

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

SESSION LAW 2003-280
HOUSE BILL 562

AN ACT TO AUTHORIZE THE CITY OF CHARLOTTE TO USE PHOTOGRAPHIC SPEED-MEASURING SYSTEMS DURING A THREE-YEAR PILOT PROGRAM IN DESIGNATED CORRIDORS; TO AUTHORIZE THE CITY OF CHARLOTTE TO ESTABLISH CIVIL PENALTIES FOR SPEED LIMIT AND SCHOOL ZONE SPEED LIMIT VIOLATIONS; AND TO AUTHORIZE THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION AND THE SECRETARY OF CRIME CONTROL AND PUBLIC SAFETY TO APPROVE STANDARDS FOR THE PHOTOGRAPHIC SPEED-MEASURING SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-300.4. Use of photographic speed-measuring systems.

(a) A photographic speed-measuring system is a speed-measuring system that works in conjunction with a photographic, video, or electronic camera to automatically measure the speed and produce photographs, video, or digital images of vehicles violating a speed limit or speed restriction.

(b) A photographic speed-measuring system shall be approved, calibrated, and tested for accuracy in accordance with G.S. 8-50.3.

(c) A photographic speed-measuring system shall be monitored by a sworn law enforcement officer at all times that the system is actively in use.

(d) Any photographic speed-measuring system installed or in use on a street or highway shall be identified by appropriate advance warning signs conspicuously posted not more than 1,000 feet from the location of a photographic speed-measuring system. All advance warning signs shall be consistent with a statewide standard adopted by the Department of Transportation.

(e) A municipality may adopt ordinances for the civil enforcement of G.S. 20-141 and G.S. 20-141.1 by means of a photographic speed-measuring system. Notwithstanding the provisions of G.S. 20-141; 20-141.1, and 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-141 or G.S. 20-141.1 detected by a photographic speed-measuring system shall not be an infraction or misdemeanor. An ordinance authorized by this subsection shall provide that:

- (1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle furnishes, within 21 days of

notification of the violation, to the officials or agents of the municipality that issued the citation either of the following:

- a. The name and address of the person or company who leased, rented, or otherwise had the care, custody, or control of the vehicle.
- b. An affidavit stating that the vehicle involved was, at the time of the violation, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.

(2) A violation detected by a photographic speed-measuring system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars (\$50.00) shall be assessed and for which no points authorized by G.S. 20-16(c) or G.S. 58-36-65 shall be assigned to the owner or driver of the vehicle.

(3) The owner of the vehicle shall be issued a citation, written in both English and Spanish, clearly stating the manner in which the violation may be challenged and containing both a street address within the municipality and a local or toll-free telephone number at which the owner may challenge the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or certified mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the violation and shall be subject to an additional penalty not to exceed fifty dollars (\$50.00). The municipality may establish procedures for the collection of these penalties and may recover the penalties by civil action in the nature of debt.

(4) The municipality shall provide a nonjudicial administrative hearing process to review objections to citations or penalties issued or assessed under this section. The administrative hearing process shall include methods for challenging the violation or penalty either in person, at the street address provided on the citation, or through the telephone, at the telephone number provided on the citation. The municipality shall ensure that a Spanish-speaking person is available both at the street address and through the telephone number to assist Spanish-speaking persons. An administrative hearing decision shall be subject to review by the superior court by proceedings in the nature of certiorari. Any petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the administrative hearing decision.

(5) The clear proceeds from the citations issued pursuant to the ordinance authorized by this section shall be paid to the county school fund. The clear proceeds from the citations shall mean the funds remaining after paying for the lease, lease-purchase, or purchase of the photographic speed-measuring system; paying for operation of the system, either by the municipality or by a

contractor; paying for a program to provide public awareness of the system; and paying any administrative costs incurred by the municipality related to the use of the system."

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

"§ 8-50.3. Results of photographic speed-measuring instruments; admissibility.

(a) The results of the use of a photographic speed-measuring system as described in G.S. 160A-300.4 shall be admissible as evidence in a nonjudicial administrative hearing held pursuant to G.S. 160A-300.4(e) (4) for the purpose of establishing the speed of the vehicle detected.

(b) Notwithstanding the provisions of subsection (a) of this section, the results of a photographic speed-measuring system are not admissible unless all of the following are established:

(1) The photographic speed-measuring system employed was approved for use by the North Carolina Criminal Justice Education and Training Standards Commission and the Secretary of Crime Control and Public Safety pursuant to G.S. 17C-6.

(2) The photographic speed-measuring system had been calibrated and tested for accuracy in accordance with the standards established by the North Carolina Criminal Justice Education and Training Standards Commission and the Secretary of Crime Control and Public Safety for that particular system.

(3) At the time the results were obtained, the photographic speed-measuring system was being operated by a sworn law enforcement officer who has been certified by the North Carolina Criminal Justice Education and Training Standards Commission under G.S. 17-6(a).

(c) All photographic speed-measuring systems shall be calibrated and tested in accordance with standards established by the North Carolina Criminal Justice Education and Training Standards Commission and the Secretary of Crime Control and Public Safety. A written certificate by a technician certified by the North Carolina Criminal Justice Education and Training Standards Commission showing that a test was made within the required testing period and that the system was accurate shall be competent and prima facie evidence of those facts in a nonjudicial administrative hearing held pursuant to G.S. 160A-300.4(e) (4).

(d) In every nonjudicial administrative hearing held pursuant to G.S. 160A-300.4(e) (4), where the results of a photographic speed-measuring system are sought to be admitted, notice shall be taken of the rules approving the photographic speed-measuring system and the procedures for calibration or testing for accuracy of the system."

SECTION 3. G.S. 17C-6(a) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Chapter, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

(13a) In conjunction with the Secretary of Crime Control and Public Safety, approve use of specific models and types of photographic speed-measuring systems as described in G.S. 160A-300.4(a) and establish the standards for

calibration and testing for accuracy of each approved system."

SECTION 4. Section 1 of this act applies to the City of Charlotte only, and the photographic speed-measuring systems may only be used in the following corridors:

- (1) South Boulevard between Interstate 485 and Scaleybark.
- (2) Independence between Briarcreek and Sardis Road North.
- (3) East W.T. Harris between The Plaza and Idlewild.
- (4) Tryon Street from 36th to Orr Road.
- (5) Tryon Street between Mallard Creek Church Road and University City Boulevard.
- (6) Eastway between Independence and Sugar Creek.
- (7) West W.T. Harris between North Tryon Street and Technology Drive.
- (8) Albemarle Road between Independence and Lawyers.
- (9) Central between Albemarle and Briar Creek.
- (10) Monroe Road between Sardis Road North and Wendover.
- (11) Providence between McKee and Providence Country Club.
- (12) Highway 51 between Park Road and Alexander Road.
- (13) Sharon Amity between Lyttleton Drive and East W.T. Harris.
- (14) Billy Graham Parkway between Interstate 85 and Woodlawn.

SECTION 5. This act becomes effective July 1, 2003, and expires June 30, 2006.

In the General Assembly read three times and ratified this the 18th day of June, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ Richard T. Morgan
Speaker of the House of

Representatives

This bill having been presented to the Governor for his signature on the 19th day of June, 2003 and the Governor having failed to approve it within the time prescribed by law, the same is hereby declared to have become a law.

This 30th day of June, 2003

s/ Leigh A. Goodman
Enrolling Clerk