

SUBJECT: Prohibiting red light cameras

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 4 ayes — Talton, Bailey, Blake, Rodriguez
2 nays — Wong, A. Allen
1 absent — Menendez

WITNESSES: For — Ann del Llano, ACLU of Texas; Tom Martin
Against — Steve Dye, Garland Police Department; Joe Harn, City of Garland; Bert Keller, Nestor Traffic Systems; Walter Ragsdale, City of Richardson and Texas Institute of Transportation Engineers; Larry Zacharias, City of Richardson and Richardson Police Department; Dorothy Evans Hind; Gary Hind
On — Anne O’Ryan, AAA Texas

BACKGROUND: Transportation Code, sec. 542.202 recognizes the right of local authorities to regulate traffic and certain traffic-related issues within their jurisdictions provided that that regulation does not conflict with state law. The 78th Legislature defined such regulation to include criminal, civil, and administrative enforcement of state laws and municipal ordinances.

Before the 78th Legislature added sec. 542.202(b)(3), cities could issue only criminal citations for running red lights, which under state law was a misdemeanor punishable by a fine of up to \$200. Several cities have interpreted the new section as giving them the authority to make running a red light a civil offense and to enforce violations with photographic traffic signal enforcement systems, also known as “red-light cameras.” Although a 2002 attorney general’s opinion (JC-0460) established that cities already had the authority to use this equipment, the requirement that criminal citations be served personally to offenders had proscribed their use. Because civil citations do not have to be served personally to offenders, creating a civil violation for running a red light facilitates the use of

automated traffic enforcement systems that photograph an offender's license plate and send citations to vehicle owners through the mail.

Transportation Code, sec. 541.302, defines a "highway" as any publicly maintained road that is open to the public.

DIGEST:

HB 1347 would prohibit local authorities from using photographic traffic signal enforcement systems on publicly maintained streets under their jurisdiction, and would authorize the attorney general to enforce compliance.

The bill would define a "photographic traffic signal enforcement system" as a system that:

- includes a camera and vehicle sensor working in conjunction with a traffic signal;
- takes a photograph of the license plate of a vehicle that is not in compliance with the traffic signal; and
- is designed to enforce traffic signal compliance by imposing civil or administrative penalties.

The bill also would repeal sec. 542.202(b)(3) of the Transportation Code.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

HB 1347 would prohibit the use of red-light cameras in Texas and close a loophole that has allowed cities to use these cameras contrary to the expressed will of the Legislature. Red-light cameras are ineffective in increasing public safety, unfairly penalize offenders differently for committing the same crime, and have the potential to violate people's privacy. Although an earlier bill already addressed the loophole, further legislation is necessary to prohibit explicitly these cameras because under an attorney general's opinion it is unclear whether cities still could use the cameras by taking a photograph and issuing a criminal citation. An explicit provision prohibiting red-light cameras also would prevent future attempts to re-open the loophole.

Red-light cameras do not increase public safety and do not reduce vehicular accidents. In fact, recent studies have found that these cameras

increase accidents, particularly rear-end collisions caused by motorists slamming on the brakes after seeing a red-light camera. The cameras thus trade one accident for another. These cameras also may be used to justify reducing the number of police officers or shift officers to other, non-traffic divisions, further decreasing safety because, unlike officers, red-light cameras cannot remove drunk or reckless drivers from the road. Many cities have claimed that they do not have sufficient funds to hire more officers, but red light cameras also are expensive, costing several tens of thousands of dollars. Cities could spend the money used for these cameras to hire more officers.

Cities with red-light cameras also have a perverse incentive to maintain or even increase the number of violations in order to maximize revenue. Several cities with these cameras in other states have been suspected of reducing the length of time their traffic lights stay yellow in order to increase the number of offenses and generate more revenue. This increases the potential for accidents. To reduce the incidence of red light running, it would be more effective to increase the length of the yellow-light time and install larger lenses to make red lights more visible. The fact that cities continue to promote red light cameras over these alternatives indicates they are more interested in generating revenue than in increasing public safety.

Red-light cameras also remove discretion in issuing citations. A motorist may need to enter an intersection after a light turns red to avoid a pedestrian or bicyclist or to allow an emergency vehicle to pass. Unlike police officers, red-light cameras do not make allowances for extenuating circumstances. The presumption that the owner of a vehicle is the person driving at the time a violation is recorded creates a potential for issuing citations to innocent people. Some people have complained about receiving citations after selling a car but before the change in registration was recorded. Others may have loaned their cars to friends or children or even have had cars stolen. The bill presumes that a person is guilty until proven innocent, and they must either pay the fine or spend time proving their innocence. Meanwhile, the most dangerous offenders — big-rig truck drivers — remain immune to enforcement because cities have no way to compel their companies to pay the fines.

Red light cameras violate equal protection by unfairly penalizing people differently for committing the same crime. Motorists caught running a red light by an officer are subject to a misdemeanor conviction, while those

caught on camera receive only a civil penalty. Some cities have imposed lesser fines for civil offenses. Civil citations also are not placed in an offender's driving record, so those caught on camera are not subject to the increased insurance premiums often faced by those ticketed by officers. Some insurance companies have expressed concern that red-light cameras would make it harder for them to identify poor drivers and warn that they may increase premiums on all drivers in response. Cameras also violate the Sixth Amendment guarantee of being able to confront one's accuser – no one can testify as to what happened, and an accused cannot offer a defense against a machine that may have malfunctioned.

Red-light cameras violate the Fourth Amendment right to privacy against unreasonable searches and seizures. With no probable cause to believe that any particular person will run a red light, there is no individual reason for mounting a camera. These cameras also are the first step toward the creation of a “big brother” surveillance government. It is of little comfort that the cameras currently photograph only license plates if they are capable of recording everyone in the vehicle.

By unintentionally giving local authorities power to enforce violations civilly and administratively, the Legislature may unwittingly have opened the door to inconsistent city regulation. Such inconsistency can confuse drivers and reduce safety. The broad enforcement powers in current law could allow individual cities to penalize other violations not authorized by the Legislature, such as driving while talking on a cell phone. Traffic regulation should be consistent statewide to ensure the highest level of safety.

**OPPONENTS
SAY:**

With one of the highest rates of vehicular accidents and fatalities due to red light running in the nation, Texas needs an effective means to reduce violations. In cities both in Texas and nationwide, red-light cameras have been effective in reducing crashes and saving lives. Cities should be allowed to continue using this proven public safety tool. This can and should be decided at the local level.

The human and economic cost of red-light accidents is enormous. About 100 Texans die yearly and thousands more are injured in accidents when drivers run red lights. Even excluding property damage, these accidents cost between \$1 billion and \$3 billion each year in medical, insurance, and related expenses. Red-light accidents often are among the worst because

they generally involve vehicles crashing directly into a driver or passenger side of another car at high speeds.

Automatic traffic signal enforcement systems could reduce red-light violations more than can traditional enforcement. Motorists know there are not enough officers to monitor most lights and have little incentive to stop. By contrast, red-light cameras can monitor intersections 24 hours a day, seven days a week, ensuring consistent enforcement against violators. Motorists who know they will be caught are more likely to stop. Cities using these cameras have seen violations drop by as much as 60 percent, with a corresponding decline in accident rates of up to 40 percent. Although a few cities have noticed a slight initial increase in rear-end accidents, over time the number of accidents has returned to normal, and in many cities the number of rear-end crashes has dropped. Rear-end accidents also are less dangerous than the side impacts caused when motorists run red lights. Reduced violations mean that officers can spend more time fighting crime than writing traffic tickets.

Cameras also are a safer means of enforcement than traditional officers. To chase a motorist who has run a red light, officers often must run that same light, placing themselves and other motorists in danger. The cameras do not reduce discretion because cities require their police departments to evaluate the photographs to determine whether a citation should be issued. Those receiving citations also may request a hearing to explain extenuating circumstances and request dismissal of the citation.

If the money generated by these cameras is a concern, the state could specify that it be used only for traffic and public safety, as cities using these cameras already have done. The money has been used for public safety improvements and increasing the number of police officers. The accusation that cities may manipulate yellow light time for financial gain is unproven and unfair. Neither red-light vendors nor police departments can sequence traffic lights, which are controlled by TxDOT or local traffic departments. These bodies sequence lights according to federal and state regulations.

Cities have shared information and implemented the same or similar ordinances. To ensure conformity with state regulation, they have copied sections of the Transportation Code on civil enforcement of parking violations and procedures for enforcing them. Thus, there is little danger of conflicting or confusing local regulations. Moreover, the fee for a civil

penalty is equivalent to that paid by those receiving criminal citations who take defensive driving or deferred adjudication.

Red-light cameras do not invade privacy any more than does traditional enforcement of red light violations. Taking a photograph of a vehicle's license plate is less invasive than requiring a motorist to produce a license when stopped by an officer. The probable cause is the same as when an officer pulls someone over – the red light was run, which in the case of automatic enforcement is detected by sensors. Use of surveillance cameras already is widespread in office buildings and public areas and on roadways. Texas already has approved photographic enforcement of the payment of tolls on toll roads – protecting lives should be as important as protecting revenue.

Red-light cameras should be allowed as one of many tools that local authorities could choose from to address local needs. Many cities employing these cameras also have implemented other changes, although these other options may not be equally effective – for example, motorists eventually become accustomed to longer yellow light times and resume running red lights. Cities that find other options inadequate should have the option of installing red-light cameras.

NOTES:

Section 542.202(b)(3) of the Transportation Code was added by the 78th Legislature in SB 1184 by Deuell, which updated the Transportation Code to bring the statute into greater conformity with DPS procedures and federal regulations concerning commercial vehicles. The provision that HB 1347 would repeal was added as a House floor amendment adopted without objection by nonrecord vote. The Senate concurred with the House amendments to the bill. A related bill, HB 259 by Elkins et al., also would repeal this section. That bill passed the House by 113-23-2 on February 28 and is currently pending in the Senate Intergovernmental Relations committee.

Several bills authorizing red light cameras have been considered by previous legislatures. HB 901 by King in the 78th Legislature and HB 1115 by Driver in the 77th Legislature both failed to pass to engrossment. In the 76th Legislature, the House tabled HB 1152 by Driver. And during the 74th Legislature, SB 876 by Cain passed the Senate, but failed to pass the House on second reading.