

House Bill 1443

By: Representatives Holland of the 54th, Evans of the 57th, Silcox of the 53rd, Evans of the 89th, Bruce of the 61st, and others

A BILL TO BE ENTITLED
AN ACT

1 To provide for operation of automated transit vehicle lane monitoring devices for the
2 enforcement of traffic in transit vehicle lanes in the City of Atlanta; to prohibit the operation
3 or parking of a motor vehicle other than a transit vehicle in a designated transit vehicle lane;
4 to provide for penalties; to provide for definitions; to authorize the use of automated transit
5 vehicle lane monitoring devices for the issuance of a civil monetary penalty for owners of
6 motor vehicles illegally operated or parked in a designated transit vehicle lane; to provide for
7 procedures, conditions, and limitations for the issuance of citations for such civil monetary
8 penalty; to provide for notice; to prohibit the renewal of motor vehicle registration upon
9 failure to pay a civil monetary penalty; to provide for standards for agreements relating to
10 issuance of such citations; to authorize prosecuting attorneys, district attorneys, and
11 solicitors-general to enforce civil monetary penalties for owners of motor vehicles illegally
12 operated or parked in designated transit vehicle lanes; to provide for related matters; to repeal
13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 (a) As used in this Act, the term:

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- 17 (1) "Agent" means a person or entity that is authorized by the city or a law enforcement
18 agency thereof to administer the provisions of this Act and that:
- 19 (A) Provides services to the city or a law enforcement agency thereof;
- 20 (B) Operates, maintains, leases, or licenses an automated transit vehicle lane
21 monitoring device; or
- 22 (C) Is authorized by the city or a law enforcement agency thereof to review and
23 assemble the recorded images for inspection by a certified peace officer.
- 24 (2) "Authority" means the Metropolitan Atlanta Rapid Transit Authority created pursuant
25 to Ga. L. 1965, p. 2243, as amended.
- 26 (3) "Automated transit vehicle lane monitoring device" means a device that is capable
27 of producing recorded images of a vehicle parked, standing, stopped, or traveling in a
28 transit vehicle lane.
- 29 (4) "City" means the City of Atlanta.
- 30 (5) "Department" means the Georgia Department of Transportation.
- 31 (6) "Owner" means the registrant of a motor vehicle, except that such term shall not
32 include a motor vehicle rental company when a motor vehicle registered by such
33 company is being operated by another person under a rental agreement with such
34 company, in which case such term shall mean the person authorized pursuant to the rental
35 agreement to operate the vehicle.
- 36 (7) "Recorded images" means still or video images captured and stored by an automated
37 transit vehicle lane monitoring device which include a clear depiction of the vehicle
38 license plate number and the date, time, and location the image was produced.
- 39 (8) "Transit vehicle" means any motor vehicle operated by or under contract with the
40 authority within the city which provides transportation services that are open to the
41 general public or a segment of the general public.

42 (9) "Transit vehicle lane" means a lane or series of lanes within the city designated for
43 the exclusive use of transit vehicles and indicated as such by official traffic-control
44 devices.

45 (b) No person shall park, stand, stop, or operate a vehicle other than a transit vehicle in a
46 transit vehicle lane unless such parking, standing, stopping, or operation is authorized by an
47 official traffic-control device, occurs during an emergency situation, or is otherwise
48 authorized by law.

49 (c) A violation of the provisions of subsection (b) of this section shall be enforced as
50 follows:

51 (1) Through the issuance of a uniform traffic citation by a law enforcement officer at the
52 time of the offense, which shall be punished as a misdemeanor, and upon conviction
53 thereof with a fine:

54 (A) Not to exceed \$50.00 for the first violation of the offense enforced pursuant to this
55 paragraph; provided, however, that such offender shall be provided with the option of
56 completing a course on transit lane safety in lieu of the \$50.00 fine. Such course shall
57 consist of an online educational video which is no longer than ten minutes in length and
58 approved by the authority;

59 (B) Not to exceed \$100.00 for the second violation of the offense enforced pursuant
60 to this paragraph;

61 (C) Not to exceed \$150.00 for the third violation of the offense enforced pursuant to
62 this paragraph; provided, however, that such offender shall also complete a defensive
63 driving course approved under the provisions of Code Section 40-5-83 of the O.C.G.A.;
64 and

65 (D) Not to exceed \$150.00 for the fourth or subsequent violation of the offense
66 enforced pursuant to this paragraph;

67 (2)(A) Unless the operator of the vehicle was arrested or issued a uniform traffic
68 citation and notice to appear by a law enforcement officer for the same violation,

69 through the use of an automated transit vehicle lane monitoring device and evidenced
70 by recorded images, which shall be punished by a civil monetary penalty upon the
71 owner of the vehicle of:

72 (i) Fifty dollars for the first violation of the offense enforced pursuant to this
73 paragraph; provided, however, that, when the operator of the vehicle was the owner,
74 such owner shall be provided with the option of completing a course on transit lane
75 safety in lieu of the \$50.00 fine. Such course shall consist of an online educational
76 video which is no longer than ten minutes in length and approved by the authority;

77 (ii) One hundred dollars for the second violation of the offense enforced pursuant to
78 this paragraph; and

79 (iii) One hundred and fifty dollars for the third or subsequent violation of the offense
80 enforced pursuant to this paragraph; provided, however, that, when the operator of the
81 vehicle was the owner, he or she shall also complete a defensive driving course
82 approved under the provisions of Code Section 40-5-83 of the O.C.G.A.

83 (B) Any fee for the processing of a civil monetary penalty issued under this paragraph
84 shall not exceed \$25.00 and any late fee assessed for failure to pay a civil monetary
85 penalty owed shall not exceed \$5.00. A violation for which a civil monetary penalty
86 is imposed pursuant to this paragraph shall not be considered a moving traffic violation
87 for the purpose of points assessment under Code Section 40-5-57 of the O.C.G.A. Such
88 violation shall be deemed noncriminal, and imposition of a civil monetary penalty
89 pursuant to this paragraph shall not be deemed a conviction and shall not be made a part
90 of the operating record of the person upon whom such liability is imposed, nor shall it
91 be used for any purposes in the provision of motor vehicle insurance coverage. No
92 additional penalties, fees, or surcharges for a violation punished pursuant to this
93 paragraph other than those set forth in this paragraph shall be authorized.

94 (C) The law enforcement agency or agent authorized to enforce the provisions of this
95 Act on behalf of the city through the use of an automated transit vehicle lane

96 monitoring device shall send by first-class mail addressed to the owner of the motor
97 vehicle not later than 60 days after the date of the alleged violation:

98 (i) A citation for the alleged violation, which shall include the date, time, and location
99 of the alleged violation, the amount of the civil monetary penalty imposed, and the
100 date by which the civil monetary penalty shall be paid;

101 (ii) An image produced from the recorded images showing the vehicle involved in
102 the alleged violation;

103 (iii) An internet website address where recorded images showing the vehicle involved
104 in the alleged violation, the transit lane safety course provided for by division (i) of
105 subparagraph (A) of this paragraph, and a duplicate of the information provided for
106 in this subparagraph may be viewed;

107 (iv) A copy of a certificate sworn to or affirmed by a certified peace officer employed
108 by a law enforcement agency authorized to enforce the provisions of this Act stating
109 that, based upon inspection of recorded images, the owner's motor vehicle was
110 parked, standing, stopped, or operated in a transit vehicle lane in violation of
111 subsection (b) of this section;

112 (v) A statement of the inference provided by subparagraph (E) of this paragraph and
113 of the means specified therein by which such inference may be rebutted;

114 (vi) Information advising the owner of the motor vehicle of the manner in which
115 liability as alleged in the citation may be contested; and

116 (vii) A warning that failure to complete the transit lane safety course, pay the civil
117 monetary penalty, or contest the violation in a timely manner may result in the
118 assessment of late fees, in addition to the civil monetary penalty owed, and a
119 prohibition on vehicle registration renewal.

120 (D) Proof that a motor vehicle was parked, standing, stopped, or operated in a transit
121 vehicle lane in violation of subsection (b) of this section may be evidenced by recorded
122 images. A copy of a certificate sworn to or affirmed by a certified peace officer

123 employed by a law enforcement agency authorized to enforce this Act stating that,
124 based upon inspection of recorded images, a motor vehicle was parked, standing,
125 stopped, or operated in a transit vehicle lane and that such parking, standing, stopping,
126 or operation was not otherwise authorized by law shall be prima-facie evidence of the
127 facts contained therein.

128 (E) Liability under this paragraph shall be determined based upon a preponderance of
129 the evidence. Prima-facie evidence that the vehicle described in the citation was
130 parked, standing, stopped, or operated in a transit vehicle lane, together with proof that
131 the defendant was, at the time of such violation, the owner of the vehicle, shall permit
132 the trier of fact in its discretion to infer that such owner of the vehicle was the operator
133 of the vehicle at the time of the alleged violation. Such inference may be rebutted if the
134 owner of the vehicle:

135 (i) Testifies under oath in open court or submits to the court a sworn notarized
136 statement that he or she was not the operator of the vehicle at the time of the alleged
137 violation;

138 (ii) Presents evidence in court that demonstrates the vehicle in the recorded images
139 is not a vehicle he or she owns; or

140 (iii) Presents to the court a certified copy of a police report showing that the vehicle
141 had been reported to the police as stolen prior to the time of the alleged violation.

142 (F) Except in cases where an adjudication that no violation occurred has been issued
143 or there is an otherwise lawful determination that no civil monetary penalty shall be
144 imposed:

145 (i) When a person has failed to complete the transit lane safety course or pay the civil
146 monetary penalty for which citation and notice were sent pursuant to this paragraph
147 within 60 days of mailing of such citation and notice, or has failed to submit
148 documentation to the court pursuant to subparagraph (E) of this paragraph, the law
149 enforcement agency or agent thereof which sent the original citation shall send a

150 second notice. Such second notice shall include all information required of the
151 original citation and a new date of return which shall be not less than 30 days after
152 such mailing. If such person notified by second notice again fails to complete the
153 transit lane safety course, pay the civil monetary penalty, or submit documentation to
154 the court pursuant to subparagraph (E) of this paragraph by the new date of return,
155 such person shall be deemed to have waived the right to contest the violation and shall
156 be liable for the civil monetary penalty provided for under this paragraph;

157 (ii) When a citation issued pursuant to this paragraph has not been contested or the
158 transit lane safety course has not been completed or the civil monetary penalty has not
159 been paid within 30 days of mailing of the second notice provided for in division (i)
160 of this subparagraph, the agent or the city shall mail a final notice of any unpaid civil
161 monetary penalty to the owner. Such notice shall inform the owner that the agent or
162 the city shall send a referral to the Department of Revenue if the transit lane safety
163 course is not completed or the assessed penalty is not paid within 30 days after the
164 final notice was mailed and of the consequences for failure to pay such penalty and
165 any late fee;

166 (iii) The agent or the city shall send a referral to the Department of Revenue not
167 sooner than 30 days after the final notice required under division (ii) of this
168 subparagraph was mailed if the transit lane safety course has not been completed or
169 the assessed penalty has not been paid. The referral to the Department of Revenue
170 shall include the following:

171 (I) Any information known or available to the agent or city concerning the license
172 plate number, year of registration, and name of the owner of the motor vehicle;

173 (II) The date on which the violation occurred;

174 (III) The citation number issued for the violation; and

175 (IV) The date on which the notices required under this paragraph were mailed;

176 (iv) When the Department of Revenue receives a referral under this subparagraph,
177 such referral shall be entered into the motor vehicle data base within five days of
178 receipt and the Department of Revenue shall refuse to renew the registration of such
179 motor vehicle unless and until notice is received pursuant to division (v) of this
180 subparagraph; and

181 (v) An agent or the city shall notify the Department of Revenue within 15 days of
182 completion of any requirements or receipt of payment for which any referral to the
183 Department of Revenue had been based. No later than ten days after receipt from an
184 agent or the city of notice pursuant to this division, the Department of Revenue shall
185 remove the restriction on registration of the subject vehicle.

186 (G) Notices mailed by first-class mail shall be adequate notification of the
187 requirements, fees, and penalties imposed by this paragraph.

188 (H) Any court having jurisdiction over violations relating to traffic laws within the city
189 shall have jurisdiction over cases arising under this paragraph and shall be authorized
190 to impose the civil monetary penalty provided therefor. Except as otherwise provided
191 to the contrary, the provisions of law governing jurisdiction, procedure, defenses,
192 adjudication, appeal, and payment and distribution of penalties otherwise applicable to
193 traffic violations within the city shall apply to enforcement under this paragraph;
194 provided, however, that any appeal from a superior or state court shall be by application
195 in the same manner as that provided by Code Section 5-6-35 of the O.C.G.A.

196 (I) Moneys collected and remitted to the city pursuant to this Act shall be used by the
197 city to fund public safety initiatives or maintenance of transit vehicle lanes or both.
198 This subparagraph shall not preclude the appropriation of a greater amount than
199 collected and remitted under this Act by the city from other sources for such purposes.

200 (J) Any agreement entered into between an agent and the city or a law enforcement
201 agency for the administration of this paragraph shall be established upon a subscription
202 basis. No such agreement shall authorize any agent to collect or retain a percentage of

203 the civil monetary penalties assessed. Such agreement shall require the maintenance
204 of recorded images in a system compliant with security and privacy standards set forth
205 by the Georgia Crime Information Center Council for criminal justice information
206 systems. Such agreement shall further require that recorded images shall be used only
207 for purposes set forth in this Act and shall be destroyed no later than 72 hours after the
208 transit lane safety course is completed, the civil monetary penalty paid, or a final
209 determination in the case has been rendered. Recorded images produced by an
210 automated transit vehicle lane monitoring device shall not be a public record for
211 purposes of Article 4 of Chapter 18 of Title 50 of the O.C.G.A.

212 (K) The city or the authority shall erect signs warning of the use of an automated
213 transit vehicle lane monitoring device no closer than 200 feet and no farther than 500
214 feet prior to any signalized entrance to a transit vehicle lane. Such signs shall be at
215 least 24 by 30 inches in size and be placed in such a manner that such sign is plainly
216 visible from every lane of traffic and viewable in all traffic conditions. Such signs shall
217 indicate whether the automated transit lane monitoring device is fixed upon the
218 roadway or located upon transit vehicles utilizing the lane or lanes.

219 (L) Any district attorney, solicitor-general of state court, or prosecuting attorney of
220 municipal court whose jurisdiction includes the city shall be authorized to prosecute
221 civil actions to enforce any civil penalty set forth in this paragraph;

222 (3) The Uniform Division of the Georgia State Patrol, the Department of Public Safety,
223 and the Motor Carrier Compliance Division of the Department of Public Safety shall be
224 nonexclusively authorized to enforce the provisions of this Act.

225 (4) For a period of six months from the date of initiation of use of any transit vehicle
226 lane, any violation of subsection (b) of this section involving such lane shall be
227 punishable only by issuance of a warning to the violator or owner. After the expiration
228 of said six-month period all provisions of this Act regarding such violations shall be in
229 full force and effect; and

230 (5) No citation shall be issued for a violation of the provisions of Code Section 32-9-4
231 of the O.C.G.A. if a citation for the same violation has been issued under the provisions
232 of this Act, nor shall any citation be issued under the provisions of this Act if a citation
233 for the same violation has been issued pursuant to said Code section.

234 (d) The department, in consultation with the city, is authorized to promulgate appropriate
235 rules and regulations for the implementation of the provisions of this Act with regard to any
236 portion of a transit vehicle lane that is also a part of the state highway system. The city and
237 the authority in the utilization of such transit vehicle lanes shall at all times cooperate fully
238 with the department. The department shall be authorized, at any time, to inspect an
239 automated transit vehicle lane monitoring device used by the city or authority or agent
240 thereof on any such transit vehicle lane, and any records pertaining to revenues collected
241 from the use of such devices in such lanes.

242

SECTION 2.

243 All laws and parts of laws in conflict with this Act are repealed.