

FIRST REGULAR SESSION

# HOUSE BILL NO. 1209

## 94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DAVIS.

Read 1st time March 29, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

0447L.02I

## AN ACT

To amend chapter 304, RSMo, by adding thereto four new sections relating to automated traffic control systems, with penalty provisions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 304, RSMo, is amended by adding thereto four new sections, to be known as sections 304.800, 304.801, 304.802, and 304.804, to read as follows:

**304.800. For purposes of sections 304.800 to 304.804, the following terms mean:**

(1) "Agency", any county, city, town, village, municipality, state agency, or other political subdivision of this state that is authorized to issue a notice of violation for a violation of a state or local traffic law or regulation;

(2) "Automated traffic control system", a device with one or more motor vehicle sensors working in conjunction with a traffic control signal to automatically produce two or more photographs, two or more micrographs, a videotape or other recorded images of a motor vehicle entering an intersection in violation of red signal indication as described in section 304.281;

(3) "Owner", the owner of a motor vehicle as shown on the motor vehicle registration records of the Missouri department of revenue or the analogous department or agency of another state or country. The term "owner" includes:

(a) A lessee of a motor vehicle under a lease of six months or more; or

(b) The lessee of a motor vehicle rented or leased from a motor vehicle rental or leasing company, but does not include the motor vehicle rental or leasing company itself;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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17 If there is more than one owner of the motor vehicle, the primary owner will be deemed the  
18 owner. If no primary owner is named, the first-listed owner will be deemed the owner;

19 (4) "Recorded image", an image recorded by an automated photo red light  
20 enforcement system that depicts the front view and the rear view of a motor vehicle and  
21 is automatically recorded by a high-resolution camera as a digital image;

22 (5) "Steady red signal indication violation" or "violation", a violation of a steady  
23 red signal indication under sections 304.271 and 304.281 or substantially similar agency  
24 ordinance or traffic laws;

25 (6) "Traffic control signal", a traffic control device that displays alternating red,  
26 yellow, and green lights intended to direct traffic when to stop at or proceed through an  
27 intersection.

304.801. Any county, city, town, village, municipality, or other political subdivision  
2 of this state may operate an automated traffic control system to enforce state or municipal  
3 traffic laws, but any revenue generated from the operation of such system shall not exceed  
4 the wages of any personnel that have been displaced by the use of the equipment.

304.802. 1. Prior to activation of an automated traffic control system at an  
2 intersection:

3 (1) If not already present, the roadway first must be clearly marked with a white  
4 stripe indicating the stop line and the perimeter of the intersection;

5 (2) Warning signs shall be installed within five hundred feet of the white stripe  
6 indicating the stop line;

7 (3) Signal phase timings at intersections equipped with a system shall be certified  
8 by the Missouri department of transportation or other such appropriate agency before the  
9 photo enforcement devices may be activated for enforcement purposes. Any such timing  
10 shall be set by the department or other such appropriate agency and shall be consistent  
11 with traffic engineering standards. In no case, however, shall a private vendor have the  
12 ability to control the signal phase timing connected with a system.

13 2. No system may photograph or otherwise capture an image of the driver's face.

14 3. Prior to installing the automated photo red light enforcement system, the agency  
15 shall give notice of the intersection where the system will be located and of the date on  
16 which the system will begin to monitor the intersection. The agency shall give reasonable  
17 notice at least thirty days prior to the installation of the system in a newspaper of general  
18 circulation throughout the political subdivision served by the agency.

19 4. Before a notice of violation may be issued, all violation images produced by a  
20 system shall be reviewed and approved by a law or code enforcement officer employed by

21 the agency in which the alleged violation occurred. Such review and acceptance shall be  
22 based on a full review of the images that clearly demonstrate a violation.

23 5. Based on inspection of recorded images produced by a system, a notice of  
24 violation or copy of such notice alleging that the violation occurred and signed manually  
25 or digitally by a duly authorized agent of the agency shall be evidence of the facts  
26 contained therein and shall be admissible in any proceeding alleging a violation under  
27 sections 304.800 to 304.803.

28 6. An agency shall mail or cause to be mailed a notice of violation by certified mail  
29 to the owner of the motor vehicle, which notice shall include, in addition to the  
30 requirements of supreme court rule no. 37:

31 (1) The name and address of the owner of the vehicle;

32 (2) The registration number of the motor vehicle involved in the violation;

33 (3) A copy of the two recorded images and a zoomed and cropped image of the  
34 vehicle license plate which was extracted from one of the two images;

35 (4) Information advising the registered owner of how he or she can review the  
36 video, photographic, and recorded images that captured the alleged violation. The agency  
37 may provide access to the video and other recorded images through the Internet. If access  
38 to the video and other recorded images is provided through the Internet, the agency shall  
39 ensure that such video and recorded images are accessible only to the registered owner  
40 through a password-protected system;

41 (5) A manually or digitally signed statement by a law or code enforcement officer  
42 employed by the agency that, based on inspection of the two recorded images and video  
43 sequence, the motor vehicle was operated in violation of a traffic control device or  
44 prevailing traffic laws or statutes;

45 (6) Information advising the registered owner of the manner, time, and place in  
46 which liability as alleged in the notice of violation may be contested, and warning that  
47 failure to pay the civil penalty or to contest liability in a timely manner is an admission of  
48 liability; and

49 (7) Information advising the registered owner that he or she may file an affidavit  
50 under subsection 8 of this section stating that he or she was not the operator of the vehicle  
51 at the time of the violation.

52 7. A notice of violation issued under this section shall be mailed no later than three  
53 business days after the violation was recorded by the automated photo red light  
54 enforcement system.

55 8. The civil penalties and court costs imposed for a violation detected and enforced  
56 pursuant to a system shall not exceed an amount that would have been imposed if the

57 violation had been detected by a law enforcement officer present when the violation  
58 occurred.

59       **9.** Notwithstanding any provision of law to the contrary, including but not limited  
60 to, sections 304.271, 304.281, 304.361, and 304.570, any person who commits a steady red  
61 light violation that is detected and enforced through an automated photo red light  
62 enforcement system is guilty of an infraction. A penalty imposed by an agency for a  
63 violation detected pursuant to a system shall not be deemed a moving violation and shall  
64 not be made part of the operating record of the person upon whom such liability is  
65 imposed, nor shall such imposition of a penalty be subject to merit rating for insurance  
66 purposes and no surcharge points shall be imposed in the provision of motor vehicle  
67 insurance coverage. In no case shall points be assessed against any person under section  
68 302.302, RSMo, for a violation detected by an automated photo red light enforcement  
69 system.

70       **10.** Notwithstanding any provision of law to the contrary, all revenue generated  
71 from fines collected under this section shall be used for driver's education programs  
72 located in the particular county, city, town, village, or municipality where the steady red  
73 light violation occurred.

74       **11.** Payment of the established fine and any applicable civil penalties shall operate  
75 as a final disposition of the case. Payment of the fine and any penalties, whether before or  
76 after hearing, by one motor vehicle owner shall be satisfaction of the fine as to all other  
77 motor vehicle owners of the same motor vehicle for the same violation.

78       **12.** In the prosecution of a steady red signal indication violation under sections  
79 304.800 to 304.804, prima facie evidence that the vehicle described in the notice of violation  
80 issued under this section was operated in violation of sections 304.800 to 304.804, together  
81 with proof that the defendant was at the time of such violation the owner of the vehicle,  
82 shall constitute in evidence a rebuttable presumption that such owner of the vehicle was  
83 the person who committed the violation. Such presumption shall be rebutted if the owner  
84 of the vehicle files an affidavit by regular mail with the clerk of the court that he or she was  
85 not the operator of the vehicle at the time of the alleged violation or testifies in open court  
86 under oath that he or she was not the operator of the vehicle at the time of the alleged  
87 violation. Such presumption shall also be rebutted if a certified copy of a police report,  
88 showing that the vehicle had been reported to the police as stolen prior to the time of the  
89 alleged violation of this section, is presented to the court adjudicating the alleged violation.

**304.804.** Photographic and other recorded evidence obtained through the use of  
2 automated photo red light enforcement devices shall be maintained according to law and  
3 shall be maintained by the appropriate agency for a period of at least three years. Such

4 **photographic and other recorded evidence obtained through the use of an automated photo**  
5 **red light enforcement system shall be confidential and shall not be deemed a "public**  
6 **record" under section 610.010, RSMo, and shall not be subject to the provisions of section**  
7 **109.180, RSMo, or chapter 610, RSMo.**

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