

CHAPTER 178

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 02-1400

BY REPRESENTATIVE(S) Dean, Scott, Cadman, Clapp, Cloer, Coleman, Crane, Daniel, Fairbank, Fritz, Groff, Harvey, Hefley, Hoppe, Jahn, Kester, King, Larson, Lee, Mace, Marshall, Miller, Mitchell, Paschall, Rhodes, Rippy, Schultheis, Sinclair, Smith, Spence, Spradley, Stafford, Stengel, Swenson, Tapia, Tochtrop, Webster, Weddig, White, Williams T., Young, Lawrence, and Williams S.;

also SENATOR(S) Perlmutter, Lamborn, and Chlouber.

AN ACT

CONCERNING VIOLATIONS DETECTED USING AUTOMATED VEHICLE IDENTIFICATION DEVICES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 42-4-110.5 (2) (a), (2) (d), and (4.5), Colorado Revised Statutes, are amended, and the said 42-4-110.5 (2) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

42-4-110.5. Automated vehicle identification systems. (2) A municipality may adopt an ordinance authorizing the use of an automated vehicle identification system to detect violations of traffic regulations adopted by the municipality, or the state, a county, a city and county, or a municipality may utilize an automated vehicle identification system to detect traffic violations under state law, subject to the following conditions and limitations:

(a) (I) ~~(A) In order for the state, a county, a city and county, or a municipal court to establish personal jurisdiction over a defendant in any case involving an automated vehicle identification system, a penalty assessment notice or summons and complaint shall be personally served by a peace officer, level I, or a peace officer, level Ia, as defined in section 18-1-901 (3) (1), C.R.S., or by a deputy sheriff of a city and county upon the defendant in accordance with rule 4.1 (b) (1) of the Colorado rules of criminal procedure; except that service by mail shall not be permitted. The state, a county, a city and county, or a municipality may charge the actual costs of the service of process.~~

(B) Nothing in this section may be deemed to prevent the state, a county, a city and

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

county, or a municipality from sending by certified mail a written notice, that shall include a copy of the photograph or image of the driver, to the defendant advising the defendant of the alleged violation and permitting the defendant to waive such service of process. Any such notice shall contain on the top of the first page of the notice in fourteen-point type or larger the following statement:

~~"Under Colorado law you may have certain rights concerning this violation, including the right not to pay any fine until a citation has been personally served upon you by a certified peace officer."~~

(II) If the state, a county, a city and county, or a municipality detects any alleged violation of a municipal traffic regulation or a traffic violation under state law through the use of an automated vehicle identification system, then the state, county, city and county, or municipality shall serve the penalty assessment notice or summons and complaint for the alleged violation on the defendant pursuant to the requirements of subparagraph (I) of this paragraph (a) no later than ninety days after the alleged violation occurred. IF A PENALTY ASSESSMENT NOTICE OR SUMMONS AND COMPLAINT FOR A VIOLATION DETECTED USING AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM IS PERSONALLY SERVED, THE STATE, A COUNTY, A CITY AND COUNTY, OR A MUNICIPALITY MAY ONLY CHARGE THE ACTUAL COSTS OF SERVICE OF PROCESS THAT SHALL BE NO MORE THAN THE AMOUNT USUALLY CHARGED FOR CIVIL SERVICE OF PROCESS.

(d) (I) The state, a county, a city and county, or a municipality may not use an automated vehicle identification system unless there is posted an appropriate TEMPORARY sign in a conspicuous place NOT FEWER THAN THREE HUNDRED FEET before the area in which the automated vehicle identification device is to be used notifying the public that an automated vehicle identification device is in use immediately ahead. THE REQUIREMENT OF THIS SUBPARAGRAPH (I) SHALL NOT BE DEEMED SATISFIED BY THE POSTING OF A PERMANENT SIGN OR SIGNS AT THE BORDERS OF A COUNTY, CITY AND COUNTY, OR MUNICIPALITY, NOR BY THE POSTING OF A PERMANENT SIGN IN AN AREA IN WHICH AN AUTOMATED VEHICLE IDENTIFICATION DEVICE IS TO BE USED, BUT THIS SUBPARAGRAPH (I) SHALL NOT BE DEEMED A PROHIBITION AGAINST THE POSTING OF SUCH PERMANENTS SIGNS.

(II) This paragraph (d) shall not apply to an automated vehicle identification system designed to detect violations for disobedience to a traffic control device SIGNAL.

(f) THE STATE, A COUNTY, A CITY AND COUNTY, OR A MUNICIPALITY SHALL NOT ISSUE A PENALTY ASSESSMENT NOTICE OR SUMMONS FOR A VIOLATION DETECTED USING AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM UNLESS, AT THE TIME THE VIOLATION IS ALLEGED TO HAVE OCCURRED, AN OFFICER OR EMPLOYEE OF THE STATE, THE COUNTY, THE CITY AND COUNTY, OR THE MUNICIPALITY IS PRESENT DURING THE OPERATION OF THE AUTOMATED VEHICLE IDENTIFICATION DEVICE; EXCEPT THAT THIS PARAGRAPH (f) SHALL NOT APPLY TO AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM DESIGNED TO DETECT VIOLATIONS FOR DISOBEDIENCE TO A TRAFFIC CONTROL SIGNAL.

(g) (I) THE STATE, A COUNTY, A CITY AND COUNTY, OR A MUNICIPALITY SHALL NOT ISSUE A PENALTY ASSESSMENT NOTICE OR SUMMONS FOR A VIOLATION DETECTED

USING AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM UNLESS THE VIOLATION OCCURRED WITHIN A SCHOOL ZONE, AS DEFINED IN SECTION 42-4-615, WITHIN A RESIDENTIAL NEIGHBORHOOD, OR ALONG A STREET THAT BORDERS A MUNICIPAL PARK.

(II) FOR PURPOSES OF THIS PARAGRAPH (g), UNLESS THE CONTEXT OTHERWISE REQUIRES, "RESIDENTIAL NEIGHBORHOOD" MEANS ANY BLOCK ON WHICH A MAJORITY OF THE IMPROVEMENTS ALONG BOTH SIDES OF THE STREET ARE RESIDENTIAL DWELLINGS AND THE SPEED LIMIT IS THIRTY-FIVE MILES PER HOUR OR LESS.

(III) THIS PARAGRAPH (g) SHALL NOT APPLY TO AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM DESIGNED TO DETECT DISOBEDIENCE TO A TRAFFIC CONTROL SIGNAL.

(4.5) If the state, a county, a city and county, or a municipality detects a violation under a municipal traffic regulation or under state law for disobedience to a traffic control device SIGNAL through the use of an automated vehicle identification system, the maximum penalty that the state, a county, a city and county, or a municipality may impose for such violation, including any surcharge, is seventy-five dollars.

SECTION 2. 42-4-110.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

42-4-110.5. Automated vehicle identification systems. (4.7) IF A DRIVER FAILS TO PAY A PENALTY IMPOSED FOR A VIOLATION DETECTED USING AN AUTOMATED VEHICLE IDENTIFICATION DEVICE, THE STATE, A COUNTY, A CITY AND COUNTY, OR A MUNICIPALITY SHALL NOT ATTEMPT TO ENFORCE SUCH A PENALTY BY IMMOBILIZING THE DRIVER'S VEHICLE.

SECTION 3. 43-4-506.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

43-4-506.5. Traffic laws - toll collection. (7) NO AUTHORITY NOR ANY COURT SHALL REPORT TO THE DEPARTMENT OF REVENUE ANY CONVICTION OR ENTRY OF JUDGMENT NOR ANY OUTSTANDING JUDGMENT OR WARRANT FOR PURPOSES OF SECTION 42-2-107 (5), C.R.S., FOR ANY TOLL EVASION. THE DEPARTMENT OF REVENUE HAS NO AUTHORITY TO ASSESS ANY POINTS AGAINST A LICENSE UNDER SECTION 42-2-127, C.R.S., UPON ENTRY OF A CONVICTION OR JUDGMENT FOR ANY TOLL EVASION. THE DEPARTMENT OF REVENUE MAY NOT KEEP ANY RECORD OF SUCH VIOLATION IN THE OFFICIAL RECORDS MAINTAINED BY THE DEPARTMENT OF REVENUE UNDER SECTION 42-2-121, C.R.S.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 24, 2002