

**Senator Jerry W. Stevenson** proposes the following substitute bill:

**TRAFFIC ENFORCEMENT AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jerry W. Stevenson**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends restrictions on the use of photo radar for traffic enforcement and allocates fees collected from photo radar citations.

**Highlighted Provisions:**

This bill:

- ▶ amends the definition for "photo radar";
- ▶ allows the use of photo radar without a peace officer present in certain circumstances;
- ▶ describes when law enforcement can use photo radar for speed limit or traffic control signal enforcement;
- ▶ designates the Zero Fatalities initiative as the highway safety initiative of the Department of Transportation;
- ▶ allocates the revenues from certain fines collected from photo radar to the prosecuting government entity and to the Zero Fatalities initiative in the Department of Transportation; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None



26 **Other Special Clauses:**

27 This bill provides a special effective date.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 [51-2a-301](#), as last amended by Laws of Utah 2022, Chapter 89

31 [78A-5-110](#), as last amended by Laws of Utah 2022, Chapter 68

32 [78A-7-120](#), as last amended by Laws of Utah 2022, Chapters 68, 89

33 ENACTS:

34 [72-1-217](#), Utah Code Annotated 1953

35 REPEALS AND REENACTS:

36 [41-6a-608](#), as renumbered and amended by Laws of Utah 2005, Chapter 2



38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section [41-6a-608](#) is repealed and reenacted to read:

40 **41-6a-608. Photo radar -- Restrictions on use.**

41 (1) As used in this section:

42 (a) "Construction zone" means a portion of a highway under construction,  
43 reconstruction, replacement, and improvement of a highway.

44 (b) "Photo radar" means a device used primarily for speed limit or traffic control signal  
45 enforcement consisting of a radar or lidar unit and camera which automatically produces a  
46 photograph of a vehicle, with the vehicle's speed, the date, time of day, and location of the  
47 violation printed on the photograph.

48 (c) "Reduced speed school zone" means the same as that term is defined in Section  
49 [41-6a-303](#).

50 (d) "Traffic control signal" means the same as that term is defined in Section  
51 [41-6a-102](#).

52 (2) Subject to Subsection (4), a law enforcement agency may use photo radar for speed  
53 limit enforcement on the following highways or portions of highways:

54 (a) in a reduced speed school zone;

55 (b) in a construction zone;

56 (c) on SR-85, as defined in Section [72-4-114](#), in areas where the posted speed limit is

57 55 miles per hour or greater;

58 (d) on SR-89, beginning at a junction with Route 15 at Lagoon in Farmington northerly  
59 and ending at Uintah Junction with Route 84, in areas where the posted speed limit is 55 miles  
60 per hour or greater; and

61 (e) on SR-154, as defined in Section 72-4-121, in areas where the posted speed limit is  
62 55 miles per hour or greater.

63 (3) Subject to Subsection (4), a law enforcement agency may use photo radar for traffic  
64 control signal enforcement on the following highways or portions of highways:

65 (a) in a reduced speed school zone;

66 (b) in a construction zone;

67 (c) on SR-85, as defined in Section 72-4-114;

68 (d) on SR-89 beginning at a junction with Route 15 at Lagoon in Farmington northerly  
69 and ending at Uintah Junction with Route 84; and

70 (e) on SR-154, as defined in Section 72-4-121.

71 (4) A law enforcement agency may not use photo radar on the highways or portions of  
72 highway described in Subsections (2) and (3), unless:

73 (a) a sign is posted on the highway providing notice to a motorist that photo radar is in  
74 use;

75 (b) use of photo radar by a local highway authority is approved by the local highway  
76 authority's governing body; and

77 (c) the citation is accompanied by the photograph produced by photo radar.

78 (5) Notwithstanding Subsections (2) and (3), the restrictions on the use of photo radar  
79 do not apply when the information gathered is used for highway safety research or to issue  
80 warning citations not involving a fine, court appearance, or an individual's driving record.

81 (6) If an individual commits a moving traffic violation and is caught by photo radar  
82 described Subsection (2) or (3), the law enforcement agency shall:

83 (a) provide one warning per calendar year upon the individual's first violation within  
84 the relevant jurisdiction; and

85 (b) give the individual a citation for the second and subsequent violations within the  
86 relevant jurisdiction until the next calendar year begins.

87 (7) A contract or agreement regarding the purchase, lease, rental, or use of photo radar

88 by the department or by a local highway authority may not require any condition for issuing a  
89 citation.

90 (8) Upon request, the department and any local highway authority using photo radar  
91 shall make the following information available for public inspection during regular office  
92 hours:

93 (a) the terms of any contract regarding the purchase, lease, rental, or use of photo radar;

94 (b) the total fine revenue generated by using photo radar;

95 (c) the number of citations issued by the use of photo radar; and

96 (d) the amount paid to the person providing the photo radar unit.

97 (9) A moving traffic violation enforced through the use of photo radar is not a  
98 reportable violation as defined under Section [53-3-102](#), and points may not be assessed against  
99 a person for the violation.

100 Section 2. Section **51-2a-301** is amended to read:

101 **51-2a-301. State auditor responsibilities.**

102 (1) Except for political subdivisions that do not receive or expend public funds, the  
103 state auditor shall adopt guidelines, qualifications criteria, and procurement procedures for use  
104 in the procurement of audit services for all entities that are required by Section [51-2a-201](#) to  
105 cause an accounting report to be made.

106 (2) The state auditor shall follow the notice, hearing, and publication requirements of  
107 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

108 (3) The state auditor shall:

109 (a) review the accounting report submitted to the state auditor under Section  
110 [51-2a-201](#); and

111 (b) if necessary, conduct additional inquiries or examinations of financial statements of  
112 the entity submitting that information.

113 (4) The governing board of each entity required by Section [51-2a-201](#) to submit an  
114 accounting report to the state auditor's office shall comply with the guidelines, criteria, and  
115 procedures established by the state auditor.

116 (5) Each fifth year, the state auditor shall:

117 (a) review the dollar criteria established in Section [51-2a-201](#) to determine if they need  
118 to be increased or decreased; and

119 (b) if the state auditor determines that they need to be increased or decreased, notify the  
120 Legislature of that need.

121 (6) (a) The state auditor may require a higher level of accounting report than is required  
122 under Section 51-2a-201.

123 (b) The state auditor shall:

124 (i) develop criteria under which a higher level of accounting report may be required;  
125 and

126 (ii) provide copies of those criteria to entities required to analyze and report under  
127 Section 51-2a-201.

128 (7) This section does not apply to a nonprofit corporation that submits an accounting  
129 report under Section 51-2a-201.5.

130 (8) The state auditor shall adopt a policy to monitor compliance with Subsection  
131 [~~78A-7-120(7).~~] 78A-7-120(8).

132 Section 3. Section 72-1-217 is enacted to read:

133 **72-1-217. Zero Fatalities initiative.**

134 (1) The "Zero Fatalities" initiative is designated as the highway safety initiative of the  
135 department in the state.

136 (2) The department shall develop or maintain the policies related to the Zero Fatalities  
137 initiative that promote safety on highways for pedestrians and vehicle passengers, mitigate  
138 vehicle accident severity, and reduce the number of lives lost in this state.

139 Section 4. Section 78A-5-110 is amended to read:

140 **78A-5-110. Allocation of district court fees and forfeitures.**

141 (1) Except as provided in this section, district court fines and forfeitures collected for  
142 violation of state statutes shall be paid to the state treasurer.

143 (2) Fines and forfeitures collected by the court for violation of a state statute or county  
144 or municipal ordinance constituting a misdemeanor or an infraction shall be remitted 1/2 to the  
145 state treasurer and 1/2 to the treasurer of the state or local governmental entity which  
146 prosecutes or which would prosecute the violation.

147 (3) (a) Fines and forfeitures collected for violations of Title 23, Wildlife Resources  
148 Code of Utah, Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter 18, State  
149 Boating Act, shall be paid to the state treasurer.

150 (b) For violations of Title 23, Wildlife Resources Code of Utah, the state treasurer shall  
151 allocate 85% to the Division of Wildlife Resources and 15% to the General Fund.

152 (c) For violations of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter  
153 18, State Boating Act, the state treasurer shall allocate 85% to the Division of Outdoor  
154 Recreation and 15% to the General Fund.

155 (4) (a) The state treasurer shall allocate fines and forfeitures collected for a violation of  
156 Section 72-7-404 or 72-7-406, less fees established by the Judicial Council, to the Department  
157 of Transportation for use on class B and class C roads.

158 (b) Fees established by the Judicial Council shall be deposited in the state General  
159 Fund.

160 (c) Money allocated for class B and class C roads is supplemental to the money  
161 appropriated under Section 72-2-107 but shall be expended in the same manner as other class B  
162 and class C road funds.

163 (5) (a) Fines and forfeitures collected by the court for a second or subsequent violation  
164 under Section 41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:

165 (i) 60% to the state treasurer to be deposited into the Transportation Fund; and

166 (ii) 40% in accordance with Subsection (2).

167 (b) Fines and forfeitures collected by the court for a second or subsequent violation  
168 under Subsection 72-7-409(6)(d) shall be remitted:

169 (i) 50% to the state treasurer to be deposited into the Transportation Fund; and

170 (ii) 50% in accordance with Subsection (2).

171 (6) For fines and forfeitures collected by the court for a violation of Section  
172 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic  
173 enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to  
174 the school district or private school that owns or contracts for the use of the bus, and the state  
175 treasurer shall allocate 40% to the treasurer of the state or local governmental entity that  
176 prosecutes or that would prosecute the violation, and 40% to the General Fund.

177 (7) For fines and forfeitures collected by the court for a moving traffic violation  
178 captured by a photo radar device as described in Section 41-6a-608, the court shall:

179 (a) if the defendant voluntarily remits the fine under Subsection 77-7-21(1), allocate  
180 100% to the Department of Transportation's Zero Fatalities initiative described in Section

181 [72-1-217](#); or

182 (b) in all other instances, allocate:

183 (i) 40% to the treasurer of the state or local government entity responsible for  
184 prosecuting the moving traffic violation; and

185 (ii) 60% to the Department of Transportation's Zero Fatalities initiative described in  
186 Section [72-1-217](#).

187 [~~7~~] (8) Fines and forfeitures collected for any violations not specified in this chapter  
188 or otherwise provided for by law shall be paid to the state treasurer.

189 [~~8~~] (9) Fees collected in connection with civil actions filed in the district court shall  
190 be paid to the state treasurer.

191 [~~9~~] (10) The court shall remit money collected in accordance with Title 51, Chapter 7,  
192 State Money Management Act.

193 Section 5. Section **78A-7-120** is amended to read:

194 **78A-7-120. Disposition of fines.**

195 (1) (a) Except as otherwise specified by this section, fines and forfeitures collected by a  
196 justice court shall be remitted as follows:

197 (i) 50% to the treasurer of the local government responsible for the court; and

198 (ii) 50% to the treasurer of the local government which prosecutes or which would  
199 prosecute the violation.

200 (b) An interlocal agreement created pursuant to Title 11, Chapter 13, Interlocal  
201 Cooperation Act, and related to justice courts may alter the ratio described in Subsection (1)(a)  
202 if the parties agree.

203 (2) (a) For violation of Title 23, Wildlife Resources Code of Utah, the court shall  
204 allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the local  
205 government responsible for the justice court.

206 (b) For violation of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter  
207 18, State Boating Act, the court shall allocate 85% to the Division of Outdoor Recreation and  
208 15% to the general fund of the local government responsible for the justice court.

209 (c) Fines and forfeitures collected by the court for a violation of Section [41-6a-1302](#) in  
210 instances where evidence of the violation was obtained by an automated traffic enforcement  
211 safety device as described in Section [41-6a-1310](#) shall be remitted:

212 (i) 20% to the school district or private school that owns or contracts for the use of the  
213 school bus; and

214 (ii) 80% in accordance with Subsection (1).

215 (3) The surcharge established by Section 51-9-401 shall be paid to the state treasurer  
216 and deposited into the General Fund.

217 (4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice  
218 court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations  
219 and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial  
220 Council, shall be paid to the state treasurer and allocated to the Department of Transportation  
221 for class B and class C roads.

222 (5) Revenue allocated for class B and class C roads pursuant to Subsection (4) or  
223 Subsection (7) is supplemental to the money appropriated under Section 72-2-107 but shall be  
224 expended in the same manner as other class B and class C road funds.

225 (6) (a) Fines and forfeitures collected by the court for a second or subsequent violation  
226 under Section 41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:

227 (i) 60% to the state treasurer to be deposited into the Transportation Fund; and

228 (ii) 40% in accordance with Subsection (1).

229 (b) Fines and forfeitures collected by the court for a second or subsequent violation  
230 under Subsection 72-7-409(6)(d) shall be remitted:

231 (i) 50% to the state treasurer to be deposited into the Transportation Fund; and

232 (ii) 50% in accordance with Subsection (1).

233 (7) For fines and forfeitures collected by the court for a moving traffic violation  
234 captured by a photo radar device as described in Section 41-6a-608, the court shall:

235 (a) if the defendant voluntarily remits the fine under Subsection 77-7-21(1), allocate  
236 100% to the Department of Transportation's Zero Fatalities initiative described in Section  
237 72-1-217; or

238 (b) in all other instances, allocate:

239 (i) 40% to the treasurer of the state or local government entity responsible for  
240 prosecuting the moving traffic violation; and

241 (ii) 60% to the Department of Transportation's Zero Fatalities initiative described in  
242 Section 72-1-217.



243            [~~(7)~~] (8) (a) Revenue from traffic fines may not exceed 25% of a local government's  
244 total general fund revenue for a fiscal year.

245            (b) No later than 30 days after the day on which a local government's fiscal year ends, a  
246 local government that receives traffic fine revenue shall:

247            (i) for the immediately preceding fiscal year, determine the amount of traffic fine  
248 revenue that exceeds the amount described in Subsection [~~(7)(a)~~] (8)(a); and

249            (ii) transfer the amount calculated under Subsection [~~(7)(b)(i)~~] (8)(b)(i) to the state  
250 treasurer to be allocated to the Department of Transportation for class B and class C roads.

251            Section 6. **Effective date.**

252            This bill takes effect on July 1, 2023.