

SECOND REGULAR SESSION

# HOUSE BILL NO. 1908

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES ST. ONGE (Sponsor), ONDER, FAITH, THRELKELD,  
FUNDERBURK, DENISON, KUESSNER, MEADOWS, FALLERT, WILDBERGER, ROBINSON,  
SILVEY AND CORCORAN (Co-sponsors).

Read 1st time January 29, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4575L.01I

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### AN ACT

To repeal section 304.580, RSMo, and to enact in lieu thereof five new sections relating to automated speed enforcement in work zones, with penalty provisions.

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

Section A. Section 304.580, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 304.580, 304.586, 304.587, 304.588, and 304.589, to read as follows:

304.580. As used in sections 304.582 [and 304.585 the term] **to 304.589, the following terms mean:**

(1) "Automated speed enforcement system", a device with one or more motor vehicle sensors, including, but not limited to photographic devices, radar devices, laser devices, or other electrical or mechanical devices, designed to record the speed of a motor vehicle and to obtain a clear photograph or other recorded image of the motor vehicle, the motor vehicle's operator, and the motor vehicle's license plate, which automatically produces one or more photographs, one or more microphotographs, a videotape or other recorded images of a motor vehicle at the time it is used or operated in violation of the posted speed limit in a construction zone or work zone. The photograph, microphotograph, videotape, or other recorded images produced by the automated speed

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.

12 **enforcement system shall also display the time, date, and location of the violation. The**  
13 **automated speed enforcement system shall also include a speed monitoring display system;**

14 **(2) "Commission", the state highways and transportation commission created in**  
15 **section 29, article IV, Constitution of Missouri;**

16 **(3) "Construction zone" or "work zone" [means], any area upon or around any highway**  
17 **as defined in section 302.010, RSMo, which is visibly marked by the department of**  
18 **transportation or a contractor or subcontractor performing work for the department of**  
19 **transportation as an area where construction, maintenance, incident removal, or other work is**  
20 **temporarily occurring. The term "work zone" or "construction zone" also includes the lanes of**  
21 **highway leading up to the area upon which an activity described in this subsection is being**  
22 **performed, beginning at the point where appropriate signs or traffic control devices are posted**  
23 **or placed[. The terms] ;**

24 **(4) "Operator", any person who operates or drives a motor vehicle;**

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

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

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

31

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

34 **(6) "Patrol", the Missouri state highway patrol, created under section 43.020,**  
35 **RSMo;**

36 **(7) "Speed monitoring display system", a system which records and displays the**  
37 **speed of a motor vehicle upon a changeable message sign, so that a motor vehicle operator**  
38 **approaching the automated speed enforcement system will be aware of the speed of his or**  
39 **her motor vehicle; and**

40 **(8) "Worker" or "highway worker" [as used in sections 304.582 and 304.585 shall mean]**  
41 **, any person [that] who is working in a construction zone or work zone, or any employee of the**  
42 **department of transportation [that] who is performing duties under the department's motorist**  
43 **assist program on a state highway or the right-of-way of a state highway.**

**304.586. 1. The commission may enter into an agreement or agreements with the**  
2 **highway patrol to install and use automated speed enforcement systems at, upon, or**  
3 **around construction zones and work zones on the state highway system when workers are**  
4 **present.**

5           **2. If an automated speed enforcement system is being used in a construction zone**  
6 **or work zone on the state highway system, at least one additional sign shall be erected at**  
7 **the start of the construction zone or work zone which is clearly visible from the highway**  
8 **and which states substantially the following message: "Automated speed enforcement**  
9 **system ahead."**

10           **3. The commission, or the patrol when it is a party with the commission under an**  
11 **agreement that establishes an automated speed enforcement system under sections 304.580**  
12 **to 304.589, shall give notice intended to reasonably notify the public of the use of such**  
13 **system on the state highway in which the construction zone or work zone is located and**  
14 **which shall state the date upon which the system will begin to monitor and produce**  
15 **photographs or other recorded images of a motor vehicle in violation of the posted speed**  
16 **limit in the construction zone or work zone.**

17           **4. Should the commission establish an automated speed enforcement system**  
18 **program, it may also enter into an agreement or agreements with the patrol for the**  
19 **purpose of employing and compensating a private vendor to perform administrative tasks**  
20 **associated with the use of automated speed enforcement systems.**

21           **5. The commission, the patrol, or private vendor may enter into an agreement with**  
22 **the department of revenue or the analogous department or agency of another state or**  
23 **country for the purpose of obtaining relevant records regarding the owner or operator of**  
24 **the motor vehicle detected by an automated speed enforcement system to be in violation**  
25 **of the posted speed limit in a construction zone or a work zone on the state highway system**  
26 **in order to prepare and mail summonses on behalf of the patrol.**

27           **6. A patrol officer shall be present when an automated speed enforcement system**  
28 **is used to monitor the posted speed limit in a construction zone or work zone.**

**304.587. 1. If a photograph, microphotograph, videotape, or other image obtained**  
2 **from an automated speed enforcement system records images of a motor vehicle violating**  
3 **the posted speed limit in a construction zone or a work zone on the state highway system,**  
4 **a report of the violation shall be given to the patrol, and the patrol is authorized to issue**  
5 **a summons for violating the posted speed limit in the construction zone or work zone.**

6           **2. In order to prosecute a motor vehicle owner for violating the posted speed limit**  
7 **in a construction zone or work zone by use of an automated speed enforcement system, a**  
8 **summons shall be mailed or otherwise delivered to the owner of the motor vehicle. If**  
9 **mailed, the citation shall be sent via certified mail within fourteen business days of the**  
10 **alleged violation, return receipt requested.**

11           **3. The summons shall include, at a minimum, the following information:**

12           **(a) The name and address of the motor vehicle owner;**

- 13           (b) The license plate number of the motor vehicle;  
14           (c) The offense charged;  
15           (d) The time, date, and location of the violation;  
16           (e) The court date; and  
17           (f) Notice that the basis of the summons is the photograph or other recorded image  
18 from an automated speed enforcement system.

19           4. The summons issued to the motor vehicle owner shall be accompanied by  
20 instructions on how to dispose of the violation either through court appearance or payment  
21 of the fine and costs.

          304.588. 1. A certificate or written report sworn or affirmed by a patrol officer  
2 which charged that the violation occurred based upon inspection of photographs,  
3 microphotographs, videotape, or other recorded images produced by an automated speed  
4 enforcement system, shall be prepared and shall be prima facie evidence of the facts  
5 contained therein, subject to foundation evidence to establish the authenticity of such  
6 photographs, microphotographs, videotape, or other recorded images produced by an  
7 automated speed enforcement system. Such report, the photographs, or other recorded  
8 images produced by an automated speed enforcement system and proof of identity of the  
9 owner in whose name such motor vehicle is registered, shall be available for inspection and  
10 are admissible in any court proceeding to adjudicate the summons regarding an alleged  
11 violation of the posted speed limit in a work zone or construction zone under sections  
12 304.580 to 304.589.

13           2. The statutory penalties resulting from a speeding violation detected by an  
14 automated speed enforcement system are the same as the penalties established by state law  
15 for the same speeding violation detected by a law enforcement officer, except that for the  
16 first year after the effective date of sections 304.586 to 304.589, no points shall be assessed  
17 under section 302.302, RSMo, for a speeding violation detected by an automated speed  
18 enforcement system.

19           3. If the operator of the motor vehicle cannot be identified through the photograph  
20 or other recorded image from an automated speed enforcement system, no fines, driving  
21 record points, or any other penalties may be assessed against the owner of the motor  
22 vehicle.

23           4. Any owner of a motor vehicle issued a summons under this section is responsible  
24 and liable for payment of a fine, court costs, driving points assessed, and if authorized, any  
25 criminal penalty, unless the owner can furnish evidence that the owner's motor vehicle was  
26 in the care, custody, control, and operation of another person at the time of the violation  
27 depicted in the photograph or other recorded image from an automated speed enforcement

28 system. In such instance, the owner shall submit such evidence in an affidavit permitted  
29 by the court setting forth the name, address, and other pertinent information of the person  
30 who leased, rented, or otherwise had care, custody, control, and operation of the owner's  
31 motor vehicle at the time of the alleged violation, subject to the penalties for perjury. This  
32 affidavit shall be admissible in a court proceeding adjudicating the alleged violation, and  
33 in such case, the court shall have the authority to terminate the prosecution of the  
34 summons issued to the owner and issue a summons to the person identified in the affidavit  
35 as the operator of the motor vehicle at the time of the violation. If the motor vehicle is  
36 alleged to have been stolen, the owner of the motor vehicle shall submit proof that a police  
37 report was filed indicating that the motor vehicle was reported stolen at the time of the  
38 alleged violation.

39       5. If the motor vehicle involved in the violation is registered in the name of a rental  
40 or leasing company and the motor vehicle is rented or leased to another person at the time  
41 of the violation, the rental or leasing company may rebut the presumption that the rental  
42 or leasing company committed the violation by providing the patrol officer or prosecuting  
43 attorney with a copy of the rental or lease agreement in effect at the time of the violation  
44 as well as the driver's license number, name, and address of the renter or lessee. No  
45 prosecuting authority may bring any legal proceedings against a rental or leasing company  
46 under this section unless prior written notice of the violation has been given to that rental  
47 or leasing company by certified mail, return receipt requested, at the address appearing  
48 on the registration and the rental or leasing company has failed to provide the rental or  
49 lease agreement copy within thirty days of receipt of such notice.

304.589. 1. The automated speed enforcement system provisions of sections 304.580  
2 to 304.589 supplement the existing authority of law enforcement officers and does not  
3 prohibit any law enforcement officer from issuing a citation for a violation of any of the  
4 offenses set forth in sections 304.580 to 304.585 or any other violation of traffic regulations  
5 established under state law that occur in a construction zone or work zone on the state  
6 highway system.

7       2. The automated speed enforcement system provisions of sections 304.580 to  
8 304.589 shall terminate on August 28, 2013.

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