

SB0105S02 compared with SB0105

~~text~~ shows text that was in SB0105 but was deleted in SB0105S02.

text shows text that was not in SB0105 but was inserted into SB0105S02.

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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: _____

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 ~~light~~ control signal enforcement;

~~and prohibits the use of~~ ▶ designates the Zero Fatalities initiative as the highway safety initiative of the Department of

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Transportation:

- ▶ allocates the revenues from certain fines collected from photo radar to ~~{photograph the front of a vehicle or the faces of a vehicle's occupants}~~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

Other Special Clauses:

~~{None}~~ This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

51-2a-301, as last amended by Laws of Utah 2022, Chapter 89

78A-5-110, as last amended by Laws of Utah 2022, Chapter 68

78A-7-120, as last amended by Laws of Utah 2022, Chapters 68, 89

ENACTS:

72-1-217, Utah Code Annotated 1953

REPEALS AND REENACTS:

41-6a-608, as renumbered and amended by Laws of Utah 2005, Chapter 2

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

Section 1. Section **41-6a-608** is repealed and reenacted to read:

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

(1) As used in this section:

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

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

(~~{b}~~**c**) "Reduced speed school zone" means the same as that term is defined ~~{under}~~in

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Section 41-6a-303.

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

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

(a) ~~(i)~~ in a reduced speed school zone;

~~(iii)~~(b) in a construction zone ~~when construction is occurring; or (iii)~~;

(c) on SR-85, as defined in Section 72-4-114, in ~~an area that has a~~ areas where the posted speed limit ~~of 30~~ is 55 miles per hour or ~~less and a peace officer is present with the photo radar unit; (b) when~~ greater;

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

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

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

(a) in a reduced speed school zone;

(b) in a construction zone;

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

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

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

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

(a) a sign is posted on the highway providing notice to a motorist that photo radar ~~may be used~~ is in use;

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

~~(d)~~(c) ~~when~~ the citation is accompanied by the photograph produced by photo radar.

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~~{3}~~ Law enforcement may use photo radar for traffic light enforcement under the following circumstances: (a) (i) in a reduced speed school zone; or (ii) in an area that has a posted speed limit of 40 miles per hour or greater; (b) when a sign is posted on the highway providing notice to a motorist that photo radar may be used; (c) when use of photo radar by a local highway authority is approved by the local highway authority's governing body; and (d) when the citation is accompanied by the photograph produced by photo radar. ~~(4) The restrictions under~~ 5) Notwithstanding Subsections (2) and (3), the restrictions on the use of photo radar do not apply when the information gathered is used for highway safety research or to issue warning citations not involving a fine, court appearance, or ~~a person's~~ an individual's driving record.

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

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

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

~~{5}~~ 7) A contract or agreement regarding the purchase, lease, rental, or use of photo radar by the department or by a local highway authority may not ~~specify~~ require any condition for issuing a citation.

~~{6}~~ 8) ~~The~~ Upon request, the department and any local highway authority using photo radar ~~, upon request,~~ shall make the following information available for public inspection during regular office hours:

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

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

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

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

~~{7}~~ 9) A moving traffic violation ~~obtained~~ enforced through the use of photo radar is not a reportable violation as defined under Section 53-3-102, and points may not be assessed against a person for the violation.

~~{8) A photo radar picture as required in Subsections (2) and (3) may not capture the front of a vehicle or the face or faces of a vehicle's occupants and may only capture the rear of a~~

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~~vehicle to include the vehicle's license plate.~~

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

~~51-2a-301. State auditor responsibilities.~~

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

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

~~(3) The state auditor shall:~~

~~(a) review the accounting report submitted to the state auditor under Section 51-2a-201; and~~

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

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

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

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

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

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

~~(b) The state auditor shall:~~

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

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

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

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

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

72-1-217. Zero Fatalities initiative.

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

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

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

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

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

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

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

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

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

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

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

(c) Money allocated for class B and class C roads is supplemental to the money

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appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and class C road funds.

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

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

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

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

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

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

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

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

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

(b) in all other instances, allocate:

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

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

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

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

~~(9)~~ (10) The court shall remit money collected in accordance with Title 51, Chapter 7,

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State Money Management Act.

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

78A-7-120. Disposition of fines.

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

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

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

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

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

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

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

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

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

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

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

(5) Revenue allocated for class B and class C roads pursuant to Subsection (4) or

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Subsection (7) is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and class C road funds.

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

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

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

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

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

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

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

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

(b) in all other instances, allocate:

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

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

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

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

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

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

Section 6. **Effective date.**

This bill takes effect on July 1, 2023.