

Senate Bill 234

By: Senators Halpern of the 39th, Mallow of the 2nd, Butler of the 55th, Jones of the 10th,  
Rahman of the 5th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to  
2 equipment and inspection of motor vehicles, so as to provide for the enforcement of laws  
3 regarding the operation of a motor vehicle with equipment which produces excessive noise  
4 levels using recorded images to be penalized by a civil monetary penalty; to provide for  
5 definitions; to provide for procedures, conditions, and limitations for the enforcement of laws  
6 regarding such offenses using recorded images; to authorize refusal to renew a registration  
7 for nonpayment; to provide for conforming changes; to provide for disclosure of certain  
8 records of the Department of Revenue for purposes of issuance of civil monetary penalties  
9 relating to the operation of a motor vehicle with equipment which produces excessive noise  
10 levels; to provide for standards for maintenance of recorded images; to amend Title 15 of the  
11 Official Code of Georgia Annotated, relating to courts, so as to authorize district attorneys,  
12 solicitors-general, and prosecuting attorneys to enforce civil monetary penalties relative to  
13 the enforcement of laws regarding the operation of a motor vehicle with equipment which  
14 produces excessive noise levels; to provide for related matters; to repeal conflicting laws; and  
15 for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 234

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17

**SECTION 1.**

18 Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to equipment and  
19 inspection of motor vehicles, is amended by revising Code Section 40-8-7, relating to driving  
20 unsafe or improperly equipped vehicle, punishment for violations of chapter generally, and  
21 vehicle inspection by law enforcement officer without warrant, as follows:

22 "40-8-7.

23 (a) No person shall drive or move on any highway any motor vehicle, trailer, semitrailer,  
24 or pole trailer, or any combination thereof, unless the equipment upon any and every such  
25 vehicle is in good working order and adjustment as required in this chapter and the vehicle  
26 is in such safe mechanical condition as not to endanger the driver or other occupant or any  
27 person upon the highway.

28 (b) Except as otherwise provided in subsection (d) of Code Section 40-8-71, it shall be ~~It~~  
29 ~~is~~ a misdemeanor for any person to drive or move, or for the owner to cause or knowingly  
30 permit to be driven or moved, on any ~~street~~ or highway any vehicle or combination of  
31 vehicles:

32 (1) Which is in such unsafe condition as to endanger any person;

33 (2) Which does not contain those parts or is not at all times equipped with such lights and  
34 other equipment in proper condition and adjustment as required in this chapter; or

35 (3) Which is equipped in any manner in violation of this chapter.

36 (c) Except as otherwise provided in subsection (d) of Code Section 40-8-71, it shall be ~~It~~  
37 ~~is also~~ a misdemeanor for any person to do any act forbidden or fail to perform any act  
38 required under this chapter.

39 (d) Any vehicle suspected of being operated in violation of this article may be the subject  
40 of an inspection conducted by any law enforcement officer who has reason to believe such  
41 violation is occurring, without the necessity of obtaining a warrant to permit such  
42 inspection."

43

**SECTION 2.**

44 Said chapter is further amended by revising Code Section 40-8-71, relating to exhaust system  
45 and prevention of noise, smoke, and fumes, as follows:

46 "40-8-71.

47 (a) Every motor vehicle shall at all times be equipped with an exhaust system, in good  
48 working order and in constant operation, meeting the following specifications:

49 (1) The exhaust system shall include the piping leading from the flange of the exhaust  
50 manifold to and including the muffler or mufflers and tail pipes;

51 (2) The use of flexible pipe shall be prohibited except on diesel tractors or according to  
52 manufacturers' original specifications;

53 (3) The exhaust emission point shall extend beyond the rear or outside of the passenger  
54 compartment. The trunk shall be considered as part of the passenger compartment;

55 (4) The exhaust system and its elements shall be securely fastened, including the  
56 consideration of missing or broken hangers; and

57 (5) There shall be no part of the exhaust system passing through the passenger  
58 compartment or any exposed stack so located that any individual entering or leaving the  
59 vehicle may be burned.

60 (b) The engine and power mechanism of every motor vehicle shall be so equipped and  
61 adjusted as to prevent the escape of excessive fumes or smoke.

62 (c) It shall be unlawful for any person to sell or offer for sale any muffler which ~~causes~~  
63 ~~excessive or unusual noise or annoying smoke~~ produces a noise level over 60 decibels for  
64 a passenger car or over 95 decibels for a motorcycle or any muffler cutout, bypass, or  
65 similar device for use on a motor vehicle ~~or for any person to use, to sell, or to which~~  
66 produces such noise levels. No person shall use, sell, or offer for sale any motor vehicle  
67 equipped with any such muffler, muffler cutout, bypass, or similar device. Any person  
68 violating this ~~subsection~~ Code section as observed in person by a police officer shall be  
69 guilty of a misdemeanor.

70 (d) The provisions of this Code section may be enforced as provided for in subsection (e)  
71 of this Code section; provided, however, that such violation shall not be a misdemeanor,  
72 and the penalty shall instead be a civil monetary penalty.

73 (e)(1) As used in this subsection, the term:

74 (A) 'Agent' means a person or entity that is authorized through a contract with a law  
75 enforcement agency or governing body thereof to administer the procedures contained  
76 herein and:

77 (i) Provides services to such law enforcement agency or governing body thereof;

78 (ii) Operates, maintains, leases, or licenses an automated noise level detection  
79 system; or

80 (iii) Is authorized by such law enforcement agency or governing body thereof to  
81 review and assemble the recorded images.

82 (B) 'Automated noise level detection system' means a system of microphones and  
83 cameras capable of detecting sound levels emitted from a passing motor vehicle and  
84 producing recorded images of such vehicle.

85 (C) 'Owner' means the registrant of a motor vehicle, except that such term shall not  
86 include a motor vehicle rental company when a motor vehicle registered by such  
87 company is being operated by another person under a rental agreement with such  
88 company.

89 (D) 'Recorded images' means images of a motor vehicle license plate produced by an  
90 automated noise level detection system upon detection of noise levels emitted from  
91 such vehicle which are in excess of the level permitted pursuant to subsection (c) of this  
92 Code section and include the date and time the images were made.

93 (2) Any person who knowingly operates a motor vehicle on any highway of this state  
94 with equipment which produces a noise level in excess of the levels set forth in  
95 subsection (c) of this Code section shall be liable for a civil monetary penalty as set forth  
96 in this subsection when such violation is evidenced by recorded images.

- 97 (3) For the purpose of enforcement pursuant to this subsection:
- 98 (A) The owner of a motor vehicle shall be liable for a civil monetary penalty of  
99 \$100.00 if such vehicle is found, as evidenced by recorded images, to have been  
100 operated with equipment which produced a noise level in excess of the levels set forth  
101 in subsection (c) of this Code section.
- 102 (B) The law enforcement agency authorized to enforce the provisions of this Code  
103 section or agent thereof shall send by first-class mail addressed to the owner of the  
104 motor vehicle not later than ten days after obtaining the name and address of such  
105 owner from the Department of Revenue:
- 106 (i) A citation for the alleged violation, which shall include the type of violation  
107 alleged, the date and time of the alleged violation, the location of the alleged  
108 violation, the amount of the civil monetary penalty imposed, and the date by which  
109 the civil monetary penalty shall be paid;
- 110 (ii) An image taken from the recorded image showing the vehicle involved in the  
111 alleged violation;
- 112 (iii) A copy of a certificate sworn to or affirmed by a certified peace officer employed  
113 by a law enforcement agency authorized to enforce this Code section and stating that,  
114 based upon inspection of recorded images, the owner's motor vehicle was operated  
115 in disregard or disobedience of this Code section and that such disregard or  
116 disobedience was not otherwise authorized by law;
- 117 (iv) A statement of the inference provided for in subparagraph (D) of this paragraph  
118 and of the means specified therein by which such inference may be rebutted;
- 119 (v) Information advising the owner of the motor vehicle of the manner and time in  
120 which liability as alleged in the citation may be contested; and
- 121 (vi) A warning that failure to pay the civil monetary penalty or to contest the  
122 violation in a timely manner may result in the assessment of late fees in addition to  
123 the civil monetary penalty owed.

124 (C) Proof that a motor vehicle was operated with equipment which produced a noise  
125 level in excess of the levels set forth in subsection (c) of this Code section may be  
126 evidenced by recorded images. A copy of a certificate sworn to or affirmed by a  
127 certified peace officer employed by a law enforcement agency and stating that, based  
128 upon inspection of recorded images, a motor vehicle was operated with equipment  
129 which produced a noise level in excess of the levels set forth in subsection (c) of this  
130 Code section and that such operation was not otherwise authorized by law shall be  
131 prima-facie evidence of the facts contained therein; and

132 (D) Liability under this subsection shall be determined based upon preponderance of  
133 the evidence. Prima-facie evidence that the vehicle described in the citation issued  
134 pursuant to this subsection was operated with equipment which produced a noise level  
135 in excess of the levels set forth in subsection (c) of this Code section, together with  
136 proof that the defendant was at the time of such violation the registered owner of the  
137 vehicle, shall permit the trier of fact in its discretion to infer that such owner of the  
138 vehicle was the operator of the vehicle at the time of the alleged violation. Such an  
139 inference may be rebutted if the owner of the vehicle:

140 (i) Testifies under oath in open court or submits to the court a sworn notarized  
141 statement that he or she was not the operator of the vehicle at the time of the alleged  
142 violation and identifies the name of the operator of the vehicle at the time of the  
143 alleged violation; or

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

146 (4) A violation for which a civil monetary penalty is imposed pursuant to this subsection  
147 shall not be considered a moving traffic violation for the purpose of points assessment  
148 under Code Section 40-5-57. Such violation shall be deemed noncriminal, and  
149 imposition of a civil monetary penalty pursuant to this subsection shall not be deemed a  
150 conviction and shall not be made a part of the operating record of the person upon whom

151 such penalty is imposed, nor shall it be used for any purposes in the provision of motor  
152 vehicle insurance coverage.

153 (5) A law enforcement agency or agent thereof which sent notice of a citation pursuant  
154 to this subsection shall send a second notice of the unpaid civil monetary penalty to any  
155 person who fails to pay the civil monetary penalty for the violation or has not filed a  
156 police report or notarized statement pursuant to subparagraph (D) of paragraph (3) of this  
157 subsection within 60 days of such mailing; provided, however, that such second notice  
158 shall not be sent in cases in which an adjudication that no violation occurred has been  
159 issued or there is an otherwise lawful determination that no civil monetary penalty shall  
160 be imposed. Such second notice shall include all information required of the original  
161 citation in subparagraph (B) of paragraph (3) of this subsection and a new date of return  
162 which shall be no less than 30 days after such mailing. If such person notified by second  
163 notice again fails to pay the civil monetary penalty or file a police report or sworn  
164 notarized statement pursuant to subparagraph (D) of paragraph (3) of this subsection by  
165 the new date of return, such person shall have waived the right to contest the violation  
166 and shall be liable for the civil monetary penalty provided for under this subsection,  
167 except in cases in which an adjudication that no violation occurred has been issued or  
168 there is an otherwise a lawful determination that no civil monetary penalty shall be  
169 imposed.

170 (6) Notices mailed by first-class mail shall be adequate notification of the fees and  
171 penalties imposed by this subsection.

172 (7) Any court having jurisdiction over violations relating to operation of a vehicle with  
173 equipment which produces a noise level in excess of the levels set forth in subsection (c)  
174 of this Code section shall have jurisdiction over cases arising under this subsection and  
175 shall be authorized to impose the civil monetary penalty provided by this subsection. The  
176 provisions of law governing jurisdiction, procedure, defenses, adjudication, appeal, and  
177 payment and distribution of penalties otherwise applicable to traffic violations within the

178 jurisdiction in which such automated noise level detection system is located shall apply  
179 to enforcement under this article, except as otherwise provided to the contrary; provided,  
180 however, that any appeal from a superior or state court shall be by application in the same  
181 manner as that provided by Code Section 5-6-35.

182 (8) When a citation issued pursuant to this subsection has not been contested and the  
183 civil monetary penalty has not been paid, the agent or law enforcement agency shall send  
184 to the registered owner of the motor vehicle a final notice of any unpaid civil monetary  
185 penalty authorized by this subsection, except in cases in which an adjudication that no  
186 violation occurred has been issued or there is otherwise a lawful determination that no  
187 civil monetary penalty shall be imposed. Such notice shall inform the owner that the  
188 agent or law enforcement agency shall send a referral to the Department of Revenue if  
189 the assessed penalty is not paid within 30 days after the final notice was mailed and of  
190 the consequences for failure to pay such penalty and any late fee.

191 (9) The agent or law enforcement agency shall send a referral to the Department of  
192 Revenue not sooner than 30 days after the final notice required under paragraph (8) of  
193 this subsection was mailed if a citation issued pursuant to this subsection has not been  
194 contested and the assessed penalty has not been paid, except in cases where there is an  
195 adjudication that no violation occurred or there is otherwise a lawful determination that  
196 no civil monetary penalty shall be imposed. The referral to the Department of Revenue  
197 shall include the following:

198 (A) Any information known or available to the agent or law enforcement agency  
199 concerning the license plate number, year of registration, and name of the owner of the  
200 motor vehicle;

201 (B) The date on which the violation occurred;

202 (C) The citation number issued for the violation; and

203 (D) The date on which the notices required under this subsection were mailed.



204 (10) When the Department of Revenue receives a referral under this subsection, such  
205 referral shall be entered into the motor vehicle database within five days of receipt and  
206 the Department of Revenue shall refuse to renew the registration of such motor vehicle  
207 in the name of the current owner unless and until the civil monetary penalty plus any late  
208 fee is paid. The Department of Revenue shall mail a notice to the registered owner of  
209 such motor vehicle that informs such owner:

210 (A) That the registration of the vehicle involved in the violation will not be permitted  
211 to be renewed;

212 (B) That the aforementioned restriction is imposed due to the failure to pay the civil  
213 monetary penalty and any late fee owed under authority of this subsection; and

214 (C) Of the procedure the owner may follow to remove the penalty.

215 (11) An agent or law enforcement agency shall notify the Department of Revenue within  
216 15 days of payment made on any referral to such department. No later than ten days after  
217 receipt from an agent or law enforcement agency that the amount owed has been paid, the  
218 Department of Revenue shall remove the restriction on a vehicle registration.

219 (12) Recorded images made for purposes of this subsection shall not be a public record  
220 for purposes of Article 4 of Chapter 18 of Title 50.

221 (13) A civil monetary penalty under this subsection shall not be imposed on the owner  
222 of a motor vehicle if the operator of the vehicle was arrested or issued a citation and  
223 notice to appear by a certified peace officer for the same violation.

224 (14) Any agreement entered into between an agent and governing authority or law  
225 enforcement agency for the administration of this article shall provide that recorded  
226 images be maintained in a system compliant with security and privacy standards set forth  
227 by the Georgia Crime Information Center Council for criminal justice information  
228 systems.

229 (15) The money collected and remitted to the governing body or law enforcement agency  
230 pursuant to this subsection shall only be used by such governing body or law enforcement

231 agency to fund local law enforcement or public safety initiatives. This subsection shall  
232 not preclude the appropriation of a greater amount than collected and remitted under this  
233 subsection for such purposes."

234

**SECTION 3.**

235 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended in Code  
236 Section 15-9-155, relating to prosecuting attorney's duties and authority in probate courts in  
237 counties in which there are no state courts, by revising subparagraph (a)(1)(A) as follows:

238 "(A) In the prosecution of any violation of the laws or ordinances of such county which  
239 is within the jurisdiction of such probate court and punishable by confinement or a fine  
240 or both or by a civil penalty authorized by Code Section 40-6-163 or 40-8-71;"

241

**SECTION 4.**

242 Said title is further amended in Code Section 15-18-6, relating to duties of district attorney,  
243 by revising paragraph (5) as follows:

244 "(5) To prosecute civil actions to enforce any civil penalty set forth in Code Section  
245 40-6-163 or 40-8-71 and to prosecute or defend any other civil action in the prosecution  
246 or defense of which the state is interested, unless otherwise specially provided for;"

247

**SECTION 5.**

248 Said title is further amended in Code Section 15-18-66, relating to duties and authority of  
249 solicitors-general of state courts, by revising paragraph (4) of subsection (b) as follows:

250 "(4) To prosecute civil actions to enforce any civil penalty set forth in Code Section  
251 40-6-163 or 40-8-71 and when authorized by law to prosecute or defend any civil action  
252 in the state court in the prosecution or defense of which the state is interested, unless  
253 otherwise specially provided for;"

254

**SECTION 6.**

255 Said title is further amended in Code Section 15-18-96, relating to authority of prosecuting  
256 attorney of municipal courts, by revising subparagraph (a)(1)(A) as follows:

257       “(A) In the prosecution of any violation of the laws or ordinances of such municipality  
258       which is within the jurisdiction of such municipal court and punishable by confinement  
259       or a fine or both or by a civil penalty authorized by Code Section 40-6-163 or 40-8-71;  
260       and”

261

**SECTION 7.**

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