

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**HOUSE BILL 786
RATIFIED BILL**

**AN ACT TO AMEND LIABILITY RULES THAT APPLY TO CIVIL PARKING,
RED LIGHT CAMERA, AND PHOTOGRAPHIC SPEED-MEASURING
SYSTEM ENFORCEMENT ACTIONS.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-301 is amended by adding a new subsection to read:

"(e) The registered owner of a vehicle that has been leased or rented to another person or company shall not be liable for a violation of an ordinance adopted pursuant to this section if, after receiving notification of the civil violation within 90 days of the date of occurrence, the owner, within 30 days thereafter, files with the officials or agents of the municipality an affidavit including the name and address of the person or company that leased or rented the vehicle. If notification is given to the owner of the vehicle after 90 days have elapsed from the date of the violation, the owner is not required to provide the name and address of the lessee or renter, and the owner shall not be held responsible for the violation."

SECTION 2. G.S. 160A-300.1(c) reads as rewritten:

"(c) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. 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, within ~~21~~30 days after notification of the violation, furnishes the officials or agents of the municipality which issued the ~~citation~~citation either of the following:
 - a. An affidavit stating the name and address of the person or company who leased, rented, or otherwise had the care, custody, and control of the vehicle; or
 - b. An affidavit stating that the vehicle involved was, at the time, ~~stolen~~ stolen. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report information, or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.
- (2) Subdivision (1) of this subsection shall not apply, and the registered owner of the vehicle shall not be responsible for the violation, if notice of the violation is given to the registered owner of the vehicle more than 90 days after the date of the violation.
- ~~(2)~~(3) A violation detected by a traffic control photographic 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) shall be assigned to the owner or driver of the vehicle nor insurance points as authorized by G.S. 58-36-65.

- (3)(4) The owner of the vehicle shall be issued a citation which shall clearly state the manner in which the violation may be challenged, and the owner shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class 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 a civil penalty not to exceed one hundred dollars (\$100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.
- (4)(5) The municipality shall institute a nonjudicial administrative hearing to review objections to citations or penalties issued or assessed under this section."

SECTION 3. G.S. 160A-300.2(d), as enacted by Section 3 of S.L. 2001-286, reads as rewritten:

"(d) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. If a municipality adopts an ordinance pursuant to this section then, notwithstanding G.S. 20-176, a violation of G.S. 20-158 detected only by a traffic control photographic system shall not be an infraction. If a violation of G.S. 20-158 is detected by both a law enforcement officer and a traffic control photographic system, the officer may charge the offender with an infraction. If the officer charges the offender with an infraction, a civil penalty issued by the municipality for the same offense is void and unenforceable. 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, within ~~21~~30 days after receiving notification of the violation, furnishes the office of the mayor of the municipality that issued the ~~citation~~citation any of the following:
- a. An affidavit stating ~~The~~ the name and address of the person or company who ~~leased, rented, or otherwise~~ had the care, custody, and control of the ~~vehicle~~vehicle.
 - b. An affidavit stating that the vehicle involved was, at the time, stolen ~~stolen~~. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report information, or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle; or
 - c. ~~A statement~~ An affidavit stating that the person who received the citation is not the owner or driver of the vehicle, or that the person who received the citation was not driving a vehicle at the time and location designated in the citation.
- (2) Subdivision (1) of this subsection shall not apply, and the registered owner of the vehicle shall not be responsible for the violation, if notice of the violation is given to the registered owner of the vehicle more than 90 days after the date of the violation.
- (2)(3) A violation detected by a traffic control photographic 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) shall be assigned to the owner or driver of the vehicle nor insurance points as authorized by G.S. 58-36-65.

- (3)(4) The owner of the vehicle shall be issued a citation that shall be attached to photographic evidence of the violation that identifies the vehicle involved. The citation shall clearly state the manner in which the violation may be challenged. The owner of the vehicle shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class 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 a civil penalty not to exceed one hundred dollars (\$100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.
- (4)(5) The municipality shall establish a nonjudicial administrative hearing process to review objections to citations or penalties issued or assessed under this section. The municipality may establish an appeals panel composed of municipal employees to review objections. If the municipality does not establish an appeals panel composed of municipal employees, the mayor of the municipality shall review and make a final decision on all objections."

SECTION 4. G.S. 160A-300.3(d), as enacted by Section 4 of S.L. 2001-286, reads as rewritten:

"(d) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. 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, within ~~21~~30 days after notification of the violation, furnishes the officials or agents of the municipality which issued the ~~citation~~citation either of the following:
- a. An affidavit stating the name and address of the person or company who leased, rented, or otherwise had the care, custody, and control of the vehicle; or
- b. An affidavit stating that the vehicle involved was, at the time, ~~stolen~~ stolen. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report information, or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.
- (2) Subdivision (1) of this subsection shall not apply, and the registered owner of the vehicle shall not be responsible for the violation, if notice of the violation is given to the registered owner of the vehicle more than 90 days after the date of the violation.
- (2)(3) A violation detected by a traffic control photographic 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) shall be assigned to the owner or driver of the vehicle nor insurance points as authorized by G.S. 58-36-65.

- ~~(3)~~(4) The owner of the vehicle shall be issued a citation which shall clearly state the manner in which the violation may be challenged, and the owner shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class 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 a civil penalty not to exceed one hundred dollars (\$100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.
- ~~(4)~~(5) The municipality shall institute a nonjudicial administrative hearing to review objections to citations or penalties issued or assessed under this section."

SECTION 5. G.S. 160A-300.4(e), as enacted by S.L. 2003-280, reads as rewritten:

"(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 ~~24~~30 days of notification of the violation, to the officials or agents of the municipality that issued the citation either of the following:
- a. ~~The~~ An affidavit stating 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-stolen. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report information, or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.
- ~~(2)~~ Subdivision (1) of this subsection shall not apply, and the registered owner of the vehicle shall not be responsible for the violation, if notice of the violation is given to the registered owner of the vehicle more than 90 days after the date of the violation.
- ~~(2)~~(3) 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)~~(4) 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)~~(5) 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)~~(6) 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 6. This act is effective when it becomes law. Section 5 of this act expires June 30, 2006.

In the General Assembly read three times and ratified this the 19th day of July, 2003.

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____m. this _____ day of _____, 2003