

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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**HOUSE BILL 388
Committee Substitute Favorable 4/27/21**

Short Title: Durham/Electronic School Zones.

(Local)

Sponsors:

Referred to:

March 25, 2021

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF DURHAM TO ESTABLISH A PILOT PROGRAM FOR THE USE OF ELECTRONIC SPEED-MEASURING SYSTEMS TO DETECT SPEED LIMIT VIOLATIONS IN SCHOOL ZONES.

The General Assembly of North Carolina enacts:

SECTION 1. Definition. – For purposes of this act, the term "electronic speed-measuring system" means a mobile or fixed device (i) consisting of an automated traffic camera and sensor and (ii) capable of measuring speed and producing one or more digital photographs of a motor vehicle violating the speed limit set in a school zone pursuant to G.S. 20-141.1.

SECTION 2. Authorization for Pilot Program. – By no later than December 1, 2021, the City of Durham may establish and implement a pilot program to use electronic speed-measuring systems to detect violations of the speed limit set in school zones pursuant to G.S. 20-141.1.

SECTION 3. Minimum Standards. – An electronic speed-measuring system authorized for use by this act shall produce at least one photograph that clearly shows a recorded image of the vehicle speeding; the vehicle registration number and state of issuance; the date, time, and location of the violation; and the recorded speed.

SECTION 4. Signage. – The City of Durham shall provide notice of the presence of an electronic speed-measuring system by posting a conspicuous warning sign not more than 1,000 feet from the location of the system.

SECTION 5. Penalty. – Except as provided by Section 10 of this act, a violation of a speed limit set in a school zone pursuant to G.S. 20-141.1 that is detected by an electronic speed-measuring system is a noncriminal violation for which a civil penalty shall be assessed and for which no points authorized by G.S. 20-16(c) or G.S. 58-36-65 shall be assigned to the owner or driver of the vehicle. The civil penalty shall be two hundred fifty dollars (\$250.00) for a violation of a speed limit set in a school zone pursuant to G.S. 20-141.1.

SECTION 6. Notification of Violation. – Except as otherwise provided in Section 8 of this act, the City of Durham, through its officials or agents, shall issue to the registered owner of a motor vehicle cited for a speeding violation detected by an electronic speed-measuring system a notice of the violation containing all of the information listed in this section. The notice shall be delivered by first-class United States mail at the address on the current registration of the vehicle's owner and is deemed served on the registered owner five days after the mailing. The notice of the violation shall contain all of the following:

- (1) The recorded image of the vehicle speeding.
- (2) The vehicle registration number and state of issuance.



- 1 (3) The date, time, and location of the violation.
- 2 (4) The recorded speed.
- 3 (5) The process for paying the civil penalty or contesting the owner's
- 4 responsibility for the violation.

5 **SECTION 7. Liability of Owner.** – The registered owner of a vehicle cited for a
6 speeding violation detected by an electronic speed-measuring system shall be responsible for any
7 penalty imposed under this act unless, within 30 days of service of the notification of violation,
8 the owner provides to the City of Durham a sworn affidavit containing the information listed in
9 one of the subdivisions of this section. If the registered owner fails to pay the civil penalty, or
10 fails to respond to the notice, within 30 days of service of the notification of violation, the owner
11 waives the right to contest responsibility for the violation and is subject to an additional civil
12 penalty of one hundred twenty-five dollars (\$125.00).

13 The sworn affidavit shall contain one of the following:

- 14 (1) The name and address of the person who had actual physical control of the
- 15 vehicle at the time of the violation.
- 16 (2) A statement that at the time of the violation the vehicle was under the control
- 17 of a person unknown to the owner without the owner's permission. A
- 18 statement provided under this subdivision shall be accompanied by
- 19 documentation verifying that the owner reported to appropriate law
- 20 enforcement officials the theft or other loss of the vehicle not later than 48
- 21 hours after the time of the violation.

22 **SECTION 8. Liability of Actual Operator.** – If a registered owner provides an
23 affidavit containing the information set forth in subdivision (1) of Section 7 of this act, the person
24 identified in the affidavit may be issued a citation complying with the requirements of Section 6
25 of this act and, if a citation is issued, shall be responsible for any penalty imposed under this act,
26 including the additional civil penalty of one hundred twenty-five dollars (\$125.00) if the person
27 fails to pay the civil penalty or respond to the notice within 30 days of service of the notification
28 of violation. If issued, the citation shall be sent to the address provided in the affidavit.

29 **SECTION 9. Use as Evidence in Criminal Proceeding.** – Any photographs recorded
30 by an electronic speed-measuring system that capture a speeding violation in a school zone shall
31 also be provided to the investigating law enforcement agency for use as evidence in any
32 proceeding alleging a violation of G.S. 20-141.1.

33 **SECTION 10. Notification of Criminal Charges.** – If a law enforcement officer,
34 pursuant to G.S. 20-141.1, cites or arrests an owner or operator of a vehicle, in accordance with
35 G.S. 15A-302 or G.S. 15A-401, in an area where an electronic speed-measuring system is in use
36 for detecting violations of a speed limit set pursuant to G.S. 20-141.1, then the officer shall notify
37 the City of Durham within 48 hours of the citation or arrest. Upon notification of criminal
38 charges, the City of Durham shall not issue a notification of violation under Section 6 of this act.
39 If it is determined that the notification of violation was issued in error after proper notification of
40 criminal charges, no penalty may be imposed under this act, and any penalty already paid
41 pursuant to the notice of violation shall be refunded.

42 **SECTION 11. Administrative Hearings.** – The City of Durham shall establish an
43 administrative nonjudicial hearing process to review challenges to penalties assessed under this
44 act. The hearing shall provide a full opportunity for the person charged with the violation, if that
45 person so requests, to present evidence and contest the violation.

46 **SECTION 12. Appeal.** – A person dissatisfied with the decision of the City of
47 Durham under Section 11 of this act may appeal the decision to the district court of the county
48 in which the violation occurred by filing a notice of the appeal with the clerk of superior court in
49 the county where the violation occurred within 30 days of notification of a final decision by the
50 City of Durham. An appeal under this section is for a trial de novo before the district court. An

1 appeal under this section is a civil action but may be heard in either a civil or criminal session of
2 court. An appeal of the district court's determination shall be to the Court of Appeals.

3 **SECTION 13.** Interlocal Agreement. – The City of Durham and the Durham Public
4 Schools Board of Education may enter into an interlocal agreement necessary and proper to
5 effectuate the purpose and intent of this act. Any agreement entered into pursuant to this section
6 may include provisions on cost-sharing and reimbursement that the City of Durham and the
7 Durham Public Schools Board of Education freely and voluntarily agree to for the purpose of
8 effectuating the provisions of this act. Nothing in this section shall be construed as altering or
9 superseding the requirements of Section 7 of Article IX of the North Carolina Constitution.

10 **SECTION 13.5.** Payment of a One-Time Fee. – Prior to the implementation of the
11 pilot program authorized by this act, the City of Durham shall pay a one-time fee of one thousand
12 dollars (\$1,000) to the Division of Motor Vehicles.

13 **SECTION 14.** Report. – No later than three years after implementing the pilot
14 program authorized by this act, the City of Durham shall report the results of the pilot program
15 to the chairs of the Joint Legislative Transportation Oversight Committee and the chairs of the
16 Joint Legislative Oversight Committee on Justice and Public Safety. The report may include
17 legislative proposals for expanding the use of electronic speed-measuring systems in school
18 zones.

19 **SECTION 15.** Expiration of the Pilot Program. – If implemented, the pilot program
20 authorized by this act expires upon the submission of the report required by Section 14 of this
21 act or three years after the date of implementation of the pilot program, whichever is earlier.

22 **SECTION 16.** Applicability. – This act applies to the City of Durham only.

23 **SECTION 17.** Effective Date. – This act is effective when it becomes law.