

House Bill 935

By: Representatives Vance of the 133rd, Hitchens of the 161st, Cameron of the 1st, Scoggins of the 14th, Chastain of the 7th, and others

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 devices and red light cameras, so as to provide for standards for a
3 conviction through the use of speed devices; to provide for times when a school zone speed
4 limit may be enforced through the use of an automated traffic enforcement safety device; to
5 authorize a local governing body to apply for a permit to operate such devices; to provide for
6 admissible evidence for refuting a violation of speed limit through the use of speed detection
7 devices; to provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 14 of Title 40 of the Official Code of Georgia Annotated, relating to use of speed
11 detection devices and red light cameras, is amended by revising Code Section 40-14-8,
12 relating to when case may be made and conviction had, as follows:

13 "40-14-8.

14 (a) No county, city, or campus officer shall be allowed to make a case based on the use of
15 any speed detection device, unless the speed of the vehicle exceeds the posted speed limit

H. B. 935

16 by more than ten miles per hour and no conviction shall be had thereon unless such speed
 17 is more than ten miles per hour above the posted speed limit.

18 (b) The limitations contained in subsection (a) of this Code section shall not apply in
 19 ~~properly marked school zones one hour before, during, and one hour after the normal hours~~
 20 ~~of school operation or programs for care and supervision of students before school, after~~
 21 ~~school, or during vacation periods as provided for under Code Section 20-2-65, in properly:~~

22 (1) School zones properly marked with warning signs while the reduction of the speed
 23 limit for the school zone is in effect, when the speed detection device is operated by an
 24 on-site law enforcement officer;

25 (2) Properly marked historic districts; and

26 (3) Properly in properly marked residential zones.

27 (c) For purposes of this ~~chapter~~ Code section, thoroughfares with speed limits of 35 miles
 28 per hour or more shall not be considered residential ~~districts~~ zones. For purposes of this
 29 Code section, the term 'historic district' means a historic district as defined in ~~paragraph (5)~~
 30 ~~of~~ Code Section 44-10-22 and which is listed on the Georgia Register of Historic Places
 31 or as defined by ordinance adopted pursuant to a local constitutional amendment."

32 SECTION 2.

33 Said chapter is further amended in Code Section 40-14-18, relating to enforcement of speed
 34 limit in school zones with recorded images, civil monetary penalty, and consequences for
 35 failure to pay penalty, by revising subsection (a) and paragraph (4) of subsection (b) as
 36 follows:

37 "(a)(1) The speed limit within any school zone ~~as provided for in Code Section 40-14-8~~
 38 ~~and~~ marked pursuant to Code Section 40-14-6 may be enforced by using photographically
 39 recorded images for violations which ~~occurred~~ occur only 60 minutes prior to and 30
 40 minutes after the school's official starting time and 30 minutes prior to and 60 minutes
 41 after the school's official dismissal time and when such violations are in excess of ten

42 miles per hour over the speed limit; provided, however, that, when any portion of a
43 school's property is bisected by a highway, such enforcement may occur on a school day
44 during the time in which instructional classes are taking place and one hour before such
45 classes are scheduled to begin and for one hour after such classes have concluded when
46 such violations are in excess of ten miles per hour over the speed limit.

47 (2) Prior to the placement of a device within a school zone, ~~each school within whose~~
48 ~~school zone such~~ the governing body of the county or municipality law enforcement
49 agency authorized to enforce the speed limit where an automated traffic enforcement
50 safety device is to be placed shall first apply for and secure a permit from the Department
51 of Transportation for the use of such automated traffic enforcement safety device. Such
52 permit shall be awarded based upon need. The Department of Transportation shall
53 promulgate rules and regulations for the implementation of this paragraph."

54 "(4) Liability under this Code section shall be determined based upon a preponderance
55 of the evidence. Prima-facie evidence that the vehicle described in the citation issued
56 pursuant to this Code section was operated in violation of the speed limit of the school
57 zone, together with proof that the defendant was, at the time of such violation, the
58 registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that
59 such owner of the vehicle was the driver of the vehicle at the time of the alleged
60 violation. Such an inference may be rebutted if the owner of the vehicle:

61 (A) Testifies under oath in open court, or submits to the court a sworn notarized
62 statement, that he or she was not the operator of the vehicle at the time of the alleged
63 violation; or

64 (B) Presents to the court a certified copy of a police report showing that the vehicle had
65 been reported to the police as stolen prior to the time of the alleged violation."

66 **SECTION 3.**

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