

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 269  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S269-PCS35377-MC-22

Short Title: Work/School Zones-Speed Camera Pilot Program.

(Public)

Sponsors:

Referred to:

February 24, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A PILOT PROGRAM TO IMPROVE PUBLIC SAFETY BY  
AUTHORIZING THE USE OF ELECTRONIC SPEED-MEASURING SYSTEMS BY  
THE DEPARTMENT OF TRANSPORTATION TO DETECT SPEED LIMIT  
VIOLATIONS IN HIGHWAY WORK AND SCHOOL ZONES, TO ESTABLISH  
STANDARDS FOR THE APPROVAL, USE, AND CALIBRATION OF ELECTRONIC  
SPEED-MEASURING SYSTEMS, TO ESTABLISH A CIVIL PENALTY FOR SPEED  
VIOLATIONS IN WORK AND SCHOOL ZONES THAT ARE DETECTED BY THOSE  
SYSTEMS, TO CREATE A NEW SPECIAL FUND WITHIN THE STATE CIVIL  
PENALTY AND FORFEITURE FUND, TO PROVIDE FOR THE PAYMENT OF THE  
PENALTIES INTO THE DESIGNATED SPECIAL FUND, AND TO DECREASE THE  
AMOUNT OF HIGHWAY FUNDS TRANSFERRED TO THE DEPARTMENT OF  
PUBLIC INSTRUCTION FOR DRIVERS EDUCATION.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 20 of the General Statutes is amended by adding a new section to read:

**"§ 20-141.7. Use of electronic speed-measuring systems to detect speed limit violations in work and school zones.**

(a) Authorization. – Electronic speed-measuring systems may be used to detect violations of the speed limit set by G.S. 20-141(j2) for highway work zones and violations of the speed limit set by G.S. 20-141.1 for State-maintained highways in school zones.

(b) Definition. – As used in this section, an electronic speed-measuring system is a mobile or fixed device (i) consisting of an automated traffic camera and sensor and (ii) capable of measuring the speed and producing one or more digital photographs of a motor vehicle violating a speed limit set by G.S. 20-141(j2) or G.S. 20-141.1.

(c) Minimum Standards. – An electronic speed-measuring system authorized for use by this section shall produce at least one photograph that clearly shows a recorded image of the vehicle speeding; the vehicle registration number and state of issuance; the date, time, and location of the violation; and the recorded speed.

(d) Signage. – The Department of Transportation shall provide notice of the presence of an electronic speed-measuring system by posting a conspicuous warning sign not more than 1,000 feet from the location of the system. All warning signs shall be consistent with a statewide standard adopted by the Department of Transportation.



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1       (e) Use. – An electronic speed-measuring system authorized for use by this section  
2 shall be approved by the Secretary of Transportation. No local government may operate an  
3 electronic speed-measuring system.

4       (f) Penalty. – Except as provided by subsection (i) of this section, a violation of a speed  
5 limit in a highway work zone established pursuant to G.S. 20-141(j2) or a speed limit on a  
6 State-maintained highway within a school zone established pursuant to G.S. 20-141.1 that is  
7 detected by an electronic speed-measuring system is a noncriminal violation for which a civil  
8 penalty shall be assessed and for which no points authorized by G.S. 20-16(c) shall be assigned  
9 to the owner or driver of the vehicle nor insurance points as authorized by G.S. 58-36-65. The  
10 civil penalties are as follows:

11           (1) For a violation of a speed limit in a highway work zone established pursuant  
12 to G.S. 20-141(j2), two hundred fifty dollars (\$250.00).

13           (2) For a violation of a speed limit on a State-maintained highway within a  
14 school zone established pursuant to G.S. 20-141.1, one hundred twenty-five  
15 dollars (\$125.00).

16       (g) Notification of Violation. – The Division of Motor Vehicles shall issue to the  
17 registered owner of a motor vehicle cited for a speeding violation detected by an electronic  
18 speed-measuring system a notice of the violation containing all of the information listed in this  
19 subsection. The notice shall be delivered by first-class United States mail at the address on the  
20 current registration of the vehicle's owner and is deemed served on the registered owner five  
21 days after the mailing. The notice of the violation shall contain all of the following:

22           (1) The recorded image of the vehicle speeding.

23           (2) The vehicle registration number and state of issuance.

24           (3) The date, time, and location of the violation.

25           (4) The recorded speed.

26           (5) The process for paying the civil penalty or contesting the owner's  
27 responsibility for the violation.

28       (h) Liability. – The registered owner of a vehicle cited for a speeding violation detected  
29 by an electronic speed-measuring system shall be responsible for any penalty imposed under  
30 this section unless, within 30 days of service of the notification of violation, the owner provides  
31 to the Division of Motor Vehicles a sworn affidavit containing the information listed in one of  
32 the subdivisions of this subsection. If the registered owner fails to pay the civil penalty or fails  
33 to respond to the notice within 30 days of service of the violation of notification, the owner  
34 waives the right to contest responsibility for the violation and is subject to an additional penalty  
35 of one hundred twenty-five dollars (\$125.00).

36       The sworn affidavit shall contain one of the following:

37           (1) The name and address of the person or persons who had or may have had  
38 actual physical control of the vehicle at the time of the violation.

39           (2) A statement that at the time of the violation the vehicle was under the control  
40 of a person unknown to the owner, without the owner's permission. A  
41 statement provided under this subdivision shall be accompanied by  
42 documentation verifying that the owner reported to appropriate law  
43 enforcement officials the theft or other loss of the vehicle before the date of  
44 the violation.

45       (i) Notification of Criminal Charges. – If a law enforcement officer cites, pursuant to  
46 G.S. 15A-302, or arrests, pursuant to G.S. 15A-401, an owner of a vehicle in an area where an  
47 electronic speed-measuring system is in use for detecting violations of a speed limit set  
48 pursuant to G.S. 20-141(j2) or G.S. 20-141.1, then the officer shall notify the Division of Motor  
49 Vehicles within 48 hours of the citation or arrest. Upon notification, the Division shall not issue  
50 a notice of violation pursuant to subsection (g) of this section. If it is determined that a notice of

1 violation was issued in error after proper notification, no penalty may be imposed and any  
2 penalty already paid shall be refunded.

3 (j) Administrative Hearings. – The Division of Motor Vehicles shall establish an  
4 administrative nonjudicial hearing process to review challenges to penalties assessed pursuant  
5 to this section.

6 (k) Appeal. – A person dissatisfied with the decision of the Division may appeal the  
7 decision to the district court of Wake County, or the county in which the violation occurred by  
8 filing a notice of the appeal with the Clerk of Superior Court in Wake County or the county  
9 where the violation occurred within 30 days of notification of a final decision by the Division.  
10 An appeal under this section is for a trial de novo before the district court."

11 **SECTION 2.** Chapter 8 of the General Statutes is amended by adding a new  
12 section to read:

13 **"§ 8-54.4. Results of electronic speed-measuring systems; admissibility.**

14 (a) Admissibility. – The results of the use of an electronic speed-measuring system  
15 satisfying the requirements of subsection (b) of this section and authorized by G.S. 20-141.7  
16 shall be admissible as prima facie evidence for the purpose of establishing the speed of the  
17 vehicle detected.

18 (b) Calibration and Testing. – All electronic speed-measuring systems shall be  
19 calibrated and tested at regular intervals pursuant to standards established by the Department of  
20 Transportation. A written certificate by a certified technician meeting the standards established  
21 by the Department of Transportation showing that a test was made within the required testing  
22 period and that the system was accurate shall be competent and prima facie evidence of those  
23 facts.

24 (c) Judicial Notice. – In every proceeding in which the results of an electronic  
25 speed-measuring system are sought to be admitted for the purpose of enforcement of  
26 G.S. 20-141.7, notice shall be taken of the rules approving the electronic speed-measuring  
27 system and the procedures for calibration or testing for accuracy of the system."

28 **SECTION 3.** Chapter 115 of the General Statutes is amended by adding a new  
29 section to read:

30 **"§ 115C-457.4. Civil Penalty Litigation Fund.**

31 There is established within the Civil Penalty and Forfeiture Fund a special fund entitled the  
32 Civil Penalties Litigation Fund, to be administered by the Office of State Budget and  
33 Management. The Civil Penalties Litigation Fund shall include seventy-five percent (75%) of  
34 civil penalties paid pursuant to G.S. 20-141.7 and any other moneys appropriated or otherwise  
35 directed by the General Assembly. Moneys paid into the Civil Penalties Litigation Fund shall  
36 be allocated to local school administrative units on a per pupil basis, based on the student  
37 population for the current school year. The moneys in this fund shall be expended in  
38 accordance with the provisions of the State School Technology Fund pursuant to  
39 G.S. 115C-102.6D(c)."

40 **SECTION 4.** Of the total amount collected in fines and penalties pursuant to this  
41 act, seventy-five percent (75%) shall be paid into the Civil Penalties Litigation Fund and  
42 twenty-five percent (25%) shall be paid into the State Public School Fund. The payments to  
43 the Civil Penalties Litigation Fund are intended to satisfy the judgment entered on August 8,  
44 2008, in North Carolina School Boards Association, et al. v. Moore, et al., Wake County  
45 Superior Court, No. 98-CVS-14158. The provisions of G.S. 115C-457.2 concerning an  
46 agency's retention of the actual costs of collection of penalties and fines shall not be applicable  
47 to penalties collected pursuant to this act.

48 **SECTION 5.** The funds transferred to the State Public School Fund under this act  
49 shall be used exclusively for the Drivers Education Program. The Department of Public  
50 Instruction shall report monthly to the Department of Transportation the amount allocated  
51 under this section for the Drivers Education Program, and the Department of Transportation

1 may reduce the transfer of funds it otherwise would make to the Department of Public  
2 Instruction for the Drivers Education Program pursuant to G.S 20-88.1(c) by an equivalent  
3 amount. The Department of Transportation shall use the Drivers Education Program funds that  
4 otherwise would have been transferred to the Department of Public Instruction exclusively for  
5 the implementation and administration of the electronic speed-measuring systems authorized  
6 under this act. After consultation with Joint Legislative Commission Governmental Operations,  
7 such funds may be used to establish positions for the administration of the electronic  
8 speed-measuring systems program. Those positions may not be filled until a contract has been  
9 awarded to a third-party vendor for the primary operation of the program.

10 **SECTION 6.** For the purposes of implementing this act, the Secretary of  
11 Transportation, or the Secretary's designee, may designate no more than eight highway work  
12 zones at one time, and no more than eight school zones on State-maintained highways at one  
13 time, throughout the State to pilot this program.

14 **SECTION 7.** The Secretary of Transportation shall report to the Joint Legislative  
15 Transportation Oversight Committee, the Joint Legislative Education Oversight Committee,  
16 and the Joint Legislative Commission on Governmental Operations on the pilot program  
17 authorized by this act and shall include recommendations for extension, alteration, or  
18 continuance of the program. The report shall include the process and costs of purchasing  
19 equipment and contracting for services necessary for implementation; the number of violations  
20 detected; the number of violations appealed; the number and amount of fines and penalties  
21 collected; the amount paid into the Civil Penalties Litigation Fund; the amount paid into the  
22 State Public School Fund; the effect on the number of instances of speeding in the highway  
23 work zones and school zones located on State-maintained highways; the effect on the number  
24 and severity of accidents in highway work zones and school zones located on State-maintained  
25 highways; the cost to the Division of Motor Vehicles for operating the program; and any other  
26 matter that will assist in evaluating the effectiveness of the program. The report required by this  
27 section shall be made no later than May 1, 2010, and annually thereafter.

28 **SECTION 8.** This act becomes effective October 1, 2009, and applies to all civil  
29 penalties assessed for speeding violations in highway work zones and school zones on  
30 State-maintained highways on or after that date. This act expires October 1, 2024.