

The House Committee on Motor Vehicles offers the following substitute to HB 672:

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 14 of Title 40 of the Official Code of Georgia Annotated, relating to use
2 of speed detection and traffic-control signal monitoring devices, so as to provide for the use
3 of speed detection devices by law enforcement officers employed for the patrol of a public
4 elementary or secondary school; to provide for definitions; to provide for application for a
5 permit to operate speed detection devices; to provide for compliance and certification of
6 speed detection devices; to provide for testing and removal of inaccurate devices from
7 service; to provide for warning signs when speed detection devices are in use; to provide for
8 visibility from vehicles from which such devices are operated; to provide for inadmissibility
9 in certain instances; to provide for unlawful use of such devices; to allow for investigations
10 by the commissioner of public safety; to provide for suspension and revocation of a permit
11 to operate a device and administrative and judicial hearings upon such suspension or
12 revocation; to provide for reissuance of a permit under certain circumstances; to provide for
13 reporting restrictions; to amend Code Section 40-5-57 of the Official Code of Georgia
14 Annotated, relating to suspension or revocation of license of habitually negligent or
15 dangerous drivers and point system, so as to provide for the removal of points assessed upon
16 determination that a speed detection device was used in violation of Chapter 14 of Title 40;
17 to provide for related matters; to repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 Chapter 14 of Title 40 of the Official Code of Georgia Annotated, relating to use of speed
21 detection and traffic-control signal monitoring devices, is amended by revising Code
22 Section 40-14-1, relating to definitions, as follows:

23 "40-14-1.

24 As used in this chapter, the term:

25 (1) 'Campus' means the grounds owned or occupied by a college or university.

26 (2) 'Campus law enforcement agency' means the ~~campus~~ agency at a college or
 27 university charged with the enforcement of the laws of this state.

28 (3) 'College or university' means an accredited public or private educational institution
 29 of higher learning.

30 (4) 'Local board of education' means the superintendent or governing authority of a board
 31 of education of a county or an independent board of education of a municipality.

32 (5) 'School' means the grounds occupied by a public elementary or secondary school.

33 (6) 'School security personnel' means a law enforcement officer employed by a local
 34 board of education or a county or municipal law enforcement agency for patrol of a
 35 school who is certified by the Georgia Peace Officer Standards and Training Council as
 36 having met the qualifications and having completed the basic training requirements for
 37 a peace officer under Chapter 8 of Title 35.

38 ~~(4)~~(7) 'Speed detection device' means, unless otherwise indicated, that particular device
 39 designed to measure the speed or velocity of a motor vehicle and marketed under the
 40 name 'Vascar' or any similar device operating under the same or similar principle and any
 41 devices for the measurement of speed or velocity based upon the Doppler principle of
 42 radar or the speed timing principle of laser. All such devices must meet or exceed the
 43 minimum performance specifications established by the Department of Public Safety."

44 SECTION 2.

45 Said chapter is further amended by revising Code Section 40-14-2, relating to permit required
 46 for use of speed detection devices, unauthorized use, and operation by a registered or
 47 certified peace officer, as follows:

48 "40-14-2.

49 (a) The law enforcement officers of the various counties, municipalities, local boards of
 50 education, colleges, and universities may use speed detection devices only if the sheriffs
 51 of such counties, or the governing authorities of such counties, or the governing authorities
 52 of such municipalities, or such local boards of education, or the president of such college
 53 or university shall approve of and desire the use of such devices and shall apply to the
 54 Department of Public Safety for a permit to use such devices in accordance with this
 55 chapter.

56 (b) No county sheriff, county or municipal governing authority, local board of education,
 57 college, or university shall be authorized to use speed detection devices where any arresting
 58 officer or official of the court having jurisdiction of traffic cases is paid on a fee system.
 59 This subsection shall not apply to any official receiving a recording fee.

60 (c) A permit shall not be issued by the Department of Public Safety to an applicant under
 61 this Code section unless the applicant provides law enforcement services by certified peace

62 officers 24 hours a day, seven days a week on call or on duty or allows only peace officers
 63 employed full time by the applicant to operate speed detection devices. Speed detection
 64 devices can only be operated by registered or certified peace officers of the county sheriff,
 65 county, municipality, local board of education, college, or university to which the permit
 66 is applicable. Persons operating the speed detection devices must be registered or certified
 67 by the Georgia Peace Officer Standards and Training Council as peace officers and
 68 certified by the Georgia Peace Officer Standards and Training Council as operators of
 69 speed detection devices."

70 **SECTION 3.**

71 Said chapter is further amended in Code Section 40-14-3, relating to application for a permit
 72 for speed detection device operation and use of such device while application is pending, by
 73 revising subsection (a) as follows:

74 "(a) A county sheriff, county or municipal governing authority, local board of education,
 75 or ~~the~~ president of a college or university may apply to the Department of Public Safety for
 76 a permit to authorize the use of speed detection devices for purposes of traffic control
 77 within such counties, municipalities, schools of the local board of education, colleges, or
 78 universities on streets, roads, and highways, provided that such application shall name the
 79 street or road on which the device is to be used and the speed limits on such street or road
 80 shall have been approved by the Office of Traffic Operations of the Department of
 81 Transportation. An application by a local board of education for permitted use of speed
 82 detection devices shall be approved only for areas located within school speed zones as
 83 identified in an existing master state order or local ordinance and to be used in such zones
 84 at the reduced speed times designated by the master state order or local ordinance. Law
 85 enforcement agencies are authorized to use speed detection devices on streets and roads for
 86 which an application is pending as long as all other requirements for the use of speed
 87 detection devices are met. Nothing in this subsection shall be construed to affect the
 88 provisions of Code Section 40-14-9."

89 **SECTION 4.**

90 Said chapter is further amended by revising Code Section 40-14-4, relating to compliance
 91 with rules of the Federal Communications Commission and certification of devices, as
 92 follows:

93 "40-14-4.

94 A law enforcement officer operating a speed detection device shall be employed by a
 95 campus law enforcement agency, a local board of education, or a law enforcement agency
 96 of the state, a county, or a municipality which ~~No state, county, municipal, or campus law~~

97 enforcement agency may use speed detection devices unless the agency possesses a license
 98 in compliance with Federal Communications Commission rules, ~~and unless each device,~~
 99 ~~before being.~~ Before each device shall be placed in service and annually after being placed
 100 in service, is certified for compliance by a technician possessing a certification as required
 101 by the Department of Public Safety shall certify the device for compliance."

102 SECTION 5.

103 Said chapter is further amended by revising Code Section 40-14-5, relating to testing and
 104 removal of inaccurate radar devices from service, as follows:

105 "40-14-5.

106 (a) Each state, county, ~~municipal~~, or municipal law enforcement officer, all school security
 107 personnel, and each officer employed by a campus law enforcement officer agency using
 108 a radar speed detection device shall test the device for accuracy and record and maintain
 109 the results of the test at the beginning and end of each duty tour. Each such test shall be
 110 made in accordance with the manufacturer's recommended procedure. Any ~~radar unit~~
 111 speed detection device not meeting the manufacturer's minimum accuracy requirements
 112 shall be removed from service and thereafter shall not be used by the state, county,
 113 ~~municipal~~ municipality, local board of education, or campus law enforcement agency until
 114 it has been serviced, calibrated, and recertified by a technician with the qualifications
 115 specified in Code Section 40-14-4.

116 (b) Each county, ~~municipal~~, or municipal law enforcement officer, all school security
 117 personnel, and each officer employed by a campus law enforcement officer agency using
 118 a ~~radar device~~ speed detection device which uses radio wavelengths or radar to determine
 119 velocity shall notify each person against whom the officer intends to make a case based on
 120 the use of ~~the radar~~ such device that the person has a right to request the officer to test ~~the~~
 121 ~~radar~~ such device for accuracy. The notice shall be given prior to the time a citation and
 122 complaint or ticket is issued against the person and, if requested to make a test, the officer
 123 shall test the ~~radar device~~ speed detection device which uses radio wavelengths or radar to
 124 determine velocity for accuracy. In the event ~~the radar~~ such device does not meet the
 125 minimum accuracy requirements, the citation and complaint or ticket shall not be issued
 126 against the person, and ~~the radar~~ such device shall be removed from service and thereafter
 127 shall not be used by the county, ~~municipal~~, municipality, local board of education, or
 128 campus law enforcement agency until it has been serviced, calibrated, and recertified by
 129 a technician with the qualifications specified in Code Section 40-14-4."

130 **SECTION 6.**

131 Said chapter is further amended by revising Code Section 40-14-6, relating to warning signs
132 when speed detection devices are in use, as follows:

133 "40-14-6.

134 (a) Each county, municipality, local board of education, college, and university using
135 speed detection devices shall erect signs on every highway which comprises a part of the
136 state highway system at that point on the highway which intersects the corporate limits of
137 the municipality, the county boundary, or the boundary of the ~~college or university~~ school
138 or campus. Such signs shall be at least 24 by 30 inches in area and shall warn approaching
139 motorists that speed detection devices are being employed. No such devices shall be used
140 within 500 feet of any such warning sign erected pursuant to this subsection.

141 (b) In addition to the signs required under subsection (a) of this Code section, each county,
142 municipality, local board of education, college, and university using speed detection
143 devices shall erect speed limit warning signs on every highway which comprises a part of
144 the state highway system at that point on the highway which intersects the corporate limits
145 of the municipality, the county boundary, or the boundary of the ~~college or university~~
146 school or campus. Such signs shall be at least 24 by 30 inches in area, shall warn
147 approaching motorists of changes in the speed limit, shall be visible plainly from every lane
148 of traffic, shall be viewable in any traffic conditions, and shall not be placed in such a
149 manner that the view of such sign is subject to being obstructed by any other vehicle on
150 such highway. No such devices shall be used within 500 feet of any such warning sign
151 erected pursuant to this subsection."

152 **SECTION 7.**

153 Said chapter is further amended by revising Code Section 40-14-7, relating to visibility from
154 vehicle from which device is operated, as follows:

155 "40-14-7.

156 No stationary speed detection device shall be used by a law enforcement officer employed
157 by a county, municipal, college, or university law enforcement officers municipality, local
158 board of education, or campus law enforcement agency where the vehicle from which the
159 device is operated is obstructed from the view of approaching motorists or is otherwise not
160 visible for a distance of at least 500 feet."

161 **SECTION 8.**

162 Said chapter is further amended by revising Code Section 40-14-9, relating to evidence
163 obtained in certain areas inadmissible and use of device on a hill, as follows:

164 "40-14-9.
 165 Evidence obtained by county or municipal law enforcement officers in using speed
 166 detection devices within 300 feet of a reduction of a speed limit inside an incorporated
 167 municipality or within 600 feet of a reduction of a speed limit outside an incorporated
 168 municipality or consolidated city-county government shall be inadmissible in the
 169 prosecution of a violation of any municipal ordinance, county ordinance, or state law
 170 regulating speed; nor shall such evidence be admissible in the prosecution of a violation
 171 as aforesaid when such violation has occurred within 30 days following a reduction of the
 172 speed limit in the area where the violation took place, except that this 30 day limitation
 173 shall not apply to a speeding violation within a highway work zone, as defined in Code
 174 Section 40-6-188, or in an area with variable speed limits, as defined in Code Section
 175 40-6-182. No speed detection device shall be used by a law enforcement officer employed
 176 by a county, municipal, or campus law enforcement officers municipality, local board of
 177 education, or campus law enforcement agency on any portion of any highway which has
 178 a grade in excess of 7 percent."

179 **SECTION 9.**

180 Said chapter is further amended by revising Code Section 40-14-10, relating to unlawful use
 181 of devices generally, as follows:

182 "40-14-10.

183 It shall be unlawful for speed detection devices to be used in any county or municipality
 184 or at any school or on any campus for which a permit authorizing such use has not been
 185 issued or for which a permit authorizing such use has been suspended or revoked and not
 186 reissued. It shall be unlawful for any official of such county, municipality, local board of
 187 education, college, or university to order such speed detection devices to be used. It shall
 188 be unlawful for any law enforcement officer of any such county, municipality, local board
 189 of education, college, or university to use any such speed detection devices. Any such
 190 official or law enforcement officer violating this Code section shall be guilty of a
 191 misdemeanor."

192 **SECTION 10.**

193 Said chapter is further amended in Code Section 40-14-11, relating to investigations by
 194 commissioner of public safety, issuance of order suspending or revoking permit, and ratio
 195 of speeding fines to agency's budget, by revising subsection (a) as follows:

196 "(a) Upon a complaint being made to the commissioner of public safety that any county,
 197 municipality, local board of education, college, or university is employing speed detection
 198 devices for purposes other than the promotion of the public health, welfare, and safety or

199 in a manner which violates this chapter or violates its speed detection device permit, the
 200 commissioner or the commissioner's designee is authorized and empowered to conduct an
 201 investigation into the acts and practices of such county, municipality, local board of
 202 education, college, or university with respect to speed detection devices. If, as a result of
 203 this investigation, the commissioner or the commissioner's designee finds that there is
 204 probable cause to suspend or revoke the speed detection device permit of such county,
 205 municipality, local board of education, college, or university, he or she shall issue an order
 206 to that effect."

207 **SECTION 11.**

208 Said chapter is further amended by revising Code Section 40-14-12, relating to
 209 administrative hearing upon permit suspension or revocation, as follows:

210 "40-14-12.

211 Upon issuance by the commissioner of public safety of an order suspending or revoking
 212 the speed detection device permit of any county, municipality, local board of education,
 213 college, or university, the county, municipality, local board of education, college, or
 214 university affected shall be afforded a hearing, to be held within ten days of the effective
 215 date of the order. The hearing shall be held before the commissioner or deputy
 216 commissioner of public safety, and, following the hearing, the county, municipality, local
 217 board of education, college, or university affected shall be served with a written decision
 218 announcing whether the permit shall remain revoked or whether it shall be reinstated."

219 **SECTION 12.**

220 Said chapter is further amended by revising Code Section 40-14-13, relating to
 221 administrative and judicial appeal of decision suspending or revoking permit, as follows:

222 "40-14-13.

223 Any county, municipality, local board of education, college, or university aggrieved by a
 224 decision of the commissioner or deputy commissioner of public safety suspending or
 225 revoking its speed detection device permit may appeal that decision within 30 days of its
 226 effective date to the Board of Public Safety, which shall schedule a hearing with respect
 227 thereto before the board. Following a hearing before the board, the county, municipality,
 228 local board of education, college, or university affected shall be served with a written
 229 decision announcing whether the permit shall remain revoked or whether it shall be
 230 reinstated. An adverse decision of the board may be appealed by the county, municipality,
 231 local board of education, college, or university to the superior court with appropriate
 232 jurisdiction, but the municipality, county, local board of education, college, or university

233 shall be denied the use of the speed detection device until after such appeal is decided by
 234 the court."

235 **SECTION 13.**

236 Said chapter is further amended by revising Code Section 40-14-14, relating to petition for
 237 reconsideration following permit suspension or revocation, as follows:

238 "40-14-14.

239 At the expiration of six months following the suspension or revocation of a speed detection
 240 device permit by the Board of Public Safety or, if no appeal was taken, by the
 241 commissioner or deputy commissioner of public safety, the governing authority of any such
 242 county or municipality, or a local board of education, or the president of any such college
 243 or university may, upon a change of circumstances being shown to the commissioner,
 244 petition the commissioner for a reconsideration of whether such county, municipality, local
 245 board of education, college, or university should be permitted to use speed detection
 246 devices within their respective jurisdictions."

247 **SECTION 14.**

248 Said chapter is further amended by revising Code Section 40-14-15, relating to rehearing or
 249 restoration of permit at direction of the Governor, as follows:

250 "40-14-15.

251 The Governor, in his or her discretion, may direct the commissioner of public safety, or his
 252 or her delegate, to inquire into such change of circumstances and report the same to him
 253 or her together with any recommendations he or she might have. The Governor, in his or
 254 her discretion, may order a new hearing on the matter before the Board of Public Safety or
 255 may, without hearing, issue his or her order directing the commissioner to grant a permit
 256 to such a county, municipality, local board of education, college, or university to use speed
 257 detection devices. If a county, municipality, local board of education, college, or university
 258 shall not be granted a permit to use such devices, it shall not apply for a rehearing until the
 259 expiration of six months."

260 **SECTION 15.**

261 Said chapter is further amended by revising Code Section 40-14-16, relating to restrictions
 262 on suspension or revocation of drivers' licenses and reports to the Department of Driver
 263 Services to specify speed, as follows:

264 "40-14-16.

265 No speeding violation of less than ten miles per hour above the legal speed limit in the
 266 county or municipality, at a school, or on a ~~college or university~~ campus in which a person

267 is given a speeding ticket shall be used by the Department of Driver Services for the
 268 purpose of suspending or revoking the driver's license of the violator. No speeding
 269 violation report by a county, municipality, ~~or college or university campus~~ local board of
 270 education, or campus law enforcement agency to the Department of Driver Services which
 271 fails to specify the speed of the violator shall be used by the Department of Driver Services
 272 to revoke the driver's license of a violator."

273 **SECTION 16.**

274 Code Section 40-5-57 of the Official Code of Georgia Annotated, relating to suspension or
 275 revocation of license of habitually negligent or dangerous drivers and point system, is
 276 amended by revising paragraph (2) of subsection (c) as follows:

277 "(2) Any points assessed against an individual for exceeding the speed limit shall be
 278 deducted from that individual's accumulated violation point count and the uniform traffic
 279 citation issued therefor shall be removed from the individual's record if:

280 (A) The points were assessed based on the use of a ~~radar~~ speed detection device by a
 281 county, ~~or municipality,~~ local board of education, or campus law enforcement agency
 282 during a period of time when the commissioner has determined that such county, ~~or~~
 283 municipality, local board of education, or campus law enforcement agency was
 284 operating a ~~radar~~ speed detection device in violation of Chapter 14 of this title, relating
 285 to the use of ~~radar~~ speed detection devices; and

286 (B) The commissioner has suspended or revoked the ~~radar~~ speed detection device
 287 permit of such county, ~~or municipality,~~ local board of education, or campus law
 288 enforcement agency pursuant to Code Section 40-14-11."

289 **SECTION 17.**

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