

**House File 2364 - Introduced**

HOUSE FILE 2364  
BY HUNTER

**A BILL FOR**

1 An Act concerning the use of traffic-control signal monitoring  
2 devices by local authorities, containing penalty provisions,  
3 and including effective date provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.1, Code Supplement 2009, is amended  
2 by adding the following new subsection:

3 NEW SUBSECTION. 84A. "*Traffic-control signal monitoring*  
4 *device*" means a device with one or more motor vehicle sensors  
5 working in conjunction with an official traffic control signal  
6 to produce recorded images of motor vehicles being operated  
7 in disregard or disobedience to a circular red or red arrow  
8 signal.

9 Sec. 2. NEW SECTION. 321.238 Use of traffic-control signal  
10 monitoring devices.

11 1. A local authority shall not use a traffic-control signal  
12 monitoring device unless all of the following conditions are  
13 met:

14 a. The chief law enforcement officer employed by the  
15 local authority requests, and the governing body of the local  
16 authority adopts a resolution approving, the use of such  
17 devices.

18 b. The local authority conducts a public hearing on the  
19 proposed use of traffic-control signal monitoring devices prior  
20 to entering into a contract for the use or purchase of such  
21 devices.

22 c. The local authority obtains a permit from the department  
23 pursuant to this section for the use of such devices.

24 2. a. The department shall adopt rules prescribing the  
25 manner and procedure by which applications shall be made for  
26 traffic-control signal monitoring device permits and the  
27 information to be submitted by an applicant consistent with the  
28 provisions of this section.

29 b. The department may deny an application or suspend or  
30 revoke a permit for failure of a local authority to provide  
31 requested information or documentation or for any other  
32 violation of this section or rules adopted pursuant to this  
33 section.

34 c. An application for a permit to operate one or more  
35 traffic-control signal monitoring devices shall name each

1 intersection at which a device is to be used and provide  
2 demonstrable evidence that there is a genuine safety need for  
3 the use of such a device at each designated intersection. The  
4 documented safety need shall be approved by the department in  
5 accordance with nationally recognized safety standards. For  
6 each designated intersection named in the application, the  
7 local authority shall conduct a traffic engineering study to  
8 determine whether, in addition to or as an alternative to the  
9 traffic-control signal monitoring device, there are other  
10 possible design or operational changes that would be likely  
11 to reduce the number of accidents or red light violations at  
12 the intersection. A report of the engineering study shall be  
13 submitted with the application for a permit and for any request  
14 to amend the permit to include an additional intersection.

15 *d.* When determining whether to issue a permit for the use of  
16 a traffic-control signal monitoring device at an intersection,  
17 the department shall only consider the safety value of using  
18 such a device. The generation of revenue through the use of a  
19 traffic-control signal monitoring device shall not be a factor  
20 in the department's decision to issue a permit.

21 *e.* Within three months of receiving a properly completed  
22 application from a local authority, the department shall either  
23 issue a permit for the use of the requested traffic-control  
24 signal monitoring device or notify the local authority of  
25 the reason for denial of the application. An application  
26 for amendment to an existing permit or an application for  
27 reinstatement of a permit following suspension or revocation of  
28 a permit shall also be processed within three months of receipt  
29 of the application.

30 *f.* A permit issued by the department shall authorize  
31 the use of a traffic-control signal monitoring device  
32 only at intersections designated in the permit. A local  
33 authority may apply to the department at any time to amend  
34 an existing permit by adding a new intersection to the list  
35 of authorized intersections for the use of a traffic-control

1 signal monitoring device. The application shall be considered  
2 by the department in the same manner as an original permit  
3 application.

4 *g.* A permit for the use of a traffic-control signal  
5 monitoring device shall be reviewed by the department within  
6 three years of the date of issuance, and every three years  
7 thereafter, unless the permit is suspended or revoked by the  
8 department.

9 *h.* The department may establish reasonable fees to  
10 reimburse the department for the costs of issuing, amending,  
11 and reviewing permits for the use of traffic-control signal  
12 monitoring devices.

13 3. Compensation paid by a local authority to the  
14 manufacturer or vendor of a traffic-control signal monitoring  
15 device shall be based on the value of the equipment and shall  
16 not be based on the number of citations issued or the revenue  
17 generated by the device. A local authority that uses a  
18 traffic-control signal monitoring device shall not use revenues  
19 collected through the use of such device to compensate the  
20 manufacturer or vendor of the device.

21 4. A law enforcement agency shall not issue a citation for  
22 a violation based on evidence produced by a traffic-control  
23 signal monitoring device unless the law enforcement agency  
24 employs at least one full-time certified peace officer.

25 5. A traffic-control signal monitoring device shall not  
26 be used to produce a photograph, microphotograph, electronic  
27 image, or videotape showing the identity of any person in a  
28 motor vehicle.

29 6. The department may inspect, at any time, a  
30 traffic-control signal monitoring device and any records  
31 pertaining to revenues collected from the use of such devices  
32 by a local authority. A local authority shall cooperate with  
33 the department in the inspection of traffic-control signal  
34 monitoring devices and matters related to enforcement of the  
35 provisions of this section.

1 7. *a.* A local authority using traffic-control signal  
2 monitoring devices shall submit to the department no later than  
3 February 1 of each year a report on the use of the devices  
4 during the preceding calendar year. The report shall include  
5 all of the following:

6 (1) A description of the locations where traffic-control  
7 signal monitoring devices were used.

8 (2) The number of violations recorded at each location and  
9 in the aggregate on a monthly basis.

10 (3) The total number of citations issued based on evidence  
11 produced by the traffic-control signal monitoring devices.

12 (4) The number of civil monetary penalties imposed and the  
13 total amount of such penalties paid after citation without  
14 contest.

15 (5) The number of violations adjudicated and the results of  
16 such adjudications, including a breakdown of the dispositions.

17 (6) The total amount of civil monetary penalties  
18 collected from citations issued based on evidence produced by  
19 traffic-control signal monitoring devices.

20 (7) The quality of the adjudication process and its results.

21 *b.* A local authority that fails to provide the report  
22 required under this subsection shall forward all revenues  
23 generated from the operation of traffic-control signal  
24 monitoring devices during the previous calendar year and in  
25 the current year to the treasurer of state for deposit in  
26 the general fund of the state. The local authority shall  
27 not retain any revenue from the operation of traffic-control  
28 signal monitoring devices until the annual report is filed and  
29 accepted by the department.

30 *c.* Annually, by March 1, the department shall forward copies  
31 of reports submitted under this subsection to the legislative  
32 services agency along with a list of all locations in the state  
33 where traffic-control signal monitoring devices are in use.

34 8. *a.* Complaints concerning the use of traffic-control  
35 signal monitoring devices may be made to the department.

1 The department may conduct an investigation in response to  
2 a complaint. If the department finds as a result of the  
3 investigation that a local authority is violating a provision  
4 of this section or section 321.255 or 321.257 relating to  
5 the use of a traffic-control signal monitoring device, the  
6 department may take any action it deems necessary to prevent  
7 any further violation including denial of an application for a  
8 permit or suspension or revocation of a permit.

9 *b.* There shall be a rebuttable presumption that a local  
10 authority is using a traffic-control signal monitoring device  
11 for purposes other than the promotion of public safety if such  
12 a device is used by the local authority without a permit issued  
13 by the department or in violation of any provision of this  
14 section or section 321.255 or 321.257 or rules adopted pursuant  
15 to this section or section 321.255 or 321.257.

16 *c.* If the department determines that a local authority  
17 is operating a traffic-control signal monitoring device in  
18 a manner that violates this section or section 321.255 or  
19 321.257, the department may order the local authority to  
20 forward to the treasurer of state for deposit in the general  
21 fund of the state the revenues generated by the device during  
22 the time the violation occurred. The order shall continue  
23 in effect until the violation is corrected, as determined by  
24 the department. If a local authority fails to forward funds  
25 pursuant to an order of the department, the local authority  
26 shall be liable for interest owing on the funds and for any  
27 costs, including reasonable attorney fees, incurred by the  
28 state in the enforcement of the order. An action to enforce an  
29 order under this paragraph shall be instituted by the attorney  
30 general in the district court of Polk county.

31 9. *a.* Upon the issuance of an order denying an application  
32 for or suspending or revoking a permit under this section,  
33 the local authority shall be afforded a hearing before the  
34 department to be held within thirty days of the effective date  
35 of the order. The department shall have thirty days following

1 the hearing in which to issue a written decision to continue to  
2 deny, suspend, or revoke the permit, or to grant or reinstate  
3 the permit.

4 *b.* A local authority whose application for a permit is  
5 denied or whose permit is revoked shall not be eligible for a  
6 permit to operate a traffic-control signal monitoring device  
7 for three years following the denial or revocation.

8 10. The department may adopt rules it deems necessary for  
9 the administration of this section.

10 Sec. 3. Section 321.255, Code 2009, is amended to read as  
11 follows:

12 **321.255 Local traffic-control devices.**

13 1. Local authorities in their respective jurisdiction shall  
14 place and maintain such traffic-control devices upon highways  
15 under their jurisdiction as they may deem necessary to indicate  
16 and to carry out the provisions of this chapter or local  
17 traffic ordinances or to regulate, warn, or guide traffic. All  
18 such traffic-control devices ~~hereafter~~ erected shall conform to  
19 the state manual and specifications.

20 2. A local authority using traffic-control signal  
21 monitoring devices shall erect a sign providing notice of  
22 the use of such devices at that point on every highway which  
23 intersects the jurisdictional limits of the local authority.  
24 A sign shall also be erected by the local authority on each  
25 road on the approach to the next official traffic-control  
26 signal on that road where a traffic-control signal monitoring  
27 device is in use, and at any other location as required by the  
28 department.

29 Sec. 4. Section 321.257, Code 2009, is amended by adding the  
30 following new subsection:

31 NEW SUBSECTION. 3. *a.* The timing of an official  
32 traffic-control signal which is being monitored by a  
33 traffic-control signal monitoring device shall conform to  
34 standards established by the department by rule. The duration  
35 of the yellow or red light of an official traffic-control

1 signal shall not be decreased prior to the installation of  
2 a traffic-control signal monitoring device or during the  
3 time in which the device is used. The department shall  
4 establish minimum change intervals for yellow lights on  
5 official traffic-control signals at intersections where  
6 a traffic-control signal monitoring device is used. The  
7 minimum change interval shall be established in accordance  
8 with nationally recognized engineering standards, and the  
9 established time shall exceed the recognized national standard  
10 by at least one additional second.

11     *b.* A local authority using a traffic-control signal  
12 monitoring device shall test the device for accuracy at regular  
13 intervals and record and maintain the results of each test.  
14 The test results shall be open for public inspection during  
15 reasonable business hours. Each test shall be performed  
16 according to the manufacturer's recommended procedure. A  
17 device that does not meet the manufacturer's minimum accuracy  
18 requirements shall be removed from service by the local  
19 authority, and the device shall not be used again by the local  
20 authority until the device has been serviced and calibrated  
21 by a qualified technician. A law enforcement agency shall  
22 immediately discontinue issuing citations based on evidence  
23 produced by a traffic-control signal monitoring device that has  
24 been removed from service pursuant to this paragraph.

25     Sec. 5. STATUS OF EXISTING TRAFFIC-CONTROL SIGNAL  
26 MONITORING DEVICES. A local authority that is using a  
27 traffic-control signal monitoring device on the effective date  
28 of this Act may continue using the device without a permit  
29 through December 31, 2011. A local authority shall discontinue  
30 using an existing device on or before January 1, 2012, unless  
31 the local authority obtains a permit pursuant to the provisions  
32 of this Act on or before that date.

33     Sec. 6. EFFECTIVE DATE. This Act takes effect January 1,  
34 2011.

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EXPLANATION

2 This bill requires a local authority to obtain a permit from  
3 the department of transportation to use traffic-control signal  
4 monitoring devices.

5 A traffic-control signal monitoring device is a device that  
6 works in conjunction with an official traffic control signal  
7 to produce recorded images of motor vehicles being operated in  
8 violation of a red traffic signal.

9 The bill requires that before a local authority can employ  
10 the use of a traffic-control signal monitoring device, the  
11 chief law enforcement officer employed by the local authority  
12 must request the use of such devices and the governing body of  
13 the local authority must adopt a resolution approving their  
14 use. There must be a public hearing on the issue before the  
15 local authority enters into a contract for the use or purchase  
16 of traffic-control signal monitoring devices.

17 The department is required to adopt rules relating to  
18 requirements for a permit and the permit application process.  
19 The bill requires that an application for a permit must name  
20 each intersection at which a traffic-control signal monitoring  
21 device will be used and show that there is a need for a device  
22 at each intersection. A report of an engineering study must  
23 be submitted along with the application for a permit and any  
24 subsequent application to amend the permit.

25 The bill specifies that the department's decision to issue  
26 a permit shall be based solely on safety concerns, and must  
27 not take into account any revenue to be derived by a local  
28 authority from the use of a traffic-control signal monitoring  
29 device. The department has three months in which to consider  
30 an application and either issue a permit or notify the local  
31 authority of the reason for denying the application. Once  
32 granted, a permit is to undergo a departmental review every  
33 three years. The department is authorized to establish  
34 reasonable fees to cover its costs relating to the issuance and  
35 review of permits.

1 The bill prohibits a local authority from compensating a

2 manufacturer or vendor of traffic-control signal monitoring  
3 devices from funds from revenues collected through the use of  
4 a device. Compensation is to be based on the value of the  
5 equipment and not the number of citations issued or the revenue  
6 generated by a device.

7 The bill prohibits a law enforcement agency from issuing  
8 citations based on evidence obtained from a traffic-control  
9 signal monitoring device unless the agency employs at least one  
10 full-time certified peace officer.

11 The bill specifies that a traffic-control signal monitoring  
12 device shall not be used to produce an image showing any person  
13 in a motor vehicle.

14 A local authority is required to submit an annual report  
15 to the department by February 1 containing information on  
16 citations issued, the adjudication of violations, and penalties  
17 collected from the use of traffic-control signal monitoring  
18 devices. Failure to submit a report results in the forfeiture  
19 of revenues generated by the local authority's traffic-control  
20 signal monitoring devices during the preceding calendar year  
21 and the current year.

22 The bill provides a mechanism for complaints regarding  
23 traffic-control signal monitoring devices to be handled by the  
24 department. If a local authority is found to be violating the  
25 law regulating traffic-control signal monitoring devices, the  
26 local authority may be ordered by the department to forfeit  
27 revenues to the state that were generated during the time the  
28 violation was occurring. The attorney general is directed to  
29 enforce such an order in the district court of Polk county.

30 If the department denies an application for a permit or  
31 suspends or revokes an existing permit, the local authority  
32 is entitled to a hearing to be held within 30 days, and the  
33 department has 30 days following the hearing in which to render  
34 a written decision. A local authority whose permit is denied  
35 or revoked is not eligible to apply for a permit for three  
1 years.

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2 The bill requires a local authority using traffic-control  
3 signal monitoring devices to post signs along all roads  
4 intersecting its jurisdictional limits and on the approach to  
5 each traffic-control signal monitoring device in use.

6 The bill contains requirements for the timing of official  
7 traffic-control signals that are monitored by a traffic-control  
8 signal monitoring device, and the bill establishes requirements  
9 for the testing and calibration of the devices.

10 The bill takes effect January 1, 2011. A local authority  
11 that is currently using a traffic-control signal monitoring  
12 device has one year in which to obtain a permit for the device.