



This Bill Analysis reflects the contents of the bill as it was presented in committee.

SENATE BILL 269: Durham Speed Device Pilot/School Zones.

2017-2018 General Assembly

Committee:	Senate State and Local Government. If favorable, re-refer to Rules and Operations of the Senate	Date:	June 12, 2017
Introduced by:	Sen. McKissick	Prepared by:	Brad Krehely
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: Senate Bill 269 would 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 act would be effective when it becomes law and would apply to the City of Durham only. It would expire three years after implementation or upon the filing of a report on the results of the program, whichever is earlier.

CURRENT LAW: The Board of Transportation or local authorities within their respective jurisdictions may, by ordinance, set lower speed limits for areas adjacent to or near a public, private or parochial school. These limits become effective when signs are erected giving notice of the school zone, the authorized speed limit, and the days and hours when the lower limit is effective, or by erecting signs giving notice of the school zone, the authorized speed limit and which indicate the days and hours the lower limit is effective by an electronic flasher operated with a time clock. Limits set pursuant to this section may be enforced only on days when school is in session, and no speed limit below 20 miles per hour may be set under this section. A person who drives a motor vehicle in a school zone at a speed greater than the speed limit set and posted under this section is responsible for an infraction and is required to pay a penalty of \$250.00. G.S. 20-141.1. Currently, there are no cities that use electronic speed-measuring systems to detect speed limit violations in school zones.

BILL ANALYSIS: Senate Bill 269 would do all of the following:

- **Define "electronic speed-measuring system"**- The act would define "electronic speed-measuring system" as "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 under G.S. 20-141.1.
- **Authorize a pilot program**- The act would allow the City of Durham, no later than December 1, 2018, to establish and implement a pilot program to use electronic speed-measuring systems to detect violations of the speed limit in school zones under G.S. 20-141.1.
- **Set minimum standards**- The act would provide that an electronic speed-measuring system must 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.
- **Require signage**- The act would require the City of Durham to provide notice of the presence of an electronic speed-monitoring system by posting a warning sign not more than 1,000 feet from the location of the system.

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- **Establish a penalty-** The act would provide that a violation of a speed limit set in a school zone that is detected by an electronic speed measuring system will result in a civil penalty of \$250. No points are assigned to the owner or driver of the vehicle. If a law enforcement officer cites or arrests an owner or operator of a vehicle in an area where an electronic speed-measuring system is in use to detect violation of G.S. 20-141.1, the officer must notify the City of Durham within 48 hours of the citation or arrest. When notified, the City of Durham must not issue a notice of violation. If a notification is sent in error, no penalty may be imposed and any penalties that have been paid must be refunded.
- **Require notice of a violation-** The act would require the City of Durham to notify the registered owner of motor vehicle a notice when the vehicle is cited for a speeding violation detected by a speed-measuring system. The notice must be delivered by first-class U.S. mail and must include all of the following:
 - Recorded image of the vehicle speeding.
 - Vehicle registration number and state of issuance.
 - Date, time, and location of the violation.
 - The recorded speed.
 - The process of paying the civil penalty or contesting the owner's responsibility.
- **Address liability of the owner-** The act would provide that the owner of a vehicle cited for a speeding violation is responsible for the penalty unless within 30 days of service of the notification of the violation, the owner provides a sworn affidavit containing one of the following:
 - The name and address of the person who had control of the vehicle at the time of the violation.
 - A statement that at the time of the violation, the vehicle was under the control of a person unknown to the owner without the owner's permission. This statement must be accompanied by documentation verifying that the owner reported the theft or other loss of the vehicle to law enforcement no later than 48 hours after the time of the violation.

If the owner fails to pay the penalty or fails to respond to the notice within 30 days of notification, the owner waives the right to contest responsibility and is subject to an additional fine of \$125.
- **Address liability of operator of the vehicle-** The act would provide that if the owner provides the name and address of the person who had control of the vehicle at the time of violation, the person identified in the affidavit may be issued a citation. If a citation is issued to the person who had control of the vehicle, then that person is responsible for any penalty under the act. That includes the additional civil penalty of \$125 if the person fails to pay the penalty or respond to the notice within 30 days of being notified of the violation.
- **Permit use of evidence-** The act would permit photographs recorded by an electronic speed monitoring system that capture speeding in a school zone to be used as evidence in a proceeding alleging a violation of G.S. 20-141.1.

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- **Require an administrative hearing process-** The act would require the City of Durham to create an administrative hearing process to review challenges to penalties assessed under the act. The person charged may present evidence and contest the violation.
- **Allow for an appeal to district court-** The act would provide that person who is dissatisfied with the City of Durham's decision may appeal that decision to district court by filing a notice of appeal with the clerk of superior court within 30 days of notification of the final decision. The trial before the district court would be de novo, and an appeal of the district court's decision must be made to the Court of Appeals.
- **Permit interlocal agreements-** The act would allow the City of Durham and the Durham Public Schools Board of Education to enter into an interlocal agreement. Any agreement must include provisions on cost-sharing and reimbursement. This provision does not alter the Constitutional requirement that proceeds for civil penalties must remain in the county and used to maintain free public schools.
- **Require reports-** The act would require the following reports:
 - The City of Durham must report the results of the pilot program no later than three years after implementing it. The report must be submitted to the chairs of the Joint Legislative Transportation Oversight Committee and the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety.
 - The SBI must report the results of the pilot program not later than one year after the program has been implemented. The report must be submitted to the chairs of the Joint Legislative Oversight Committee on Health and Human Services and the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety.

EFFECTIVE DATE: The act would be effective when it becomes law and applies only to the City of Durham. If implemented, the pilot program would expire three years after implementation or upon submission of the City of Durham's report on the results of the pilot program, whichever it earlier.