



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3994/1
EVM:amn&wlj

2017 ASSEMBLY BILL 859

January 19, 2018 - Introduced by Representatives CROWLEY, ZAMARRIPA, FIELDS, KESSLER, CONSIDINE, NOVAK, TUSLER, SINICKI, RODRIGUEZ, KITCHENS, TRANEL and GOYKE, cosponsored by Senators JOHNSON and CARPENTER. Referred to Committee on Criminal Justice and Public Safety.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to amend* 346.01 (2); and *to create* 346.575, 346.60 (6) and 349.107 of
2 the statutes; **relating to:** the use of automated speed enforcement systems and
3 traffic control photographic systems in the city of Milwaukee and providing a
4 penalty.

Analysis by the Legislative Reference Bureau

This bill allows law enforcement agencies in the city of Milwaukee to use an automated speed enforcement system (ASES) to identify speed limit violations and allows the common council of the City of Milwaukee to enact an ordinance that permits the use of a traffic control photographic system (TCPS) on highways under the jurisdiction of the city to identify traffic signal violations.

Under current law, law enforcement officers may not use any radar device combined with photographic identification of a vehicle to determine compliance with motor vehicle speed limits. Under this bill, local law enforcement agencies in the city of Milwaukee may use an ASES to determine compliance with speed limits. With exceptions, the vehicle owner is subject to a forfeiture for a speed limit violation detected by an ASES. However, no traffic citation may be issued for a speed limit violation for which the ASES indicated a speed of less than 20 miles per hour above the speed limit alleged to be violated. The owner is subject to the same forfeiture that would be applicable to the vehicle operator for the violation. The bill also imposes a number of administrative requirements on a law enforcement agency that uses an ASES to determine compliance with speed limits. The authorization of the use of

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ASES to determine compliance with speed limits expires five years after this bill takes effect.

This bill also authorizes the common council of the City of Milwaukee to enact an ordinance that permits the use of a TCPS on highways under the jurisdiction of the city to detect motor vehicles that fail to properly stop at red traffic signals at intersections. A TCPS is an electronic system that automatically produces photographs of motor vehicles traveling through an intersection. With exceptions, the vehicle owner may be subject to a forfeiture for a traffic signal violation detected by a TCPS of not more than the amount provided for a traffic signal violation under current law, currently between \$40 to \$100. The authorization of the use of a TCPS to detect traffic signal violations expires five years after this bill takes effect.

Forfeitures collected under either of these authorizations must be appropriated to the agency providing police service in the political subdivision that collected the forfeiture.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 346.01 (2) of the statutes is amended to read:

2 346.01 (2) In this chapter, notwithstanding s. 340.01 (42), “owner” means, with
3 respect to a vehicle that is registered, or is required to be registered, by a lessee of
4 the vehicle under ch. 341, the lessee of the vehicle for purposes of vehicle owner
5 liability under ss. 346.175, 346.195, 346.205, 346.452, 346.457, 346.465, 346.485,
6 346.505 (3), 346.575, 346.675, and 346.945.

7 **SECTION 2.** 346.575 of the statutes is created to read:

8 **346.575 Owner’s liability for speed restriction violations detected by**
9 **an automated speed enforcement system. (1)** In this section, “automated speed
10 enforcement system” or “system” means an electronic device that uses automated
11 equipment to detect a vehicle’s speed and that is designed to obtain a clear visual
12 image of a vehicle’s license plate.

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1 **(2)** Notwithstanding s. 349.02 (3) (b) and subject to sub. (6), a local law
2 enforcement agency with jurisdiction over traffic violations may use an automated
3 speed enforcement system to determine compliance with a speed restriction
4 established under s. 346.57 or 349.11 on highways under its jurisdiction. Subject to
5 sub. (5) (b), the owner of a vehicle involved in a violation of s. 346.57, or a local
6 ordinance in conformity with s. 346.57, that is determined by a system shall be liable
7 for the violation as provided in this section.

8 **(3)** If a traffic officer prepares a uniform traffic citation under s. 345.11 for a
9 violation of this section, the officer shall serve the owner of the vehicle with the
10 citation by mailing the citation by certified mail addressed to the owner's last-known
11 address within 5 business days after the violation. A traffic officer shall send with
12 the citation a duplicate of a visual image, taken by the automated speed enforcement
13 system, of the rear license plate of the vehicle involved in the violation, the system
14 location, and the date and time when the violation occurred. No traffic citation may
15 be issued for a violation under this section for which the system indicated a speed of
16 less than 20 miles per hour above the speed restriction established under s. 346.57
17 or 349.11.

18 **(4)** Any forfeiture collected under this section shall be appropriated to the
19 agency providing police services in the collecting city, village, town, or county for
20 public safety purposes.

21 **(5)** (a) Except as provided in par. (b), it is not a defense to a violation of this
22 section that the owner was not operating the vehicle at the time of the violation.

23 (b) All of the following are defenses to a violation of this section:

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1 1. That a report that the vehicle was stolen was made by the owner to a law
2 enforcement agency before the violation occurred or within a reasonable time after
3 the violation occurred.

4 2. That the owner of the vehicle provided a traffic officer with the name and
5 address of the person operating the vehicle at the time of the violation and the person
6 so named admits operating the vehicle at the time of the violation. In that case, the
7 person operating the vehicle may be charged with a violation of s. 346.57 or a local
8 ordinance in conformity with s. 346.57.

9 3. That the vehicle is owned by a lessor of vehicles and is registered in the name
10 of the lessor, that at the time of the violation the vehicle was in the possession of a
11 lessee, and that the lessor provided a traffic officer with the information required
12 under s. 343.46 (3). In that case, the lessee may be charged with a violation of s.
13 346.57 or a local ordinance in conformity with s. 346.57.

14 4. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but
15 including the persons specified in s. 340.01 (11) (a) to (d), that at the time of the
16 violation the vehicle was being operated by a person on a trial run, and that the
17 dealer provided a traffic officer with the name, address, and operator's license
18 number of the person operating the vehicle. In that case, the person operating the
19 vehicle may be charged with a violation of s. 346.57 or a local ordinance in conformity
20 with s. 346.57.

21 **(6)** (a) If a local law enforcement agency uses an automated speed enforcement
22 system, the local law enforcement agency shall do all of the following:

23 1. Clearly identify the presence of a system by signs stating "Photo Enforced,"
24 along with the posted speed limit. The signs shall be visible to traffic traveling on the
25 highway from the direction of travel for which the system is used, and shall be posted

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1 at all locations the department determines are necessary to provide adequate notice
2 of the presence of a system.

3 2. Identify the streets or portions of streets for which the use of a system has
4 been approved and the hours of enforcement on the local law enforcement agency's
5 website. The information under this paragraph shall be updated whenever the local
6 law enforcement agency changes locations that are enforced with a system or hours
7 of enforcement.

8 3. a. Use law enforcement officers or other trained designated employees to
9 oversee the operation of systems and maintain control over all enforcement
10 activities, including the determination of when a citation should be issued.

11 b. Law enforcement officers and other designated employees shall be properly
12 trained in the use of a system, including, the operation, set-up, and testing of a
13 system deployed by the law enforcement agency and the enforcement of traffic and
14 speeding laws.

15 c. The local law enforcement agency shall retain documentation demonstrating
16 the successful completion of required training by a law enforcement officer or
17 designated employee who oversees the operation of a system and enforcement
18 activities.

19 4. Ensure that the system is regularly inspected and certify that the system is
20 installed and operating properly. The local law enforcement agency shall calibrate
21 each camera unit in accordance with the manufacturer's instructions, and shall
22 ensure that, at least once a year, each camera unit is calibrated by an independent
23 calibration laboratory. The local law enforcement agency shall retain documentation
24 of the regular inspection, operation, and calibration of a system until the date on
25 which the system has been permanently removed from use.

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1 5. Use a system that provides real-time notification when violations are
2 detected.

3 (b) Before using an automated speed enforcement system under this section,
4 a law enforcement agency shall do all of the following:

5 1. Administer a public information campaign for at least 30 days before the
6 commencement of use of a system. The campaign shall include public
7 announcements in major media outlets and press releases. The campaign shall
8 include the following information:

9 a. The system use policy under par. (c).

10 b. The system impact report under par. (d).

11 c. The date on which use of systems will begin.

12 d. The highways on which systems will be used.

13 e. The law enforcement agency's website.

14 2. Issue warning notices rather than citations for violations detected by a
15 system during the first 90 days during which a system is used under this section.

16 Whenever a system is first used on a highway, the local law enforcement agency shall
17 issue warning notices rather than citations for violations detected by the systems
18 during the first 30 calendar days of enforcement.

19 (c) A local law enforcement agency shall prepare and adopt a system use policy
20 before entering into an agreement regarding a system, purchasing or leasing
21 equipment for a system, or implementing this section. The system use policy shall
22 include the specific purpose for the system, the uses that are authorized, the rules
23 and processes required before that use, and the uses that are prohibited. The policy
24 shall specify the information that may be collected by a system, the individuals who
25 may access and use the collected information, and the procedure for accessing and

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1 using the information. The policy shall include provisions for protecting data from
2 unauthorized access, data retention, public access, 3rd-party data sharing, training,
3 auditing, and oversight. The system use policy shall be made available for public
4 review, including by posting it on the local law enforcement agency's website, at least
5 30 calendar days before adoption.

6 (d) A local law enforcement agency shall prepare and adopt a system impact
7 report and make the report available for public review at least 30 days before
8 approval. The system impact report shall include all of the following:

- 9 1. A description of the systems to be used and how they work.
- 10 2. The proposed purpose of a system.
- 11 3. The locations in which a system may be deployed and traffic data for these
12 locations.
- 13 4. An assessment of the potential impact of the system on civil liberties and civil
14 rights and any plans to safeguard those public rights.
- 15 5. If potential deployment locations of systems are predominantly in
16 low-income neighborhoods, a determination as to why these locations experience
17 high fatality and injury collisions due to unsafe speed.
- 18 6. The fiscal costs of a system, including establishment costs, ongoing costs, and
19 program funding.

20 (e) A local law enforcement agency shall develop uniform guidelines for all of
21 the following:

- 22 1. The screening and issuing of citations under this section.
- 23 2. The processing and storage of confidential information under this section
24 and procedures to ensure compliance with confidentiality requirements.

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1 (f) A contract between a local law enforcement agency and a manufacturer or
2 supplier of an automated speed enforcement system shall allow the agency to
3 purchase materials, lease equipment, and contract for processing services from the
4 manufacturer or supplier based on the services rendered on a monthly schedule or
5 another schedule agreed upon by the agency and contractor. The contract may not
6 include provisions for payment or compensation based on the number of citations
7 issued under this section, or as a percentage of revenue generated, from the use of
8 the system. The contract shall include a provision that all data collected from a
9 system is confidential, and shall prohibit the manufacturer or supplier of a system
10 from sharing, repurposing, or monetizing collected data. The local law enforcement
11 agency shall oversee and maintain control over all enforcement activities, including
12 the determination of when a citation should be issued.

13 (g) Two years after implementation of an automated speed enforcement
14 program and 5 years after the effective date of this paragraph [LRB inserts date],
15 a local law enforcement agency shall prepare and submit to the standing committees
16 of the legislature with jurisdiction over transportation matters a system report that
17 includes all of the following information:

18 1. A description of how systems were used.

19 2. Whether and how often system data was shared with outside entities, the
20 name of any recipient entity, the type or types of data disclosed, and the legal reason
21 for the disclosure.

22 3. A summary of any community complaints or concerns about the use of
23 systems.

24 4. Results of any internal audits, information about any violations of the
25 system use policy, and any actions taken in response.

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1 5. Information regarding the impact that the use of systems has had on the
2 highways where the systems were deployed.

3 6. A summary of any public records requests related to systems.

4 (h) Not later than March 1 of the 5th year beginning after the effective date of
5 this paragraph [LRB inserts date], a local law enforcement agency shall prepare
6 and submit to the standing committees of the legislature with jurisdiction over
7 transportation matters an evaluation of the use of automated speed enforcement
8 systems in its jurisdiction, including an assessment of the system's impact on
9 highway safety and the system's economic impact on the communities where the
10 system is used. The report shall be made available on the website of the local law
11 enforcement agency and shall include all of the following information:

12 1. Before and after data on the number and proportion of vehicles speeding
13 between 10 to 19 miles per hour over the legal speed limit, 20 to 29 miles per hour
14 over the legal speed limit, 30 to 39 miles per hour over the legal speed limit, and every
15 additional 10 miles per hour increment thereafter on a highway on which a system
16 is used to enforce speed limits. To the extent feasible, the data should be collected at
17 the same time of day, day of week, and location.

18 2. The number of citations issued under this section by month and year and the
19 corridors or locations where violations occurred and, to the extent feasible, the day
20 of the week and time the violation occurred.

21 3. Before and after data on the number of traffic collisions, categorized by injury
22 severity that occurred where systems are used relative to jurisdiction-wide data and
23 the mode of transportation of the parties involved.

24 4. The number of citations paid and dismissed.

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1 5. The costs associated with implementation and operation of the systems, and
2 revenues collected by each jurisdiction.

3 6. The uses of revenues collected by use of systems in the jurisdiction, including
4 information on roadway traffic safety projects, traffic safety education, and law
5 enforcement activities and programs that were implemented.

6 7. Before and after data on the number of law enforcement officers, including
7 the number of officers dedicated to traffic enforcement.

8 8. An evaluation of whether use of systems has resulted in traffic impacts on
9 highways that may be susceptible to traffic diversion, in the vicinity of corridors with
10 installed systems.

11 9. The results of surveys and outreach to low-income and predominantly
12 minority communities where systems were deployed.

13 (7) A visual image made by an automated speed enforcement system is not
14 subject to the right of inspection and copying under s. 19.35 (1).

15 (8) This section applies only in the city of Milwaukee.

16 (9) This section does not apply 5 years after the effective date of this subsection
17 [LRB inserts date].

18 **SECTION 3.** 346.60 (6) of the statutes is created to read:

19 346.60 (6) A vehicle owner found liable under s. 346.575 is subject to a
20 forfeiture in the same amount that may be imposed on a vehicle operator for the
21 corresponding violation of s. 346.57 including, if applicable, the doubling of the
22 forfeiture as provided in sub. (3m) (a). For purposes of this subsection, a person's
23 prior violation of s. 346.57 may be counted as a prior violation of s. 346.575.
24 Imposition of liability under s. 346.575 shall not result in suspension or revocation

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1 of a person's operating privilege under s. 343.30 or 343.31, nor shall it result in
2 demerit points being recorded on a person's driving record under s. 343.32 (2) (a).

3 **SECTION 4.** 349.107 of the statutes is created to read:

4 **349.107 Authority to use traffic control photographic systems. (1)** In
5 this section:

6 (a) In addition to the meaning given in s. 340.01 (42), "owner" means, with
7 respect to a vehicle that is registered, or that is required to be registered, by a lessee
8 of the vehicle under ch. 341, the lessee of the vehicle.

9 (b) "Traffic control photographic system" means an electronic system consisting
10 of a photographic, video, or electronic camera and a vehicle sensor installed for use
11 with an official traffic control signal to automatically produce photographs or video
12 or digital images, stamped with the time and date, of vehicles moving through an
13 intersection.

14 **(2)** Subject to sub. (3), the common council of the city of Milwaukee may enact
15 an ordinance that does all of the following:

16 (a) Subjects a person to a forfeiture for being the owner of a motor vehicle that,
17 when facing a traffic control signal at an intersection that exhibits a red light other
18 than a flashing red light, does any of the following:

19 1. Enters the intersection without stopping.

20 2. After stopping at the intersection, proceeds through the intersection before
21 the traffic control signal exhibits a green light if the vehicle is not making a right
22 turn.

23 (b) Allows the use of a traffic control photographic system on highways under
24 the jurisdiction of the municipality, including connecting highways, for the purpose
25 of detecting violations described in par. (a).

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1 (c) Subjects a person to a forfeiture for being the lessee or operator of a motor
2 vehicle the owner of which would be subject to a forfeiture under this section but for
3 the owner's successful assertion of a defense under sub. (3) (c) 2. or 3.

4 (d) Appropriates forfeitures collected under this section to the agency providing
5 police services in the collecting municipality for public safety purposes.

6 **(3)** An ordinance enacted under sub. (2) shall include all of the following:

7 (a) A requirement that official traffic signs be placed at or reasonably near the
8 corporate limits of the municipality on all county trunk highways and connecting
9 highways under the jurisdiction of the municipality informing motorists that
10 intersections in the municipality may be monitored by traffic control photographic
11 systems.

12 (b) A requirement that, if a traffic officer employed by the governing body of the
13 municipality prepares a citation for a violation of an ordinance enacted under this
14 section, the traffic officer shall serve the owner of the vehicle with the citation, within
15 5 business days after the violation, by personal service or by mailing the citation by
16 certified mail addressed to the owner's last-known address. If the citation may be
17 issued under par. (c) to the lessee or operator of the vehicle, the traffic officer shall
18 serve the lessee or operator with the citation, in the same manner required for service
19 on the vehicle owner, within 5 business days of determining that the vehicle owner
20 is likely to successfully assert a defense under par. (c). A traffic officer shall send with
21 the citation a duplicate of the photograph, video, or digital image, taken by the traffic
22 control photographic system, of the vehicle involved in the violation.

23 (c) A provision that it is not a defense to a violation of the ordinance that the
24 owner was not in control of the vehicle at the time of the violation, except that all of
25 the following are defenses to a violation of an ordinance enacted under this section:

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1 1. That a report that the vehicle was stolen was made by the owner to a law
2 enforcement agency before the violation occurred or within 5 business days after the
3 violation occurred.

4 2. That the vehicle is owned by a lessor of vehicles and is registered in the name
5 of the lessor, that at the time of the violation the vehicle was in the possession of a
6 lessee, and that the lessor provided a traffic officer with the information required
7 under s. 343.46 (3). In that case, the lessee may be issued a citation and charged with
8 a violation of the ordinance enacted under this section.

9 3. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but
10 including the persons specified in s. 340.01 (11) (a) to (d), at the time of the violation
11 the vehicle was being operated by a person on a trial run, and the dealer provided
12 a traffic officer with the name, address, and operator's license number of the person
13 operating the vehicle. In that case, the person operating the vehicle may be issued
14 a citation and charged with a violation of the ordinance enacted under this section.

15 4. Any other defense specified in the ordinance.

16 (d) A provision that permits a court to impose a forfeiture for a violation of an
17 ordinance enacted under this section of not more than the same amount that may be
18 imposed on a vehicle operator for the corresponding violation of s. 346.37 (1) (c) 1. or
19 3.

20 (e) A requirement that any photograph or video or digital image produced by
21 the traffic control photographic system be taken from a direction to the rear of the
22 vehicles moving through an intersection and be focused on the rear registration plate
23 of such vehicles.

24 (f) A requirement that a traffic control photographic system may be used only
25 at an intersection that is identified as having an accident rate of 1.0 or greater in a

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1 study performed by the city of Milwaukee Police Department Safety Division of 2015
2 high frequency crash locations.

3 (g) A requirement that traffic control photographic systems may be used at no
4 more than 5 intersections in an aldermanic district.

5 (4) Nothing in this section prohibits the issuance of a citation to the operator
6 of a motor vehicle for a violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance in
7 conformity with s. 346.37 (1) (c) 1. or 3., but a person may not be subject to a forfeiture
8 for a violation of an ordinance enacted under this section and a violation of s. 346.37
9 (1) (c) 1. or 3. or a local ordinance in conformity with s. 346.37 (1) (c) 1. or 3. arising
10 from the same incident or occurrence.

11 (5) This section does not apply 5 years after the effective date of this subsection
12 [LRB inserts date].

13 (END)