

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 714
By: Hall et al.
Transportation
4/13/2015
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas statutes seem to be in conflict with constitutional protections in regards to the ability of a governing body to contract with third-party vendors for automated traffic control devices (red light cameras). Unlike law enforcement officers, these for-profit companies have not sworn an oath to defend the constitution. There are many concerns regarding photographic enforcement systems, such as the devices being misused and un-regulated. Concerned citizens across the country have voiced their objections against this process in lawsuits, referendums, and so on.

Under current law, private corporations are given the authorization to record alleged violations. The alleged violations are assessed by the vendor and they issue the citation to the alleged traffic violators. This procedure is done without a law enforcement officer witnessing the violation. By assigning tickets on behalf of a local authority, this practice is denying citizens the right to confront their accuser. The procedure violates their right to due process. The alleged traffic violation implicates the owner of the vehicle and presumes the citizens' innocence by ticketing the vehicle rather than the driver.

Since the implementation of red light cameras, other state courts have found photographic enforcement devices to be unconstitutional. The list of states where they are banned is growing rapidly.

S.B. 714 seeks to bring the code into compliance with constitutional protections by prohibiting the authorization of red light cameras in the state of Texas. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 714 amends current law relating to the use of automated traffic control systems and photographic traffic signal enforcement systems.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 542.2035, Transportation Code, as follows:

Sec. 542.2035. New heading: AUTOMATED TRAFFIC CONTROL SYSTEM PROHIBITED. (a) Prohibits a local authority from implementing or operating an automated traffic control system with respect to a highway or street under its jurisdiction for a purpose other than collecting and enforcing a toll. Requires the attorney general of the State of Texas to enforce this subsection. Deletes existing text prohibiting a municipality from implementing or operating an automated traffic control system for the purpose of enforcing compliance with posted speed limits.

(b) Redefines "automated traffic control system" in this section.

SECTION 2. Amends the heading to Chapter 707, Transportation Code, to read as follows:

**CHAPTER 707. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM
PROHIBITED**

SECTION 3. Amends Sections 707.001(3) and (4), Transportation Code, to redefine "photographic traffic signal enforcement system" and "recorded image."

SECTION 4. Amends Chapter 707, Transportation Code, by adding Section 707.0015, as follows:

Sec. 707.0015. TOLL ENFORCEMENT EXCEPTED. Provides that this chapter does not apply to a photographic traffic signal enforcement system that is used for the purpose of collecting or enforcing tolls.

SECTION 5. Amends Chapter 707, Transportation Code, by adding Section 707.020, as follows:

Sec. 707.020. USE OF EVIDENCE FROM PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM PROHIBITED. Prohibits the state or a political subdivision of the state, notwithstanding any other law, from issuing a civil or criminal charge or citation for an offense or violation based on a recorded image produced by a photographic traffic signal enforcement system.

SECTION 6. Amends Section 27.031(a), Government Code, to delete existing text providing that the justice court has original jurisdiction of cases arising under Chapter 707 (Photographic Traffic Signal), Transportation Code, outside a municipality's territorial limits.

SECTION 7. Reenacts Section 133.004, Local Government Code, as amended by Chapters 718 (H.B. 2359), 1027 (H.B. 1623), and 1149 (S.B. 1119), Acts of the 80th Legislature, Regular Session, 2007, and amends it, as follows:

Sec. 133.004. CIVIL FEES. Deletes existing text providing that this chapter applies to civil fees that include the portion of the civil or administrative penalty described by Section 542.406(c)(1) (requiring the local authority to send 50 percent of the revenue derived from civil or administrative penalties collected by the local authority under this section to the comptroller for deposit to the credit of the regional trauma account), Transportation Code, imposed by a local authority to enforce compliance with the instructions of a traffic-control signal, and the portion of the civil or administrative penalty described by Section 707.008(a)(1) (requiring the local authority to send 50 percent of the revenue derived from civil or administrative penalties collected by the local authority under this section to the comptroller for deposit to the credit of the regional trauma account), Transportation Code, imposed by a local authority to enforce compliance with the instructions of a traffic-control signal. Makes a conforming change.

SECTION 8. Repealer: Section 29.003(g) (requiring a municipal court, including a municipal court of record, to have exclusive appellate jurisdiction within the municipality's territorial limits in a case arising under Chapter 707, Transportation Code), Government Code.

Repealer: Chapter 782 (Regional Emergency Medical Services), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015.

Repealer: Section 542.405 (Amount of Civil Penalty; Late Payment Penalty), Transportation Code.

Repealer: Section 542.406 (Deposit of Revenue from Certain Traffic Penalties), Transportation Code.

Repealer: Section 544.012 (Notification of Photographic Traffic Monitoring System), Transportation Code.

Repealer: Chapter 707.002 (Authority to Provide for Civil Penalty), Transportation Code.

Repealer: Chapter 707.0021 (Imposition of Civil Penalty on Owner of Authorized Emergency Vehicle), Transportation Code.

Repealer: Chapter 707.003 (Installation and Operation of Photographic Traffic Signal Enforcement System), Transportation Code.

Repealer: Chapter 707.004 (Report of Accidents), Transportation Code.

Repealer: Chapter 707.005 (Minimum Charge Interval), Transportation Code.

Repealer: Chapter 707.006 (General Surveillance Prohibited; Offense), Transportation Code.

Repealer: Chapter 707.007 (Amount of Civil Penalty; Late Payment Penalty), Transportation Code.

Repealer: Chapter 707.008 (Deposit of Revenue from Certain Traffic Penalties), Transportation Code.

Repealer: Chapter 707.009 (Required Ordinance Provisions), Transportation Code.

Repealer: Chapter 707.010 (Effect of Other Enforcement), Transportation Code.

Repealer: Chapter 707.011 (Notice of Violation; Contents), Transportation Code.

Repealer: Chapter 707.012 (Admission of Liability), Transportation Code.

Repealer: Chapter 707.013 (Presumption), Transportation Code.

Repealer: Chapter 707.014 (Administrative Adjudication Hearing), Transportation Code.

Repealer: Chapter 707.015 (Untimely Request for Administrative Adjudication Hearing), Transportation Code.

Repealer: Chapter 707.016 (Appeal), Transportation Code.

Repealer: Chapter 707.017 (Enforcement), Transportation Code.

Repealer: Chapter 707.018 (Imposition of Civil Penalty Not A Conviction), Transportation Code.

Repealer: Chapter 707.019 (Failure to Pay Civil Penalty), Transportation Code.

SECTION 9. (a) Provides that the repeal of Sections 542.405 and 542.406, Transportation Code, and provisions of Chapter 707, Transportation Code, does not affect the validity of a proceeding initiated or a civil penalty imposed under these provisions before the effective date of this Act. Makes application of this Act prospective.

(b) Authorizes a local authority, notwithstanding the repeal by this Act of Sections 542.405 and 542.406 and provisions of Chapter 707, Transportation Code, to continue to operate a photographic traffic signal enforcement system under that ordinance and under the terms of that contract until the expiration date specified in the contract as the contract existed on June 1, 2015, if before June 1, 2015, a local authority had enacted an ordinance under those provisions to implement the system and entered into a contract for the administration and enforcement of the system.

SECTION 10. Effective date: upon passage or September 1, 2015.