



Legislation Text

File #: O-451-20, Version: 1

Office of the Mayor

Repealing Section 313.12 of the Toledo Municipal Code and enacting new Toledo Municipal Code Section 303.98 entitled Civil penalties for traffic law photo-monitoring device violations; and declaring an emergency.

SUMMARY & BACKGROUND:

This Ordinance seeks to repeal Section 313.12 of the Toledo Municipal Code which is titled Civil penalties for automated red-light system violations and enacting new Toledo Municipal Code Section 303.98 Civil penalties for traffic law photo-monitoring device violations which will provide for the use of hand-held, manually operated and stationary photo-enforcement devices and to provide for the enforcement of this ordinance in the Toledo Municipal Court as required by State of Ohio law.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That Toledo Municipal Code Section 313.12 of the Toledo Municipal Code which states:

313.12. Civil penalties for automated red-light system violations.

(a) Automated red light and speeding system/civil violation - General.

(1) Notwithstanding any other provision of this Traffic Code, the City of Toledo hereby adopts a civil enforcement system for red light and speeding camera system violations as outlined in this Section. Said system imposes monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic control indications in the City of Toledo in accordance with the provisions of this Section.

(2) The City of Toledo Division of Transportation, the Toledo Police Department, and the Toledo Department of Law shall be responsible for administering the Automated Red Light and Speeding System. Specifically, the Toledo Division of Transportation and the Toledo Police Department shall be empowered to install and operate red light and speeding camera systems within the city of Toledo. And, the Toledo Division of Transportation and the Toledo Police Department shall maintain a list of system locations where red light and speeding camera systems are installed. Said departments will make the determination as to which locations will be utilized.

(3) Any citation for an automated red light and speeding system violation pursuant to this Section, known as a "Notice of Liability" shall:

- A. Be processed by officials or agents of the City of Toledo;
- B. Be forwarded by first-class mail or personal service to the vehicle's registered owner's address as given on the state's motor vehicle registration, and
- C. Clearly state the manner in which the violation may be appealed.

(b) Definitions.

(1) "Automated red light and speeding system" is the equivalent of "Traffic control signal monitoring device" or "Traffic control photographic system." Said system/device is a system consisting of a photographic, video, or electronic camera and a vehicle sensor that works alone or in conjunction with an official traffic control that produces a photograph, video, or digital image of traffic law violations.

(2) "In operation" means operating in good working condition.

(3) "System location" is the approach to an intersection or a street toward which a photographic, video or electronic camera is directed and is in operation. It is the location where the automated camera system is installed or otherwise being used to monitor offenses under this Section.

(4) "Vehicle owner" is the person or entity identified by the Ohio Bureau of Motor Vehicles, or registered with any other State vehicle registration office, as the registered owner of a vehicle.

(5) "Responsible party" is the person or entity named per TMC Subsection (c) (4) A.

(c) Offense.

(1) The owner of a vehicle, or the party named per TMC Subsection [313.12](#) (c)(4)A, shall be liable for the penalty imposed pursuant to this Section if such vehicle crosses a marked stop line or the intersection plane at a system location when the traffic signal for that vehicle's direction is emitting a steady red light.

(2) The owner of a vehicle, or the party named per TMC Subsection [313.12](#) (c)(4)A, shall be liable for a penalty imposed pursuant to this Section if such vehicle is operated at a speed in excess of those set forth in TMC Section [333.03](#).

(3) It is prima-facie evidence that the person registered as the owner of the vehicle with the Ohio Bureau of Motor Vehicles (or with any other State vehicle registration office) was operating the vehicle at the time of the offense set out in subsection (c)(1) or (c)(2) above.

(4) Notwithstanding subsection (c)(3) above, the owner of the vehicle shall not be responsible for the violation if, within twenty-one (21) days from the date listed on the "Notice of Liability", as set forth in subsection (d)(4) below, the owner of the vehicle furnishes the Hearing Officer:

A. An affidavit by him, stating the name and address of the person or entity who leased, rented, or otherwise had the care, custody and control of the vehicle at the time of the violation; OR

B. A law enforcement incident report/general offense report from any state or local law enforcement agency/record bureau stating that the vehicle involved was reported as stolen before the time of the violation.

(5) An imposition of liability under the Section shall not be deemed a conviction as an operator and shall not be made part of the operating record upon whom such liability is imposed.

(6) Nothing in this Section shall be construed to limit the liability of an operator of a vehicle for any violation of subsection (c)(1) or (c)(2) herein.

(7) This Section shall not apply to violations involving vehicle collisions.

(d) Penalty; Administrative Appeal.

(1) Any violation of subsection (c)(1) herein shall be deemed a noncriminal violation for which a civil penalty of \$120.00 shall be assessed and for which no points authorized by Ohio R. C. 4507.021 ("Point system for license suspension") shall be assigned to the owner or driver of the vehicle.

(2) Any violation of subsection (c)(2) herein shall be deemed a noncriminal violation for which a civil penalty of \$120.00 shall be assessed and for which no points authorized by Ohio R.C. 4507.021 ("Point system for license suspension") shall be assigned to the owner or driver of the vehicle.

(3) The City of Toledo, via its Division of Transportation, Police Department, Law Department and Municipal Court Clerk may establish procedures for the collection of the civil penalties imposed herein, and may enforce the penalties by a civil action in the nature of a debt.

(4) A notice of appeal shall be filed with the Hearing Officer within twenty-one (21) days from the date listed on the "Notice of Liability." The failure to give notice of appeal or pay the civil penalty within this time period shall constitute a waiver of the right to contest the citation and will be considered an admission. Appeals shall be heard through an administrative process established by the City of Toledo Police Department. A decision in favor of the City of Toledo may be enforced by means of a civil action or any other means provided by the Ohio Revised Code.

(5) The failure to respond to a Notice of Liability in a timely fashion as set forth in subsection (d)(4) of this section shall result in an additional penalty of twenty-five dollars (\$25.00).

(6) In lieu of assessing an additional penalty, pursuant to subsection (d)(5) above, the City of Toledo may

(i) immobilize the vehicle by placing an immobilization device (e.g. a "boot") on the tires of the vehicle pending the owners compliance with the Notice of Liability, or (ii) impound the vehicle, pursuant to TMC Section [303.08\(a\)\(12\)](#). Furthermore, the owner of the vehicle shall be responsible for any outstanding fines, the fee for removal of the immobilization device, and any costs associated with the impoundment of the vehicle.

Is hereby repealed; AND

SECTION 2. That a new Toledo Municipal Code Section 303.98 is hereby enacted and shall read as follows:

303.98. Civil penalties for traffic law photo-monitoring device violations.

(a) Traffic law photo-monitoring device civil violations - General.

(1) Notwithstanding any other provision of this Traffic Code, the City of Toledo hereby adopts a civil enforcement system for traffic law photo-monitoring device violations as outlined in this Section. Said system imposes monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic control indications in the City of Toledo in accordance with the provisions of this Section.

(2) The City of Toledo Division of Transportation, the Toledo Police Department, and the Toledo Department of Law shall be responsible for administering the traffic law photo-monitoring device program. Specifically, the Toledo Division of Transportation and the Toledo Police Department shall be empowered to install and operate traffic law photo-monitoring devices, which include stationary and hand-held devices that monitor and record red light violations and speeding violations within the City of Toledo. The Toledo Division of Transportation and the Toledo Police Department shall maintain a list of device locations where traffic law photo-monitoring devices are installed. Said departments will make the determination as to which locations will be utilized.

(3) Any citation for a traffic law photo-monitoring device violation pursuant to this Section, known as a "Notice of Liability" shall:

- A. Be processed by officials or agents of the City of Toledo or officials or agents of the Toledo Municipal Clerk of Court;
- B. Be forwarded by first-class mail or personal service to the vehicle's registered owner's address as given on the state's motor vehicle registration, and
- C. Clearly state the manner in which the violation may be appealed.

(b) Definitions.

- (1) "Traffic law photo-monitoring device" is the equivalent of "Traffic control signal monitoring device" or "Traffic control photographic system." Said system or device is a system consisting of a photographic, video, or electronic camera and a vehicle sensor that works alone or in conjunction with an official traffic control device that produces a photograph, video, or digital image of traffic law violations.
- (2) Hand-held speed radar cameras are the equivalent of a "Traffic law photo-monitoring device" or similar system. Said device consists of photographic, video, or electronic camera operated by a Toledo Police Officer, and produces a photograph, video, or digital image of traffic violations.

(3) “In operation” means operating in good working condition.

(4) “System location” is the approach to an intersection or a street toward which a photographic, video or electronic camera is directed and is in operation. It is the location where the automated camera system is installed or otherwise being used to monitor offenses under this Section.

(5) “Vehicle owner” is the person or entity identified by the Ohio Bureau of Motor Vehicles, or registered with any other State vehicle registration office, as the registered owner of a vehicle.

(6) “Responsible party” is the person or entity named per TMC Subsection [303.98\(c\)\(4\)\(A\)](#).

(c) Offense.

(1) The owner of a vehicle, or the party named per TMC Subsection [303.98](#) (c)(5)(A), shall be liable for the penalty imposed pursuant to this Section if such vehicle crosses a marked stop line or the intersection plane at a system location when the traffic signal for that vehicle’s direction is emitting a steady red light.

(2) The owner of a vehicle, or the party named per TMC Subsection [303.98](#) (c)(5)(A), shall be liable for a penalty imposed pursuant to this Section if such vehicle is operated at a speed in excess of those set forth in TMC Section [333.03](#).

(3) The fact that a person or entity is the registered owner of a motor vehicle is prima facie evidence that the person or entity is the person who was operating the vehicle at the time of the offense set out in subsection (c)(1) or (c)(2) above.

(4) A certified copy of the Notice of Liability alleging a traffic law violation, sworn to or affirmed by a law enforcement officer employed by the local authority, including by electronic means, and the recorded images produced by the traffic law photo-monitoring device, is prima facie evidence of the facts contained therein and is admissible in a civil action or proceeding concerning the Notice of Liability issued under this section.

(5) Notwithstanding subsection (c)(3) above, the owner of the vehicle shall not be responsible for the violation if, within thirty (30) days from the date listed on the Notice of Liability, the owner of the vehicle furnishes the Toledo Municipal Clerk of Court:

(A) An affidavit by the owner, stating the name and address of the person or entity who leased, rented, or otherwise had the care, custody and control of the vehicle at the time of the violation; or

(B) A law enforcement incident report or general offense report from any state or local law enforcement agency/record bureau stating that the vehicle involved was reported as stolen before the time of the violation.

(6) An imposition of liability under the Section shall not be deemed a conviction as an operator and shall not be made part of the operating record upon whom such liability is imposed.

(7) A Notice of Liability for a violation of subsection (c)(1) or (c)(2) herein shall preclude a criminal a charge of the owner for a Red Light or Speeding violation.

(8) This Section shall not apply to violations involving vehicle collisions.

(d) Penalty; Appeal.

(1) Any violation of subsection (c)(1) herein shall be deemed a noncriminal violation for which a civil penalty of \$120.00 shall be assessed and for which no points authorized by Ohio R. C. 4507.021 (“Point system for license suspension”) or equivalent section shall be assigned to the owner or driver of the vehicle.

(2) Any violation of subsection (c)(2) herein shall be deemed a noncriminal violation for which a civil penalty of \$120.00 shall be assessed and for which no points authorized by Ohio R.C. 4507.021 (“Point system for license suspension”) shall be assigned to the owner or driver of the vehicle.

(3) A Notice of Liability may be contested by filing a written request to the Toledo Municipal Court in a form established by the court within thirty (30) days of the date of the violation. The failure to request a hearing within this time period constitutes a waiver of the right to contest the violation and Notice of Liability, and is deemed to constitute an admission of liability and waiver of the opportunity to contest the violation. Further, the failure to respond to a Notice of Liability in a timely fashion as set forth in subsection (d)(4) of this section shall result in an additional fee as prescribed by the Court.

(4) A Notice of Liability that remains unpaid after 45 days from service on the Vehicle Owner or the Responsible Party shall be collected by the Toledo Municipal Clerk of Court through the collection services utilized by the Clerk. The City of Toledo also may collect a Notice of Liability that remains unpaid after 45 days from service on the Vehicle Owner or the Responsible Party by a civil action in the nature of a debt.

SECTION 3. That this Ordinance is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health, safety, and property and for the further reason that this Ordinance must be immediately effective so appropriate changes can be made in the code and that the City be able to employ the traffic law photo enforcement devices to deter speeding and the running of red lights.

Vote on emergency clause: yeas _____, nays _____.

Passed: _____, as an emergency measure: yeas _____, nays _____.

Attest: _____
Clerk of Council

President of Council

Approved: _____

Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council

_____.

Attest: _____
Clerk of Council