

By: Senator(s) Turner

To: Judiciary

SENATE BILL NO. 2508

1 AN ACT TO CREATE NEW SECTION 63-3-314, MISSISSIPPI CODE OF
 2 1972, TO PERMIT THE CITATION FOR A CIVIL VIOLATION UPON VIDEO OR
 3 PHOTOGRAPHIC EVIDENCE OF OWNERS AND OPERATORS WHO RUN A RED LIGHT;
 4 TO ENACT CERTAIN CONDITIONS AND RESTRICTIONS; TO PROVIDE THAT THE
 5 VIOLATION IS A NONMOVING VIOLATION; TO PROVIDE THAT A CONVICTION
 6 OR PLEA OF GUILTY SHALL NOT BE ENTERED ON THE PERSON'S DRIVING
 7 RECORD; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 SECTION 1. The following shall be codified as Section
 10 63-3-314, Mississippi Code of 1972:

11 63-3-313. **Traffic control signal monitoring systems.**

12 (1) This section shall apply only to municipalities having a
 13 population of one hundred thousand (100,000) or more according to
 14 the latest decennial census.

15 (2) For the purposes of this section, the following words
 16 have the meanings indicated:

17 (a) "Agency" means:

18 (i) For a traffic control signal operated and
 19 maintained at an intersection under the control of the State, the
 20 law enforcement agency primarily responsible for traffic control
 21 at that intersection; or

22 (ii) For a traffic control signal operated and
 23 maintained at an intersection under the control of a political
 24 subdivision, a law enforcement agency of the political subdivision
 25 that is authorized to issue citations for a violation of Title 63,
 26 Chapter 3, Mississippi Code of 1972, or of local traffic laws or
 27 regulations.

28 (b) (i) "Owner" means the registered owner of a motor
29 vehicle or a lessee of a motor vehicle under a lease of six (6)
30 months or more.

31 (ii) "Owner" does not include a motor vehicle
32 rental or leasing company or a holder of a motor vehicle dealer
33 tag permit issued under Section 27-19-301.

34 (c) "Recorded images" means images recorded by a
35 traffic control signal monitoring system:

36 (i) On two (2) or more photographs; two (2) or
37 more microphotographs; two (2) or more electronic images;
38 videotape; or any other medium; and

39 (ii) Showing the rear of a motor vehicle and, on
40 at least one (1) image or portion of tape, clearly identifying the
41 license tag number of the motor vehicle.

42 (d) "Traffic control signal monitoring system" means a
43 device with one or more motor vehicle sensors working in
44 conjunction with a traffic control signal to produce recorded
45 images of motor vehicles entering an intersection against a red
46 signal indication.

47 (3) This section applies to a violation of Section 63-3-313
48 at an intersection monitored by a traffic control signal
49 monitoring system.

50 (4) (a) Unless the driver of the motor vehicle received a
51 citation from a police officer at the time of the violation, the
52 owner or, in accordance with subsection (7) of this section, the
53 driver of a motor vehicle is subject to a civil penalty if the
54 motor vehicle is recorded by a traffic control signal monitoring
55 system while being operated in violation of Section 63-3-313.

56 (b) A civil penalty under this subsection may not
57 exceed One Hundred Dollars (\$100.00).

58 (c) For purposes of this section, the Commissioner of
59 Public Safety shall prescribe both a uniform citation form and a
60 civil penalty, which shall be indicated on the citation, to be

61 paid by persons who choose to prepay the civil penalty without
62 appearing in the court to which summoned.

63 (d) An agency shall mail to the owner liable under this
64 section a citation which shall include:

65 (i) The name and address of the registered owner
66 of the vehicle;

67 (ii) The registration number of the motor vehicle
68 involved in the violation;

69 (iii) The violation charged;

70 (iv) The location of the intersection;

71 (v) The date and time of the violation;

72 (vi) A copy of the recorded image;

73 (vii) The amount of the civil penalty imposed and
74 the date by which the civil penalty should be paid;

75 (viii) A signed statement by a technician employed
76 by the agency that, based on inspection of recorded images, the
77 motor vehicle was being operated in violation of Section 63-3-313;

78 (ix) A statement that recorded images are evidence
79 of a violation of Section 63-3-313; and

80 (x) Information advising the person alleged to be
81 liable under this section:

82 1. Of the manner and time and place in which
83 liability as alleged in the citation may be contested in court;

84 and

85 2. Warning that failure to pay the civil
86 penalty or to contest liability in a timely manner is an admission
87 of liability and may result in refusal or suspension of the motor
88 vehicle registration.

89 (e) The agency may mail a warning notice in lieu of a
90 citation to the owner liable under this section.

91 (f) Except as provided in subsection (7) of this
92 section, a citation issued under this section shall be mailed no
93 later than two (2) weeks after the alleged violation.

94 (g) An agency may not mail a citation to a person who
95 is not an owner as defined in this section.

96 (h) A person who receives a citation under this section
97 may:

98 (i) Pay the civil penalty, in accordance with
99 instructions on the citation, directly to the political
100 subdivision or to the court; or

101 (ii) Elect to stand trial for the alleged
102 violation.

103 (5) (a) A certificate alleging that the violation of
104 Section 63-3-313 occurred, sworn to or affirmed by a duly
105 authorized agent of the agency, based on inspection of recorded
106 images produced by a traffic control signal monitoring system,
107 shall be evidence of the facts contained therein and shall be
108 admissible in any proceeding alleging a violation under this
109 section.

110 (b) Adjudication of liability shall be based on a
111 preponderance of the evidence.

112 (6) (a) The court may consider in defense of a violation
113 any one or more of the following:

114 (i) That the violation was committed in order to
115 yield the right-of-way to an emergency vehicle.

116 (ii) That the motor vehicle or license plate of
117 the motor vehicle were stolen before the violation occurred and
118 were not under the control or possession of the owner at the time
119 of the violation; the owner must submit proof that a police report
120 about the stolen motor vehicle or license plate was filed in a
121 timely manner.

122 (iii) That at the time and place of the alleged
123 violation, the traffic control signal was not in proper position
124 and legible enough to be seen by an ordinarily observant
125 individual;

126 (iv) That the person named in the citation was not
127 operating the vehicle at the time of the violation; the person
128 named in the citation shall provide to the court evidence to the
129 satisfaction of the court as to the identity of the person
130 operating the vehicle at the time of the violation, including, at
131 a minimum, the operator's name and current address. With regard
132 to a citation that involves a truck with a registered gross weight
133 of twenty-six thousand one (26,001) pounds or more, a tractor
134 vehicle, trailer vehicle operated in combination with a tractor
135 vehicle, or a passenger bus, the person named in a citation issued
136 under this section may provide the court a letter, sworn to or
137 affirmed by the person and mailed by certified mail, return
138 receipt requested, stating that the person named in the citation
139 was not operating the vehicle at the time of the violation and
140 providing the name, address and driver's license identification
141 number of the person who was operating the vehicle at the time of
142 the violation.

143 (v) Any other issues and evidence that the court
144 deems pertinent.

145 (7) (a) If the court finds that the person named in the
146 citation was not operating the vehicle at the time of the
147 violation or receives evidence identifying the person driving the
148 vehicle at the time of the violation, the clerk of the court shall
149 provide to the agency issuing the citation a copy of any evidence
150 as to the identity of the person operating the vehicle at the time
151 of the violation.

152 (b) Upon the receipt of substantiating evidence from
153 the court under paragraph (a) of this subsection (7), an agency
154 may issue a citation to the person that the evidence indicates was
155 operating the vehicle at the time of the violation.

156 (c) A citation issued under this subsection (7) shall
157 be mailed no later than two (2) weeks after receipt of the
158 evidence from the court.

159 (8) If the civil penalty is not paid and the violation is
160 not contested, the court may inform the State Tax Commission, and
161 the State Tax Commission may refuse to register or reregister or
162 may suspend the registration of the motor vehicle involved in the
163 violation.

164 (9) A violation for which a civil penalty is imposed under
165 this section:

166 (a) Is not a moving violation and may not be recorded
167 by the Department of Public Safety on the driving record of the
168 owner or driver of the vehicle; and

169 (b) May not be considered by an insurer in the
170 provision of motor vehicle insurance coverage.

171 SECTION 2. This act shall take effect and be in force from
172 and after January 2, 2002.