

House File 2053 - Introduced

HOUSE FILE 2053
BY WHITEAD

A BILL FOR

1 An Act providing for the use of photo traffic enforcement in
2 road work zones on primary highways.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 321.296 Speed limit enforcement in
2 work zones — photo traffic enforcement.

3 The department of public safety, in cooperation with
4 the department of transportation, shall place photo traffic
5 enforcement devices in all road work zones on primary highways
6 to enforce violations of the posted speed limits in the road
7 work zones.

8 1. For purposes of this section, "*photo traffic enforcement*
9 *device*" means a device used primarily for highway speed
10 limit enforcement, substantially consisting of a low-powered
11 Doppler radar unit and camera which automatically produces a
12 photograph of a vehicle, including the vehicle's registration
13 plate, traveling in excess of the legal speed limit, with the
14 vehicle's speed and the date, time of day, and location of the
15 violation printed on the photograph.

16 2. The department of transportation shall post signs
17 providing notice to motorists in every road work zone where a
18 photo traffic enforcement device is in use.

19 3. If a peace officer of the department of public safety
20 determines from examination of the evidence produced by a
21 photo traffic enforcement device that a speeding violation
22 occurred in a road work zone, the peace officer may initiate an
23 investigation not more than seven calendar days after the date
24 of the violation. The peace officer may request that the owner
25 of the vehicle supply information identifying the driver of the
26 vehicle in accordance with section 321.484, or in the case of a
27 commercial motor vehicle, the peace officer may request that
28 the employer of the driver provide information identifying the
29 driver of the vehicle.

30 a. If, from the investigation, the peace officer is able to
31 identify the driver of the vehicle and has reasonable cause to
32 believe a speeding violation has occurred, the peace officer
33 shall prepare a uniform traffic citation for the violation and
34 shall serve it personally or by certified mail on the driver
35 of the vehicle.

1 *b.* If, from the investigation, the peace officer has
2 reasonable cause to believe that a speeding violation occurred
3 but is unable to identify the driver, the peace officer shall
4 serve a uniform traffic citation for the violation on the
5 owner of the motor vehicle or, in the case of a commercial
6 motor vehicle, on the employer of the driver. Notwithstanding
7 section 321.484, in a proceeding where the peace officer who
8 conducted the investigation was not able to identify the driver
9 of the motor vehicle, proof that the motor vehicle captured on
10 camera and described in the uniform traffic citation was used
11 to commit the speeding violation in a road work zone, together
12 with proof that the defendant named in the citation was the
13 owner of the motor vehicle or, in the case of a commercial
14 motor vehicle, the employer of the driver, at the time the
15 violation occurred, constitutes a permissible inference
16 that the owner or employer was the person who committed the
17 violation.

18 *c.* For purposes of this subsection, "owner" means a person
19 who holds the legal title to a motor vehicle; however, if the
20 motor vehicle is the subject of a security agreement with a
21 right of possession in the debtor, the debtor shall be deemed
22 the owner for purposes of this subsection, or if the motor
23 vehicle is leased as defined in section 321.493, the lessee
24 shall be deemed the owner for purposes of this subsection.

25 4. A photograph that meets the requirements of subsection
26 1 shall be accepted as prima facie evidence of the speeding
27 violation in any legal proceeding where the speed of the motor
28 vehicle is at issue.

29 Sec. 2. Section 321.484, subsection 2, Code 2009, is amended
30 to read as follows:

31 2. If a peace officer as defined in section 801.4 has
32 reasonable cause to believe the driver of a motor vehicle has
33 violated section 321.261, 321.262, 321.264, 321.341, 321.342,
34 321.343, 321.344, or 321.372, or has committed a violation
35 recorded by a photo traffic enforcement device under section

1 321.296, the officer may request any owner of the motor
2 vehicle to supply information identifying the driver. When
3 requested, the owner of the vehicle shall identify the driver
4 to the best of the owner's ability. However, the owner of the
5 vehicle is not required to supply identification information
6 to the officer if the owner believes the information is
7 self-incriminating.

8

EXPLANATION

9 This bill requires the department of public safety, in
10 cooperation with the department of transportation, to place
11 photo traffic enforcement devices in all road work zones on
12 primary highways. Pursuant to current law, reduced speed
13 limits are posted in road work zones. Under the bill, the
14 department of transportation is also required to post signs in
15 road work zones on primary highways notifying motorists that
16 photo enforcement is in use.

17 The bill defines "photo traffic enforcement device" as a
18 device used primarily for highway speed limit enforcement,
19 substantially consisting of a low-powered Doppler radar unit
20 and camera which automatically produces a photograph of a
21 vehicle, including the vehicle's registration plate, traveling
22 in excess of the legal speed limit, with the vehicle's speed
23 and the date, time of day, and location of the violation
24 printed on the photograph. Under the bill, such a photograph
25 is to be accepted as prima facie evidence of a speeding
26 violation in any legal proceeding where the speed of the motor
27 vehicle is at issue.

28 When a peace officer of the department of public safety
29 who has reviewed the photographic evidence determines that a
30 speeding violation occurred, the peace officer may initiate an
31 investigation within seven days of the date of the violation.
32 The procedure to be followed mirrors the procedure in existing
33 law for prosecuting offenses relating to stopping for school
34 buses or at railroad crossings.

35 The peace officer may request that the owner of the vehicle

1 supply information identifying the driver of the vehicle. If
2 the vehicle involved is a commercial vehicle, the peace officer
3 may ask the employer of the driver to provide information
4 identifying the driver.

5 Once the identity of the driver is known, and if the peace
6 officer still has reasonable cause to believe that a speeding
7 violation occurred in a work zone, the peace officer shall
8 issue a uniform traffic citation to the driver by personal
9 service or by certified mail.

10 If the peace officer is unable to identify the driver
11 but still has reasonable cause to believe that a violation
12 occurred, the peace officer shall serve a uniform traffic
13 citation on the owner of the vehicle or, in the case of a
14 commercial vehicle, on the employer of the driver. Proof
15 that the motor vehicle captured on camera and described in
16 the uniform traffic citation was used to commit the speeding
17 violation, together with proof that the defendant named in the
18 citation was the owner of the motor vehicle or the employer of
19 the driver at the time the violation occurred, constitutes a
20 permissible inference that the owner or employer was the person
21 who committed the violation.

22 For purposes of the bill, the owner of the vehicle is the
23 person who holds the legal title to the vehicle. If there is
24 a security interest in the vehicle, a debtor with a right of
25 possession is deemed to be the owner, and if the motor vehicle
26 is leased, the lessee is deemed to be the owner.