; Bruce Woodhouse; Larry Zacharias, Texas Police Chiefs Association
- Against — Robert Barfield; Michael Mason Evans; David Lee, Municipal Justice Bar Association of Texas; Lew McNeil, USA Training Co.; Charles Michulka, Texas Municipal Justice Bar Association
- DIGEST:** CSHB 1152 would add chapter 707 to the Transportation Code, allowing a municipality in a county with a population of at least 150,000 or in a contiguous county to implement a traffic-control monitoring system to photograph the license plate of a vehicle that runs a steady red light.
- The bill would define a “photographic traffic monitoring system” as a system consisting of a camera and vehicle sensor installed to work in conjunction with an electronically operated traffic light and that could produce at least two recorded images of the rear license plate. A “recorded image” would be defined as a single-frame image that depicts the rear of the vehicle and is recorded automatically on a photograph or digital image.

The bill would allow the governing body of a qualifying municipality to implement a photographic monitoring system by ordinance. The municipality could install and operate the system itself or could contract for installation or operation. A municipality could not install or operate such a system unless the system was capable of clearly depicting on a recorded image the registration number on a vehicle's rear license plate, and no citation could be issued unless one or more recorded images of the vehicle involved in the violation clearly depicted the registration number.

The municipal ordinance could set the civil penalty for running a steady red light at no more than \$75, except that a third or subsequent offense in any 12-month period could be subject to a penalty of up to \$200. The registered owner or lessee of a vehicle would be liable for the penalty. The municipal ordinance would have to specify the department, agency, or office responsible for enforcing and administering the system, which would not have to be the police department.

The governing body of the municipality would have to approve the siting of a monitoring system considering the frequency of motor vehicle accidents on streets and at intersections where traffic-control signals are installed and the increased risk to children caused by traffic at intersections within 1,000 feet of a school.

The bill would not prevent the municipality from enforcing traffic-signal violations or issuing citations or summons by other means. A person could not receive two civil penalties for the same violation if cited both by a peace officer and the administrator of the photographic monitoring system.

Within 30 days of an alleged violation, the responsible agency could initiate a civil penalty for a red-light offense by mailing a citation or summons to the owner at the address on record with the Texas Department of Transportation or, if the vehicle was not registered in Texas, to the address shown on the registration records of another state or country. A citation or summons would be presumed to have been received on the fifth day after it was mailed. A citation or summons would have to contain:

- ! a description of the alleged violation;
- ! the location where the violation occurred;
- ! the date and time of the violation;

- ! the name and address of the registered owner of the vehicle;
- ! the license plate number of the vehicle;
- ! a copy of the image recorded by the monitoring system, including a clear depiction of the license plate;
- ! the amount of the civil penalty;
- ! the date by which the penalty must be paid;
- ! a statement that the person named in the citation or summons could elect to pay the penalty in lieu of appearing at the time and place of the administrative adjudication hearing;
- ! a signed statement by a technician employed by the municipality or an agent of the municipality that, according to inspection of the recorded images, the vehicle had violated traffic laws;
- ! a statement that the recorded image is evidence in a hearing;
- ! information that the person named in the citation or summons could contest the penalty in an administrative adjudication process in a specified manner and time and that failure to pay the penalty or to contest liability in a timely manner would be an admission of liability; and
- ! a statement that the owner could transfer liability for the violation if the vehicle was operated by someone else at the time of the violation, but only if the owner submitted, on a form provided by the municipality, the name and current address of the actual driver, including a lessee or a subsequent owner of the vehicle if ownership was transferred legally, along with sufficient proof that the person was operating the vehicle at the time of the violation, was a lessee, or was the subsequent owner.

A municipality could mail a warning to the vehicle owner in lieu of a citation or summons. The warning would have to contain the first five items of information required in a citation, as bulleted above.

A person receiving a citation or summons would be entitled to the standard administrative adjudication process for stopping and parking offenses outlined in Transportation Code, chapter 682, except that denial of a parking permit would not be an acceptable enforcement of a hearing officer's order.

A municipal officer or employee could sign an affidavit attesting to the reliability of the photographic monitoring system, and the affidavit would be admissible as evidence in a hearing. The hearing officer could not impose a penalty unless the violation was proven at the hearing by a preponderance of the evidence or unless the owner or person alleged to have committed the

violation admitted liability. The hearing officer could consider any pertinent evidence in a hearing. A civil penalty could not be considered a conviction.

Acceptable defenses of the alleged violation would be that:

- ! the traffic signal was not placed properly or could not be read by an ordinary person;
- ! the driver was following the direction of a police officer;
- ! the driver proceeded through a red light in order to yield right-of-way to an emergency vehicle;
- ! the vehicle alleged to have committed a violation was operating as an authorized emergency vehicle;
- ! the vehicle was stolen and was being operated without the consent of the owner;
- ! the license plate depicted in the recorded image was a stolen plate and displayed on a vehicle other than the one for which it had been issued; and
- ! the vehicle was being operated by someone other than the owner.

To demonstrate that the vehicle or license plate depicted in the images had been stolen, the owner would have to submit proof that the theft had been reported to law enforcement authorities in a timely manner.

If the hearing officer found that a person other than the owner had committed the violation, the officer would have to provide to the responsible agency a copy of sufficient evidence identifying the actual operator of the vehicle. Within 30 days of receiving the information from the hearing officer, the responsible agency would mail a citation or summons to the person shown to have been driving the vehicle. The person named in the citation or summons could contest the imposition of the civil penalty.

A person who failed to pay the amount of the civil penalty or to contest liability in a timely manner could request administrative adjudication by filing an affidavit with the hearing officer stating the date on which the citation or summons was received.

The bill would prohibit the municipality from disposing of any record or recorded image related to a proceeding or to the issuance of a warning until one year after the date of the violation.

CSHB 1152 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

SUPPORTERS
SAY:

CSHB 1152 would make drivers more responsible by discouraging them from running red lights. Drivers would know that they could be cited for this risky behavior even when no police car was visible nearby.

Cities should have tools to stop motorists who ignore their responsibilities and endanger others. People who run red lights are among the most egregious offenders. Disregarding red lights is the leading cause of urban crashes and fatalities. Each year in Texas, more than 17,000 traffic accidents occur in which a person disregards a red light

In many cases, police officers cannot chase a driver who has run a red light without also running the light themselves. Red light violations are therefore difficult to enforce, especially in the most dangerous intersections.

More than 20 cities around the country use traffic cameras, and most have implemented the systems in the past three years. In cities where the systems are in use, red-light violations have dropped as much as 40 percent. The systems are effective and efficient, and they ensure public safety without exhausting law enforcement resources.

CSHB 1152 would allow cities to choose whether to implement a traffic monitoring system. If cities chose to do so, their law enforcement officers could spend time fighting crimes rather than issuing traffic tickets, and public safety would not suffer.

Citations would be civil penalties like parking tickets and not criminal. A penalty would not constitute a violation and would not affect a person's insurance premiums or driving record.

Being arrested or fined for an offense committed on a public street is not an invasion of privacy. The purpose of these cameras is to ensure public safety, not to intrude on people's private lives or to raise funds for police. Running a red light is a public act, not a private matter.

OPPONENTS
SAY:

Police should not be in the business of arbitrarily monitoring private lives. This kind of police action would discourage public trust in law enforcement. It also would be a gross invasion of privacy. If cameras are used today to catch people who run red lights, they could be used in the future to survey even the pettiest crimes. This conjures up images of “Big Brother.”

People would learn quickly which intersections were monitored and which were not and would continue to run red lights in unmonitored intersections. This monitoring system would not solve the problem of running red lights but merely would transfer it.

Most people who run steady red lights do not do so intentionally. Many violations occur because the lights are timed poorly or inconsistently. For a city to charge these drivers with violations would be to reap financial benefit from innocent mistakes. It would be more appropriate for these people to receive a warning from an officer, not a citation through the mail.

CSHB 1152 could not be enforced fairly. A motorist caught on camera running a red light would receive a civil penalty, while a motorist caught by an officer for the same offense would be subject to a misdemeanor offense. Since cities would have to place cameras in the most typically dangerous intersections, this would mean that people who committed the most ostensibly egregious offenses received smaller penalties than people who committed offenses elsewhere.

Implementation of these systems could be motivated more by financial concerns than by public safety. The systems could turn into a money-making venture for a city. These monitoring systems are costly, and municipalities likely would contract with private companies to install and operate the systems. To pay for installation and monitoring, a city might be tempted to issue more citations and collect more fines than it would normally.

Even with provisions in the bill allowing the owner of a car to prove that someone else was driving at the time of violation, an innocent owner might have to spend time away from work to contest a citation. If a friend or family member was the actual driver, the car owner would be in the position of having to turn that person in to law enforcement to avoid a fine.

In other areas where the system has been implemented, studies have not proven that traffic cameras increase safety. Reduction in the number of violations could be due to a number of other factors.

OTHER
OPPONENTS
SAY:

The Texas Department of Transportation conducted a pilot study to photograph the license plates of vehicles whose drivers ignored railroad signals. The department did not issue citations as part of the study and determined that more research was needed to determine the best way to process and mail citations resulting from camera records.

NOTES:

The committee substitute amended the original bill to:

- ! specify that only municipalities contiguous to or located in a county of more than 150,000 could implement a traffic monitoring system;
- ! define “recorded image”;
- ! specify that the lessee of a vehicle could be responsible for a violation;
- ! provide for a maximum civil penalty of \$75, except that the penalty for a third or subsequent offense would be \$200;
- ! set criteria for the siting of a monitoring system;
- ! set requirements for the citation;
- ! lay out guidelines for a person who failed to pay or contest in a timely manner;
- ! add to the list of defenses;
- ! prohibit the municipality from disposing of records or recorded images related to a proceeding before one year; and
- ! specify that the law would not prevent a municipality from enforcing traffic rules by other means.

In the 74th Legislature in 1995, a similar bill, SB 876 by Cain, passed the Senate but failed to pass the House on second reading.