

## HOUSE BILL No. 2144

By Committee on Transportation

1-31

---

AN ACT regulating traffic; relating to the authority to implement an automated traffic control signal enforcement system; providing for the imposition of penalties.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. (a) As used in this section:

(1) "Automated traffic control signal enforcement system" means a device with one or more motor vehicle sensors working in conjunction with a traffic control signal to produce recorded images of motor vehicles entering an intersection against a red signal indication.

(2) "Recorded image" means images recorded by an automated traffic control signal enforcement system.

(3) The words and phrases defined in the sections of article 14 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall have the same meanings respectively ascribed to them herein, unless a different meaning is ascribed by this section.

(b) The state, a city by ordinance or a county by resolution, may implement an automated traffic control enforcement system and provide that the owner of a motor vehicle is liable to the implementing governmental entity for a civil penalty if, while facing a steady red signal displayed by a traffic control signal located in a municipality, a motor vehicle is operated in violation of the instructions of that traffic control signal.

(c) (1) In any prosecution charging a civil traffic violation pursuant to this section, the proof that the particular motor vehicle described in the complaint was in violation of any such law together with proof that the defendant named in the complaint was, at the time of the violation, the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the owner of such vehicle was the person who operated the motor vehicle in violation of the state or local law.

(2) The foregoing stated presumption shall apply only when the procedure prescribed in this section has been followed.

(d) (1) Unless the driver of the motor vehicle received a citation from a law enforcement officer at the time of the violation, the owner, or in accordance with subsection (h)(4) the driver of a motor vehicle is subject to a civil penalty if the motor vehicle is recorded by an automated traffic

1 control enforcement system entering an intersection in violation of a red  
2 signal indication.

3 (2) The civil penalty assessed pursuant to this section shall not be in  
4 excess of \$100 plus any applicable court costs.

5 (3) A violation for which a civil penalty is imposed under this section  
6 is not a moving violation and may not be recorded on the driving record  
7 of the owner or driver of the vehicle.

8 (e) (1) The law enforcement officer shall mail a citation to the liable  
9 owner, or pursuant to subsection (h)(4) the driver. The citation shall  
10 include:

11 (i) The name and address of the owner or pursuant to subsection  
12 (h)(4) the driver of the vehicle;

13 (ii) the registration number of the motor vehicle involved in the  
14 violation;

15 (iii) the violation charged;

16 (iv) the location of the intersection;

17 (v) the date and time of the violation;

18 (vi) a copy of the recorded image;

19 (vii) the amount of the civil penalty imposed and the date by which  
20 the civil penalty shall be paid;

21 (viii) a signed statement by a law enforcement officer employed by  
22 the implementing governmental entity that, based on inspection of re-  
23 corded image, the motor vehicle was being operated in violation of the  
24 applicable state or local law;

25 (ix) information advising the owner or driver:

26 (A) Of the manner and time in which liability as alleged in the citation  
27 may be contested, and

28 (B) warning that failure to pay the civil penalty or to contest liability  
29 in a timely manner will result in a warrant for the owner or driver's arrest.

30 (2) The law enforcement officer may mail a warning notice in lieu of  
31 a citation to the owner or driver.

32 (3) Except as provided in subsection (h)(4), a citation issued under  
33 this provision shall be mailed no later than 14 calendar days after the  
34 violation.

35 (4) An owner or driver who receives a citation pursuant to the pro-  
36 visions of this section may:

37 (i) Pay the civil penalty; or

38 (ii) elect to stand trial for the alleged violation.

39 (f) If an owner, or pursuant to subsection (h)(4) a driver does not  
40 appear in response to a traffic citation mailed pursuant to subsection (e),  
41 the clerk of the court shall send to the owner or driver a letter warning  
42 that in the event such letter is disregarded for a period of five days a  
43 warrant of arrest may be issued.

1 (g) (1) Recorded images taken by an automated traffic control signal  
2 enforcement system accompanied by a certificate alleging that the vio-  
3 lation of state or local law occurred, sworn to or affirmed by a law en-  
4 forcement officer of the state, city or county shall be prima facie evidence  
5 of the facts contained therein and shall be admissible in any proceeding  
6 alleging a violation under this section without authentication.

7 (2) Adjudication of liability shall be based on a preponderance of  
8 evidence.

9 (h) (1) The court may consider in defense of a violation under this  
10 section:

11 (i) Evidence that the person named in the citation was not operating  
12 the vehicle at the time of the violation; or

13 (ii) any other issues and evidence that the court deems pertinent.

14 (2) To satisfy the evidentiary burden under paragraph (1)(i), the  
15 owner shall provide to the court's satisfaction, evidence of who was op-  
16 erating the motor vehicle at the time of the violation, including, but not  
17 limited to, the operator's name and current address.

18 (3) If the court finds that the owner was not operating the motor  
19 vehicle, and receives evidence identifying the person who was driving the  
20 vehicle at the time of the violation, the clerk of the court shall provide to  
21 the state or local agency issuing the citation, a copy of any evidence sub-  
22 stantiating who was operating the vehicle at the time of the violation.

23 (4) Upon receipt of substantiating evidence from the court, the state  
24 or local agency may issue a citation as provided in subsection (e) to the  
25 person that the evidence indicates was operating the vehicle at the time  
26 of the violation. A citation issued under this paragraph shall be mailed no  
27 later than 14 days after receipt of the evidence from the court.

28 Sec. 2. This act shall take effect and be in force from and after its  
29 publication in the statute book.

30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43