

By: Senator(s) Harden

To: Judiciary

SENATE BILL NO. 2970

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF CERTAIN
2 MUNICIPALITIES TO ESTABLISH AND OPERATE TRAFFIC-CONTROL SIGNAL
3 MONITORING SYSTEMS; AND FOR RELATED PURPOSES.

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

5 SECTION 1. (1) The following words and phrases shall have
6 the meanings ascribed in this section unless the context clearly
7 indicates otherwise:

8 (a) "Agency" means a municipality with a population of
9 one hundred thousand (100,000) or more.

10 (b) "Owner" means the registered owner of a motor
11 vehicle or a lessee of a motor vehicle under a lease of six (6)
12 months or more according to the most recent federal decennial
13 census. "Owner" does not include a motor vehicle rental or
14 leasing company.

15 (c) "Recorded images" means images recorded by a
16 traffic-control signal monitoring system:

17 (i) On:

- 18 1. Two (2) or more photographs;
- 19 2. Two (2) or more microphotographs;
- 20 3. Two (2) or more electronic images;
- 21 4. Videotape; or
- 22 5. Any other medium; and

23 (ii) Showing the rear of a motor vehicle and, on
24 at least one (1) image or portion of tape, clearly identifying the
25 registration plate number of the motor vehicle.

26 (d) "Traffic-control signal monitoring system" means a
27 device with one or more motor vehicle sensors working in

28 conjunction with a traffic-control signal to produce recorded
29 images of motor vehicles entering an intersection against a red
30 signal indication.

31 (2) This section applies to a violation of Section
32 63-3-309(3) at intersections monitored by a traffic-control signal
33 monitoring system.

34 (3) (a) Unless the driver of the motor vehicle received a
35 citation from a police officer at the time of the violation, the
36 owner or, in accordance with subsection (6)(e) of this section,
37 the driver of a motor vehicle is subject to a civil penalty if the
38 motor vehicle is recorded by a traffic-control signal monitoring
39 system while being operated in violation of Section 63-3-309(3).

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

42 (c) For purposes of this section, the State Auditor and
43 Attorney General shall prescribe a uniform citation form
44 consistent with the Uniform Traffic Ticket Law, provided under
45 Section 63-9-21.

46 (4) (a) Subject to the provisions of paragraphs (b) through
47 (d) of this subsection, an agency shall mail to the owner liable
48 under subsection (3) of this section a citation which shall
49 include:

50 (i) The name and address of the registered owner
51 of the vehicle;

52 (ii) The registration number of the motor vehicle
53 involved in the violation;

54 (iii) The violation charged;

55 (iv) The location of the intersection;

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

57 (vi) A copy of the recorded image;

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

60 (viii) A signed statement by a technician employed
61 by the agency that, based on inspection of recorded images, the
62 motor vehicle was being operated in violation of Section
63 63-3-309(3);

64 (ix) A statement that recorded images are evidence
65 of a violation of Section 63-3-309(3); and

66 (x) Information advising the person alleged to be
67 liable under this section:

68 1. Of the manner and time in which liability
69 as alleged in the citation may be contested in the municipal
70 court; and

71 2. Warning that failure to pay the civil
72 penalty or to contest liability in a timely manner is an admission
73 of liability and may result in refusal or suspension of the motor
74 vehicle registration.

75 (b) The agency may mail a warning notice in lieu of a
76 citation to the owner liable under subsection (3) of this section.

77 (c) Except as provided in subsection (6)(e) of this
78 section, a citation issued under this section shall be mailed no
79 later than two (2) weeks after the alleged violation.

80 (d) An agency may not mail a citation to a person who
81 is not an owner under subsection (1)(c)(ii) of this section.

82 (e) A person who receives a citation under paragraph
83 (a) of this subsection may:

84 (i) Pay the civil penalty, in accordance with
85 instructions on the citation, directly to the municipal court; or

86 (ii) Elect to stand trial for the alleged
87 violation.

88 (5) The agency may submit:

89 (a) A certificate alleging that the violation of
90 Section 63-3-309(3) occurred, sworn to or affirmed by a duly
91 authorized agent of the agency, based on inspection of recorded
92 images produced by a traffic-control signal monitoring system

93 shall be evidence of the facts contained therein and shall be
94 admissible in any proceeding alleging a violation under this
95 section.

96 (b) Adjudication of liability shall be based on a
97 preponderance of evidence.

98 (6) (a) The municipal court may consider the following in
99 defense of a violation of this act:

100 (i) That the driver of the vehicle passed through
101 the intersection in violation of Section 63-3-309(3) in order to
102 yield the right-of-way to an emergency vehicle;

103 (ii) Except as otherwise provided in paragraph (b)
104 of this subsection, that the motor vehicle or registration plates
105 of the motor vehicle were stolen before the violation occurred and
106 were not under the control or possession of the owner at the time
107 of the violation;

108 (iii) Except otherwise provided in paragraph (c)
109 of this subsection, evidence that the person named in the citation
110 was not operating the vehicle at the time of the violation; or

111 (iv) Any other issues and evidence that the
112 municipal court deems pertinent.

113 (b) To demonstrate that the motor vehicle or the
114 registration plates were stolen before the violation occurred and
115 were not under the control or possession of the owner at the time
116 of the violation, the owner must submit proof that a police report
117 about the stolen motor vehicle or registration plates was filed in
118 a timely manner.

119 (c) To satisfy the evidentiary burden under paragraph
120 (a)(iii) of this subsection, the person named in the citation
121 shall provide evidence to the satisfaction of the court of who was
122 operating the vehicle at the time of the violation, including, at
123 a minimum, the operator's name and current address.

124 (d) (i) The provisions of this paragraph apply only to
125 a citation that involves a private carrier of passengers, pickup
126 trucks and other noncommercial vehicles.

127 (ii) To satisfy the evidentiary burden under
128 paragraph (a)(iii) of this subsection, the person named in the
129 citation described under subparagraph (i) of this paragraph may
130 provide to the municipal court a letter, sworn to or affirmed by
131 the person and mailed by certified mail, return receipt requested,
132 that:

133 1. States that the person named in the
134 citation was not operating the vehicle at the time of the
135 violation; and

136 2. Provides the name, address and driver's
137 license identification number of the person who was operating the
138 vehicle at the time of the violation.

139 (e) (i) If the municipal court finds that the person
140 named in the citation was not operating the vehicle at the time of
141 the citation or receives evidence under paragraph (d)(ii)2 of this
142 subsection identifying the person driving the vehicle at the time
143 of the violation, the clerk of the court shall provide to the
144 agency issuing the citation a copy of any evidence substantiating
145 who was operating the vehicle at the time of the violation.

146 (ii) Upon the receipt of substantiating evidence
147 from the municipal court under subparagraph (i) of this paragraph,
148 an agency may issue a citation as provided in subsection (4) of
149 this section to the person that the evidence indicates was
150 operating the vehicle at the time of the violation.

151 (iii) A citation issued under subparagraph (ii) of
152 this paragraph shall be mailed no later than two (2) weeks after
153 receipt of the evidence from the municipal court.

154 (7) If the civil penalty is not paid and the violation is
155 not contested, the tax collector may refuse to register the motor
156 vehicle.

157 (8) A violation for which a civil penalty is imposed under
158 this section:

159 (a) Is not a moving violation of this title for
160 purposes of Section 63-1-53(2)(d) or serious traffic violation for
161 purposes of Section 63-1-83(4) and may not be recorded by the
162 Department of Public Safety on the driving record of the owner or
163 driver of the vehicle;

164 (b) Need not be reported to the Department of Public
165 Safety or the Commissioner of Public Safety under Sections
166 63-1-51, 63-9-17 and 63-9-21;

167 (c) May be treated as a parking violation for purposes
168 of Section 21-23-19; and

169 (d) May not be considered in the provision of motor
170 vehicle insurance coverage.

171 (9) All monies collected from violations of this act shall
172 be deposited to the credit of the traffic-calming fund within the
173 budget of the municipality.

174 SECTION 2. Section 1 of this act shall be codified in
175 Chapter 3, Title 63, Article 7, Mississippi Code of 1972.

176 SECTION 3. This act shall take effect and be in force from
177 and after July 1, 2001.