



2019 SENATE BILL 385

September 5, 2019 - Introduced by Senators JOHNSON, BERNIER and CARPENTER, cosponsored by Representatives CROWLEY, NOVAK, ZAMARRIPA, TUSLER, SINICKI, TRANEL, GOYKE, VRUWINK, L. MYERS, FIELDS, STUBBS, NEYLON, DUCHOW, BALLWEG, SKOWRONSKI, EMERSON, ROHRKASTE, RODRIGUEZ and VINING. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to amend* 346.01 (2); and *to create* 346.575, 346.60 (6) and 349.107 of
2 the statutes; **relating to:** the use of automated speed enforcement systems and
3 traffic control photographic systems in a first class city and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill allows law enforcement agencies in a first class city (presently only Milwaukee) to use an automated speed enforcement system (ASES) to identify speed limit violations and allows the leadership of a first class city to enact an ordinance that permits the use of a traffic control photographic system (TCPS) on highways under the jurisdiction of the city to identify traffic signal violations.

Under current law, law enforcement officers may not use any radar device combined with photographic identification of a vehicle to determine compliance with motor vehicle speed limits. Under this bill, local law enforcement agencies in a first class city may use an ASES to determine compliance with speed limits. With exceptions, the vehicle owner is subject to a forfeiture for a speed limit violation detected by an ASES. However, no traffic citation may be issued for a speed limit violation for which the ASES indicated a speed of less than 20 miles per hour above the speed limit alleged to be violated. The owner is subject to the same forfeiture that would be applicable to the vehicle operator for the violation. The bill also imposes a number of administrative requirements on a municipality that uses an ASES to determine compliance with speed limits. The authorization of the use of ASES to determine compliance with speed limits expires five years after this bill takes effect.

This bill also authorizes the leadership of a first class city to enact an ordinance that permits the use of a TCPS on highways under the jurisdiction of the city to detect

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motor vehicles that fail to properly stop at red traffic signals at intersections. A TCPS is an electronic system that automatically produces photographs of motor vehicles traveling through an intersection. With exceptions, the vehicle owner may be subject to a forfeiture for a traffic signal violation detected by a TCPS of not more than the amount provided for a traffic signal violation under current law, currently between \$40 to \$100. The authorization of the use of a TCPS to detect traffic signal violations expires five years after this bill takes effect.

Forfeitures collected under either of these authorizations must be appropriated for use by the agency providing police service in the city that collected the forfeiture.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 346.01 (2) of the statutes is amended to read:

2 346.01 (2) In this chapter, notwithstanding s. 340.01 (42), “owner” means, with
3 respect to a vehicle that is registered, or is required to be registered, by a lessee of
4 the vehicle under ch. 341, the lessee of the vehicle for purposes of vehicle owner
5 liability under ss. 346.175, 346.195, 346.205, 346.452, 346.457, 346.465, 346.485,
6 346.505 (3), 346.575, 346.675, and 346.945.

7 **SECTION 2.** 346.575 of the statutes is created to read:

8 **346.575 Owner’s liability for speed restriction violations detected by**
9 **an automated speed enforcement system. (1)** In this section, “automated speed
10 enforcement system” or “system” means an electronic device that uses automated
11 equipment to detect a vehicle’s speed and that is designed to obtain a clear visual
12 image of a vehicle’s rear license plate.

13 **(2)** Notwithstanding s. 349.02 (3) (b) and subject to sub. (6), a local law
14 enforcement agency with jurisdiction over traffic violations may use an automated
15 speed enforcement system to determine compliance with a speed restriction
16 established under s. 346.57 or 349.11 on highways under its jurisdiction. Subject to

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1 sub. (5) (b), the owner of a vehicle involved in a violation of s. 346.57, or a local
2 ordinance in conformity with s. 346.57, that is determined by a system shall be liable
3 for the violation as provided in this section.

4 (3) If a traffic officer reviews and prepares a uniform traffic citation under s.
5 345.11 for a violation of this section, the officer shall serve the owner of the vehicle
6 with the citation by mailing the citation by certified mail addressed to the owner's
7 last-known address within 5 business days after the violation. A traffic officer shall
8 send with the citation a duplicate of a visual image, taken by the automated speed
9 enforcement system, of the rear license plate of the vehicle involved in the violation,
10 the system location, and the date and time when the violation occurred. No traffic
11 citation may be issued for a violation under this section for which the system
12 indicated a speed of less than 20 miles per hour above the speed restriction
13 established under s. 346.57 or 349.11.

14 (4) Any forfeiture collected under this section shall be deposited in a separate
15 segregated account from which moneys may be used only for purposes of traffic
16 enforcement and traffic safety programs administered by the local law enforcement
17 agency providing police services in the collecting municipality.

18 (5) (a) Except as provided in par. (b), it is not a defense to a violation of this
19 section that the owner was not operating the vehicle at the time of the violation.

20 (b) All of the following are defenses to a violation of this section:

21 1. That a report that the vehicle was stolen was made by the owner to a law
22 enforcement agency before the violation occurred or within 7 business days after the
23 violation occurred.

24 2. That the owner of the vehicle provided a traffic officer with the name and
25 address of the person operating the vehicle at the time of the violation and the person

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1 so named admits operating the vehicle at the time of the violation. In that case, the
2 person operating the vehicle may be charged with a violation of s. 346.57 or a local
3 ordinance in conformity with s. 346.57.

4 3. That the vehicle is owned by a lessor of vehicles and is registered in the name
5 of the lessor, that at the time of the violation the vehicle was in the possession of a
6 lessee, and that the lessor provided a traffic officer with the information required
7 under s. 343.46 (3). In that case, the lessee may be charged with a violation of s.
8 346.57 or a local ordinance in conformity with s. 346.57.

9 4. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but
10 including the persons specified in s. 340.01 (11) (a) to (d), that at the time of the
11 violation the vehicle was being operated by a person on a trial run, and that the
12 dealer provided a traffic officer with the name, address, and operator's license
13 number of the person operating the vehicle. In that case, the person operating the
14 vehicle may be charged with a violation of s. 346.57 or a local ordinance in conformity
15 with s. 346.57.

16 **(6)** (a) If a local law enforcement agency uses an automated speed enforcement
17 system, the local law enforcement agency shall do all of the following:

18 1. Clearly identify the presence of a system by signs stating "Photo Enforced,"
19 along with the posted speed limit. The signs shall be visible to traffic traveling on the
20 highway from the direction of travel for which the system is used, and shall be posted
21 at all locations the department determines are necessary to provide adequate notice
22 of the presence of a system.

23 2. Identify the streets or portions of streets for which the use of a system has
24 been approved and the hours of enforcement on the local law enforcement agency's
25 website. The information under this paragraph shall be updated whenever the local

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1 law enforcement agency changes locations that are enforced with a system or hours
2 of enforcement.

3 3. a. Use law enforcement officers or other trained designated employees to
4 oversee the operation of systems and maintain control over all enforcement
5 activities, including the determination of when a citation should be issued.

6 b. Properly train law enforcement officers and other designated employees in
7 the use of a system, including the operation, set-up, and testing of a system deployed
8 by the law enforcement agency, and the enforcement of traffic and speeding laws.

9 c. Retain documentation demonstrating the successful completion of required
10 training by a law enforcement officer or designated employee who oversees the
11 operation of a system and enforcement activities.

12 4. Ensure that the system is regularly inspected and certify that the system is
13 installed and operating properly. Each camera unit shall be calibrated in accordance
14 with the manufacturer's instructions, and, at least once a year, each camera unit
15 shall be calibrated by an independent calibration laboratory. The municipality shall
16 retain documentation of the regular inspection, operation, and calibration of a
17 system until the date on which the system has been permanently removed from use.

18 5. Use a system that provides real-time notification when violations are
19 detected.

20 (b) Before using an automated speed enforcement system under this section,
21 a law enforcement agency shall do all of the following:

22 1. Administer a public information campaign for at least 30 days before the
23 commencement of use of a system. The campaign shall include public
24 announcements in major media outlets and press releases. The campaign shall
25 include the following information:

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1 a. The system use policy under par. (c).

2 b. The system impact report under par. (d).

3 c. The date on which use of systems will begin.

4 d. The highways on which systems will be used.

5 e. The law enforcement agency's website.

6 2. Issue warning notices rather than citations for violations detected by a
7 system during the first 90 days during which a system is used under this section.
8 Whenever a system is first used on a highway, the local law enforcement agency shall
9 issue warning notices rather than citations for violations detected by the systems
10 during the first 90 calendar days of enforcement.

11 (c) A municipality shall prepare and adopt a system use policy before entering
12 into an agreement regarding a system, purchasing or leasing equipment for a
13 system, or implementing this section. The system use policy shall include the specific
14 purpose for the system, the uses that are authorized, the rules and processes
15 required before that use, and the uses that are prohibited. The policy shall specify
16 the information that may be collected by a system, the individuals who may access
17 and use the collected information, and the procedure for accessing and using the
18 information. The policy shall include provisions for protecting data from
19 unauthorized access, data retention, public access, 3rd-party data sharing, training,
20 auditing, and oversight. The system use policy shall be made available for public
21 review, including by posting it on the local law enforcement agency's website, at least
22 30 calendar days before adoption.

23 (d) A municipality shall prepare and adopt a system impact report and make
24 the report available for public review and comment at least 30 days before approval.
25 The system impact report shall include all of the following:

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- 1 1. A description of the systems to be used and how they work.
- 2 2. The proposed purpose of a system.
- 3 3. The locations in which a system may be deployed and traffic data for these
- 4 locations.
- 5 4. An assessment of the potential impact of the system on civil liberties and civil
- 6 rights and any plans to safeguard those public rights.
- 7 5. The fiscal costs of a system, including establishment costs, ongoing costs, and
- 8 program funding.
- 9 (e) A municipality shall develop uniform guidelines for all of the following:
- 10 1. The screening and issuing of citations under this section.
- 11 2. The processing and storage of confidential information under this section
- 12 and procedures to ensure compliance with confidentiality requirements.
- 13 (f) A contract between a municipality and a manufacturer or supplier of an
- 14 automated speed enforcement system shall allow the municipality to purchase
- 15 materials, lease equipment, and contract for processing services from the
- 16 manufacturer or supplier based on the services rendered on a monthly schedule or
- 17 another schedule agreed upon by the municipality and contractor. The contract may
- 18 not include provisions for payment or compensation based on the number of citations
- 19 issued under this section, or as a percentage of revenue generated, from the use of
- 20 the system. The contract shall include a provision that all data collected from a
- 21 system is confidential, and shall prohibit the manufacturer or supplier of a system
- 22 from sharing, repurposing, or monetizing collected data. The local law enforcement
- 23 agency shall oversee and maintain control over all enforcement activities, including
- 24 the determination of when a citation should be issued.

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1 (g) Two years after implementation of an automated speed enforcement
2 program and 5 years after the effective date of this paragraph [LRB inserts date],
3 a municipality shall prepare and submit to the standing committees of the
4 legislature with jurisdiction over transportation matters a system report that
5 includes all of the following information:

6 1. A description of how systems were used.

7 2. Whether and how often system data was shared with outside entities, the
8 name of any recipient entity, the type or types of data disclosed, and the legal reason
9 for the disclosure.

10 3. A summary of any community complaints or concerns about the use of
11 systems.

12 4. Results of any internal audits, information about any violations of the
13 system use policy, and any actions taken in response.

14 5. Information regarding the impact that the use of systems has had on the
15 highways where the systems were deployed.

16 6. A summary of any public records requests related to systems.

17 (h) Not later than March 1 of the 5th year beginning after the effective date of
18 this paragraph [LRB inserts date], a municipality shall prepare and submit to the
19 standing committees of the legislature with jurisdiction over transportation matters
20 an evaluation of the use of automated speed enforcement systems in its jurisdiction,
21 including an assessment of the system's impact on highway safety and the system's
22 economic impact on the communities where the system is used. The report shall be
23 made available on the website of the local law enforcement agency and shall include
24 all of the following information:

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1 1. Before and after data on the number and proportion of vehicles speeding
2 between 10 to 19 miles per hour over the legal speed limit, 20 to 29 miles per hour
3 over the legal speed limit, 30 to 39 miles per hour over the legal speed limit, and every
4 additional 10 miles per hour increment thereafter on a highway on which a system
5 is used to enforce speed limits.

6 2. The number of citations issued under this section by month and year and the
7 corridors or locations where violations occurred and, to the extent feasible, the day
8 of the week and time the violation occurred.

9 3. Before and after data on the number of traffic collisions, categorized by injury
10 severity that occurred where systems are used relative to jurisdiction-wide data and
11 the mode of transportation of the parties involved.

12 4. The number of citations paid and citations dismissed.

13 5. The costs associated with implementation and operation of the systems, and
14 revenues collected by each jurisdiction.

15 6. The uses of revenues collected by use of systems in the jurisdiction, including
16 information on roadway traffic safety projects, traffic safety education, and law
17 enforcement activities and programs that were implemented.

18 7. Before and after data on the number of law enforcement officers, including
19 the number of officers dedicated to traffic enforcement.

20 8. An evaluation of whether use of systems has resulted in traffic impacts on
21 highways that may be susceptible to traffic diversion, in the vicinity of corridors with
22 installed systems.

23 9. The results of surveys and outreach to low-income and predominantly
24 minority communities where systems were deployed.

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1 (7) A visual image made by an automated speed enforcement system is not
2 subject to the right of inspection and copying under s. 19.35 (1).

3 (8) This section applies only in a 1st class city.

4 (9) This section does not apply 5 years after the effective date of this subsection
5 [LRB inserts date].

6 **SECTION 3.** 346.60 (6) of the statutes is created to read:

7 346.60 (6) A vehicle owner found liable under s. 346.575 is subject to a
8 forfeiture in the same amount that may be imposed on a vehicle operator for the
9 corresponding violation of s. 346.57 including, if applicable, the doubling of the
10 forfeiture as provided in sub. (3m) (a). For purposes of this subsection, a person's
11 prior violation of s. 346.57 may be counted as a prior violation of s. 346.575.
12 Imposition of liability under s. 346.575 shall not result in suspension or revocation
13 of a person's operating privilege under s. 343.30 or 343.31, nor shall it result in
14 demerit points being recorded on a person's driving record under s. 343.32 (2) (a).

15 **SECTION 4.** 349.107 of the statutes is created to read:

16 **349.107 Authority to use traffic control photographic systems.** (1) In
17 this section:

18 (a) In addition to the meaning given in s. 340.01 (42), "owner" means, with
19 respect to a vehicle that is registered, or that is required to be registered, by a lessee
20 of the vehicle under ch. 341, the lessee of the vehicle.

21 (b) "Traffic control photographic system" means an electronic system consisting
22 of a photographic, video, or electronic camera and a vehicle sensor installed for use
23 with an official traffic control signal to automatically produce photographs or video
24 or digital images, stamped with the time and date, of vehicles moving through an
25 intersection.

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1 **(2)** Subject to sub. (3), the leadership of a 1st class city may enact an ordinance
2 that does all of the following:

3 (a) Subjects a person to a forfeiture for being the owner of a motor vehicle that
4 does any of the following:

5 1. When facing a traffic control signal at an intersection that exhibits a red
6 light, including a flashing red light, fully enters the intersection without stopping.

7 2. When facing a traffic control signal at an intersection that exhibits a red
8 light, other than a flashing red light, after stopping at the intersection, proceeds
9 through the intersection before the traffic control signal exhibits a green light if the
10 vehicle is not making a right turn.

11 (b) Allows the use of a traffic control photographic system on highways under
12 the jurisdiction of the municipality, including connecting highways, for the purpose
13 of detecting violations described in par. (a).

14 (c) Subjects a person to a forfeiture for being the lessee or operator of a motor
15 vehicle the owner of which would be subject to a forfeiture under this section but for
16 the owner's successful assertion of a defense under sub. (3) (c) 2. or 3.

17 (d) Requires that forfeitures collected under this section be deposited in a
18 separate segregated account from which moneys may be used only for purposes of
19 traffic enforcement and traffic safety programs administered by the local law
20 enforcement agency providing police services in the collecting municipality.

21 **(3)** An ordinance enacted under sub. (2) shall include all of the following:

22 (a) A requirement that official traffic signs be placed at or reasonably near the
23 corporate limits of the municipality on all county trunk highways and connecting
24 highways under the jurisdiction of the municipality informing motorists that

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1 intersections in the municipality may be monitored by traffic control photographic
2 systems.

3 (b) A requirement that, if a traffic officer employed by the governing body of the
4 municipality prepares a citation for a violation of an ordinance enacted under this
5 section, the traffic officer shall serve the owner of the vehicle with the citation, within
6 5 business days after the violation, by personal service or by mailing the citation by
7 certified mail addressed to the owner's last-known address. If the citation may be
8 issued under par. (c) to the lessee or operator of the vehicle, the traffic officer shall
9 serve the lessee or operator with the citation, in the same manner required for service
10 on the vehicle owner, within 5 business days of determining that the vehicle owner
11 is likely to successfully assert a defense under par. (c). A traffic officer shall send with
12 the citation a duplicate of the photograph, video, or digital image, taken by the traffic
13 control photographic system, of the vehicle involved in the violation.

14 (c) A provision that it is not a defense to a violation of the ordinance that the
15 owner was not in control of the vehicle at the time of the violation, except that all of
16 the following are defenses to a violation of an ordinance enacted under this section:

17 1. That a report that the vehicle was stolen was made by the owner to a law
18 enforcement agency before the violation occurred or within 7 business days after the
19 violation occurred.

20 2. That the vehicle is owned by a lessor of vehicles and is registered in the name
21 of the lessor, that at the time of the violation the vehicle was in the possession of a
22 lessee, and that the lessor provided a traffic officer with the information required
23 under s. 343.46 (3). In that case, the lessee may be issued a citation and charged with
24 a violation of the ordinance enacted under this section.

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1 3. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but
2 including the persons specified in s. 340.01 (11) (a) to (d), at the time of the violation
3 the vehicle was being operated by a person on a trial run, and the dealer provided
4 a traffic officer with the name, address, and operator's license number of the person
5 operating the vehicle. In that case, the person operating the vehicle may be issued
6 a citation and charged with a violation of the ordinance enacted under this section.

7 4. Any other defense specified in the ordinance.

8 (d) A provision that permits a court to impose a forfeiture for a violation of an
9 ordinance enacted under this section of not more than the same amount that may be
10 imposed on a vehicle operator for the corresponding violation of s. 346.37 (1) (c) 1. or
11 3.

12 (e) A requirement that any photograph or video or digital image produced by
13 the traffic control photographic system be taken from a direction to the rear of the
14 vehicles moving through an intersection and be focused on the rear registration plate
15 of such vehicles.

16 (f) A requirement that a traffic control photographic system may be used only
17 at an intersection that is identified as having an annual accident rate of 1.0 or greater
18 in studies performed by the municipality in the 5 most recent years of high frequency
19 crash locations.

20 (g) A requirement that traffic control photographic systems may be used at no
21 more than 5 intersections in an aldermanic district.

22 **(4)** Nothing in this section prohibits the issuance of a citation to the operator
23 of a motor vehicle for a violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance in
24 conformity with s. 346.37 (1) (c) 1. or 3., but a person may not be subject to a forfeiture
25 for a violation of an ordinance enacted under this section and a violation of s. 346.37

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SECTION 4

1 (1) (c) 1. or 3. or a local ordinance in conformity with s. 346.37 (1) (c) 1. or 3. arising
2 from the same incident or occurrence.

3 (5) This section does not apply 5 years after the effective date of this subsection
4 [LRB inserts date].

5 (END)