

**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 Section [41-6a-608](#) is repealed and reenacted to read: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 in the following areas:

54 (a) in a reduced speed school zone; and

55 (b) in a construction zone.

56 (3) Subject to Subsection (4), a law enforcement agency may use photo radar for traffic

57 control signal enforcement in the following areas:

58 (a) in a reduced speed school zone; and

59 (b) in a construction zone.

60 (4) A law enforcement agency may not use photo radar in the areas described in

61 Subsections (2) and (3), unless:

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

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

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

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

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

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

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

76 (7) A contract or agreement regarding the purchase, lease, rental, or use of photo radar  
77 by the department or by a local highway authority may not require any condition for issuing a  
78 citation.

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

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

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

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

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

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

88 a person for the violation.

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

90 **51-2a-301. State auditor responsibilities.**

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

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

97 (3) The state auditor shall:

98 (a) review the accounting report submitted to the state auditor under Section  
99 **51-2a-201**; and

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

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

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

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

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

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

112 (b) The state auditor shall:

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

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

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

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

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

122 **72-1-217. Zero Fatalities initiative.**

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

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

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

129 **78A-5-110. Allocation of district court fees and forfeitures.**

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

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

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

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

141 (c) For violations of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter  
142 18, State Boating Act, the state treasurer shall allocate 85% to the Division of Outdoor  
143 Recreation and 15% to the General Fund.

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

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

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

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

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

- 154 (i) 60% to the state treasurer to be deposited into the Transportation Fund; and
- 155 (ii) 40% in accordance with Subsection (2).

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

- 158 (i) 50% to the state treasurer to be deposited into the Transportation Fund; and
- 159 (ii) 50% in accordance with Subsection (2).

160 (6) For fines and forfeitures collected by the court for a violation of Section  
161 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic  
162 enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to  
163 the school district or private school that owns or contracts for the use of the bus, and the state  
164 treasurer shall allocate 40% to the treasurer of the state or local governmental entity that  
165 prosecutes or that would prosecute the violation, and 40% to the General Fund.

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

168 (a) if the defendant voluntarily remits the fine under Subsection 77-7-21(1), allocate  
169 100% to the Department of Transportation's Zero Fatalities initiative described in Section  
170 72-1-217; or

171 (b) in all other instances, allocate:

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

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

176 [~~7~~] (8) Fines and forfeitures collected for any violations not specified in this chapter  
177 or otherwise provided for by law shall be paid to the state treasurer.

178 [~~8~~] (9) Fees collected in connection with civil actions filed in the district court shall  
179 be paid to the state treasurer.

180 [~~9~~] (10) The court shall remit money collected in accordance with Title 51, Chapter 7,

181 State Money Management Act.

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

183 **78A-7-120. Disposition of fines.**

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

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

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

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

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

195 (b) For violation of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter  
196 18, State Boating Act, the court shall allocate 85% to the Division of Outdoor Recreation and  
197 15% to the general fund of the local government responsible for the justice court.

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

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

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

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

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

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

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

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

- 216 (i) 60% to the state treasurer to be deposited into the Transportation Fund; and
- 217 (ii) 40% in accordance with Subsection (1).

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

- 220 (i) 50% to the state treasurer to be deposited into the Transportation Fund; and
- 221 (ii) 50% in accordance with Subsection (1).

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

224 (a) if the defendant voluntarily remits the fine under Subsection 77-7-21(1), allocate  
225 100% to the Department of Transportation's Zero Fatalities initiative described in Section  
226 72-1-217; or

227 (b) in all other instances, allocate:

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

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

232 ~~[(7)]~~ (8) (a) Revenue from traffic fines may not exceed 25% of a local government's  
233 total general fund revenue for a fiscal year.

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

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

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

240 Section 6. **Effective date.**

241 This bill takes effect on July 1, 2023.