

SUBJECT: Prohibiting use of automated speed enforcement devices by municipalities

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 5 ayes — Bailey, Murphy, Menendez, Latham, Mallory Caraway

0 nays

2 absent — Cohen, Martinez Fischer

WITNESSES: *(On original version:)*

For — *(Registered, but did not testify: Debbie Russell, American Civil Liberties Union of Texas; Paul Kubosh, Municipal Justice League of Texas; Michael Kubosh)*

Against — *(Registered, but did not testify: Darrin Hall, City of Houston)*

On — Brad Neighbor, City of Garland; *(Registered, but did not testify: Carlos Lopez, Texas Department of Transportation)*

BACKGROUND: Transportation Code, sec. 542.202 recognizes the right of local authorities to regulate traffic and certain traffic-related issues within their jurisdictions provided that that regulation does not conflict with state law. Among its provisions, SB 1184 by Deuell, enacted by the 78th Legislature in 2003, defined such regulation to include criminal, civil, and administrative enforcement of state laws and municipal ordinances.

DIGEST: CSHB 922 would add Transportation Code, sec. 542.2035 to prohibit a municipality from implementing or operating an automated traffic control system with respect to a highway or street under its jurisdiction for the purpose of enforcing compliance with posted speed limits. An automated traffic control system would be defined as a photographic device, radar device, laser device, or other electrical or mechanical device designed to record the speed of a motor vehicle and obtain photographs of the vehicle, the vehicle's license plate, or the operator of the vehicle.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

SUPPORTERS
SAY:

CSHB 922 would prohibit the use of automated speed enforcement cameras in Texas. Speed enforcement cameras result in a dangerous outsourcing of important police functions, operate on a presumption of guilt by placing the burden on a vehicle owner to prove innocence, and have the potential to violate people's privacy. An explicit prohibition of automated speed enforcement devices would clarify their legal status and prevent current and future attempts to install such systems.

Automated speed enforcement devices are a poor use of valuable public resources. Studies regarding the efficacy of these systems have yielded mixed findings, at best. In many cases, reported reductions in speeding or accidents are either not statistically significant or are attributable to other factors. There is no systematic evidence that demonstrates these devices have been effective at reducing speeding or the number of collisions in Texas. Speed enforcement practices should serve as a deterrent to other drivers. The procedures used for many automated enforcement devices negate this effect, since many drivers are not aware that they are being photographed.

The Texas cities of Rhome and Marble Falls both currently use automated speed enforcement devices. These cities outsource important aspects of ticket processing to vendors located out of state, and a large percentage of the citation revenue goes to compensate vendors rather than funding local public safety initiatives. Not only has automated speed enforcement yet to be proven effective at calming traffic, funding the required technologies represents a poor use of public safety resources. Such cameras divert valuable resources away from where they are most needed — human police enforcement. Automated technologies cannot substitute for police officers. Diverting police officers to other, non-traffic divisions can compromise public safety because officers are needed to remove drunk or reckless drivers from the road.

Automated speed enforcement cameras also remove discretion in issuing citations. Violators caught on camera are issued criminal citations without being pulled over by an officer. Unlike police officers, automated speed enforcement cameras cannot make allowances for extenuating circumstances. The presumption that the owner of a vehicle is the person driving at the time a violation is recorded creates a potential for issuing citations to innocent people. Photographs of drivers do not necessarily

resolve the problem, since there is no established, conclusive means by which to verify identity.

Automated speed enforcement systems presume that suspects are guilty until proven innocent, and they must either pay the fine or spend time proving their innocence. Such cameras also are the first step toward the creation of an invasive surveillance-enforcement regime. Cameras are placed in hidden locations and are capable of photographing the operator of a vehicle without their knowledge. People who are issued tickets are put in a compromised position, since they may not recall the infraction for which they are being charged. Automated speed devices also erode the Sixth Amendment guarantee of being able to confront one's accuser. An officer cannot testify as to what happened in each specific case that produced a citation, and an accused person cannot offer a complete defense if the person was unaware of a transgression when it occurred.

The broad enforcement powers in current law could allow municipalities to perpetuate various other abuses against citizens. Automated speed enforcement in Texas is inconsistent and not regulated by standards applicable to the placement, use, or notification of such cameras. The Legislature should prohibit the use of speed enforcement cameras now to correct current unregulated practices and forestall widespread abuse in the future.

OPPONENTS
SAY:

Automated speed enforcement has important implications for the safety of streets and highways and officers. In numerous cities nationwide, automated speed enforcement cameras have been effective in reducing crashes and saving lives. Municipalities should be allowed to make local decisions on whether to initiate or continue using this proven public safety tool.

According to the National Center for Statistics and Analysis, Texas had more than 3,500 fatalities due to vehicular speeding in 2005. The majority of these occurred on non-interstate highways at speeds above 55 miles per hour. The human and economic cost of vehicular speeding accidents exacts a major toll each year in medical, insurance, and related expenses. Speeding compounds injuries and damages that stem from accidents and results in longer stop times and a higher probability of losing control of the vehicle. Automatic speed enforcement systems could reduce the number of speeding violations more than traditional enforcement. Motorists know there are not enough officers to monitor roads and

highways and have little incentive to slow down. Automated speed enforcement cameras can monitor roads consistently for many hours at a time. Reduced violations mean that officers can spend more time patrolling neighborhoods and attending to other public safety concerns.

Automated speed enforcement cameras should be allowed as one of many tools that authorities could utilize to address local needs. Traffic enforcement officers already are overwhelmed and incapable of monitoring the large commuter traffic flows that pass through on local highways. Speeding on non-interstate highways is particularly troublesome for many smaller Texas cities and towns with fewer resources for hiring additional officers, and these municipalities need enforcement tools that help reduce violations. The cities of Rhome and Marble Falls use these devices on a very small scale and alternate the location of the cameras to problem areas. A peace officer attends the camera at all times and verifies the citation. Both cities are bisected by high-traffic, non-interstate highways that pose a number of safety concerns for local residents.

Cameras also can also provide a safer means of enforcement than traditional officers. To chase a motorist who is speeding, officers must accelerate rapidly and exceed speed limits, potentially placing themselves and other motorists in danger. The cameras do not reduce officer discretion because municipalities that use them require a certified peace officer to attend the devices. Extenuating circumstances may be catalogued and addressed at a later point in time. A driver who receives a citation reserves the right to contest the ticket in court and explain any special circumstances to a judge.

Automated speed enforcement cameras do not invade privacy any more than traditional enforcement of speeding violations. Taking a photograph of a vehicle's license plate and driver is less invasive than requiring a motorist to produce a license when stopped by an officer. The probable cause is the same as when an officer pulls someone over — the vehicle's operator was speeding. The principal difference is that in the case of automatic enforcement, speeding is detected by sensors. Municipalities that employ speed photo cameras in Texas do not issue citations unless a vehicle's registered speed sufficiently exceeds posted limits as to make it dangerous. Use of surveillance cameras already is widespread in office buildings and public areas and on roadways. Texas already has approved

photographic enforcement of the payment of tolls on toll roads, and many cities now use red-light cameras.

**OTHER
OPPONENTS
SAY:**

CSHB 922 would discontinue automated speed enforcement devices currently in use. The bill should make allowances for cities that have already adopted this technology to continue using any devices they have purchased.

NOTES:

The committee substitute would apply only to devices used for the purpose of enforcing compliance with posted speed limits.