

**A-Engrossed**  
**House Bill 2409**

Ordered by the House March 24  
Including House Amendments dated March 24

Sponsored by Representatives BARKER, OLSON, LININGER, Senator KRUSE; Senator GELSER (Presession filed.)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Permits city to issue citation for speeding using red light camera in conjunction with other technology that is capable of measuring speed. Applies to speeding violations [10] 11 miles per hour or greater.

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to traffic violations; creating new provisions; amending ORS 810.434, 810.435 and 810.436;  
3 and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of the Oregon Vehicle**  
6 **Code.**

7 **SECTION 2. (1) Notwithstanding any other provision of law, if a city chooses to operate**  
8 **cameras that comply with this section and ORS 810.434, a citation for speeding may be issued**  
9 **on the basis of photographs from a camera and other technology, including but not limited**  
10 **to sensors, that measure the speed of a vehicle without the presence of a police officer if the**  
11 **following conditions are met:**

12 (a) Signs are posted, so far as is practicable, on all major routes entering the jurisdiction  
13 indicating that compliance with traffic laws is enforced through cameras and other technol-  
14 ogy.

15 (b) For each traffic control device at which a camera is installed, signs indicating that a  
16 camera system may be in operation at the traffic control device are posted before the device  
17 at a location near the device.

18 (c) The citation is mailed to the registered owner of the vehicle, or to the driver if iden-  
19 tifiable, within 10 business days of the alleged violation.

20 (d) The registered owner is given 30 days from the date the citation is delivered to re-  
21 spond to the citation.

22 (e) A police officer who has reviewed the photograph and other data signs the citation.  
23 The citation may be prepared on a digital medium, and the signature may be electronic in  
24 accordance with the provisions of ORS 84.001 to 84.061.

25 (f) The person exceeded the speed limit or designated speed by 11 miles per hour or  
26 greater.

27 (2) If the person named as the registered owner of a vehicle in the current records of the

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 Department of Transportation fails to respond to a citation issued under subsection (1) of  
2 this section, a default judgment under ORS 153.102 may be entered for failure to appear after  
3 notice has been given that the judgment will be entered.

4 (3) A rebuttable presumption exists that the registered owner of the vehicle was the  
5 driver of the vehicle when the citation was issued and delivered as provided in this section.

6 (4) A person issued a citation under subsection (1) of this section may respond to the  
7 citation by submitting a certificate of innocence or a certificate of nonliability under sub-  
8 section (6) of this section or any other response allowed by law.

9 (5) A citation issued under this section on the basis of photographs from a camera in-  
10 stalled as provided in this section and ORS 810.434 may be delivered by mail or otherwise to  
11 the registered owner of the vehicle or to the driver if the driver is identifiable from the  
12 photograph.

13 (6)(a) A registered owner of a vehicle may respond by mail to a citation issued under  
14 subsection (1) of this section by submitting, within 30 days from delivery of the citation, a  
15 certificate of innocence swearing or affirming that the owner was not the driver of the ve-  
16 hicle and by providing a photocopy of the owner's driver license. A jurisdiction that receives  
17 a certificate of innocence under this paragraph shall dismiss the citation without requiring  
18 a court appearance by the registered owner or any other information from the registered  
19 owner other than the swearing or affirmation and the photocopy. The citation may be reiss-  
20 sued only once, only to the registered owner and only if the jurisdiction verifies that the  
21 registered owner appears to have been the driver at the time of the violation. A registered  
22 owner may not submit a certificate of innocence in response to a reissued citation.

23 (b) If a business or public agency responds to a citation issued under subsection (1) of  
24 this section by submitting, within 30 days from delivery of the citation, a certificate of non-  
25 liability stating that at the time of the alleged violation the vehicle was in the custody and  
26 control of an employee or was in the custody and control of a renter or lessee under the  
27 terms of a motor vehicle rental agreement or lease, and if the business or public agency  
28 provides the driver license number, name and address of the employee, renter or lessee, the  
29 citation shall be dismissed with respect to the business or public agency. The citation may  
30 then be reissued and delivered by mail or otherwise to the employee, renter or lessee iden-  
31 tified in the certificate of nonliability.

32 (7) The penalties for and all consequences of a speeding violation initiated by the use of  
33 a camera installed as provided in this section and ORS 810.434 are the same as for a violation  
34 initiated by any other means.

35 (8) A registered owner or an employee, renter or lessee against whom a judgment for  
36 failure to appear is entered may move the court to relieve the owner or the employee, renter  
37 or lessee from the judgment as provided in ORS 153.105 if the failure to appear was due to  
38 mistake, inadvertence, surprise or excusable neglect.

39 **SECTION 3.** ORS 810.434 is amended to read:

40 810.434. (1) Any city may, at its own cost, operate cameras designed to photograph drivers  
41 who:

42 (a) Violate ORS 811.265 by failing to obey a traffic control device[.]; or

43 (b) Violate the speed limit established in ORS 811.111 by 11 miles per hour or greater or  
44 violate the designated speed posted under ORS 810.180 by 11 miles per hour or greater.

45 (2) Cameras operated under this section may be mounted on street lights or put in other suitable

1 places.

2 (3) A city that chooses to operate a camera shall:

3 (a) Provide a public information campaign to inform local drivers about the use of cameras be-  
4 fore citations are actually issued; and

5 (b) Once each biennium, conduct a process and outcome evaluation for the purposes of sub-  
6 section (4) of this section that includes:

7 (A) The effect of the use of cameras on traffic safety;

8 (B) The degree of public acceptance of the use of cameras; and

9 (C) The process of administration of the use of cameras.

10 (4) By March 1 of each odd-numbered year, each city that operates a camera under this section  
11 shall present to the Legislative Assembly the process and outcome evaluation conducted by the city  
12 under subsection (3) of this section.

13 **SECTION 4.** ORS 810.435 is amended to read:

14 810.435. (1) Except as provided in subsection (2) of this section, photographs taken under ORS  
15 810.434 may be submitted into evidence in a criminal trial, grand jury proceeding or other criminal  
16 proceeding for the purpose of proving or disproving a felony or a Class A misdemeanor.

17 (2) Photographs taken under ORS 810.434 may not be used in any criminal proceeding relating  
18 to the prosecution of a violation as described in ORS 153.008, other than for the purpose of proving  
19 or disproving a violation of:

20 (a) ORS 811.265[.];

21 (b) **ORS 811.111 by 11 miles per hour or greater; or**

22 (c) **A designated speed posted under ORS 810.180 by 11 miles per hour or greater.**

23 **SECTION 5.** ORS 810.436 is amended to read:

24 810.436. (1) Notwithstanding any other provision of law, if a city chooses to operate a camera  
25 that complies with this section and ORS 810.434, a citation for violation of ORS 811.265 may be is-  
26 sued on the basis of photographs from a camera taken without the presence of a police officer if the  
27 following conditions are met:

28 (a) Signs are posted, so far as is practicable, on all major routes entering the jurisdiction indi-  
29 cating that compliance with traffic control devices is enforced through cameras.

30 (b) For each traffic control device at which a camera is installed, signs indicating that a camera  
31 may be in operation at the device are posted before the device at a location near the device.

32 (c) If the traffic control device is a traffic light, the yellow light shows for at least the length  
33 of time recommended by the standard set by the Institute of Transportation Engineers.

34 (d) The citation is mailed to the registered owner of the vehicle, or to the driver if identifiable,  
35 within 10 business days of the alleged violation.

36 (e) The registered owner is given 30 days from the date the citation is mailed to respond to the  
37 citation.

38 (f) A police officer who has reviewed the photograph signs the citation. The citation may be  
39 prepared on a digital medium, and the signature may be electronic in accordance with the provisions  
40 of ORS 84.001 to 84.061.

41 **(2) Notwithstanding subsection (1) of this section, if the city issues a citation under sec-**  
42 **tion 2 of this 2017 Act for exceeding the speed limit under ORS 811.111 or designated speed**  
43 **posted under ORS 810.180 by 11 to 20 miles per hour, the city may not issue a citation under**  
44 **this section for violation of ORS 811.265 arising out of the same criminal episode, as defined**  
45 **in ORS 131.505.**

1        [(2)] (3) If the person named as the registered owner of a vehicle in the current records of the  
2 Department of Transportation fails to respond to a citation issued under subsection (1) of this sec-  
3 tion, a default judgment under ORS 153.102 may be entered for failure to appear after notice has  
4 been given that the judgment will be entered.

5        [(3)] (4) A rebuttable presumption exists that the registered owner of the vehicle was the driver  
6 of the vehicle when the citation was issued and delivered as provided in this section.

7        [(4)] (5) A person issued a citation under subsection (1) of this section may respond to the cita-  
8 tion by submitting a certificate of innocence or a certificate of nonliability under subsection [(6)]  
9 (7) of this section or any other response allowed by law.

10       [(5)] (6) A citation for violation of ORS 811.265 issued on the basis of photographs from a camera  
11 installed as provided in this section and ORS 810.434 may be delivered by mail or otherwise to the  
12 registered owner of the vehicle or to the driver if the driver is identifiable from the photograph.

13       [(6)(a)] (7)(a) A registered owner of a vehicle may respond by mail to a citation issued under  
14 subsection (1) of this section by submitting, within 30 days from the mailing of the citation, a cer-  
15 tificate of innocence swearing or affirming that the owner was not the driver of the vehicle and by  
16 providing a photocopy of the owner's driver license. A jurisdiction that receives a certificate of in-  
17 nocence under this paragraph shall dismiss the citation without requiring a court appearance by the  
18 registered owner or any other information from the registered owner other than the swearing or  
19 affirmation and the photocopy. The citation may be reissued only once, only to the registered owner  
20 and only if the jurisdiction verifies that the registered owner appears to have been the driver at the  
21 time of the violation. A registered owner may not submit a certificate of innocence in response to  
22 a reissued citation.

23       (b) If a business or public agency responds to a citation issued under subsection (1) of this sec-  
24 tion by submitting, within 30 days from the mailing of the citation, a certificate of nonliability  
25 stating that at the time of the alleged violation the vehicle was in the custody and control of an  
26 employee or was in the custody and control of a renter or lessee under the terms of a motor vehicle  
27 rental agreement or lease, and if the business or public agency provides the driver license number,  
28 name and address of the employee, renter or lessee, the citation shall be dismissed with respect to  
29 the business or public agency. The citation may then be reissued and delivered by mail or otherwise  
30 to the employee, renter or lessee identified in the certificate of nonliability.

31       [(7)] (8) The penalties for and all consequences of a violation of ORS 811.265 initiated by the  
32 use of a camera installed as provided in this section and ORS 810.434 are the same as for a violation  
33 initiated by any other means.

34       [(8)] (9) A registered owner or an employee, renter or lessee against whom a judgment for fail-  
35 ure to appear is entered may move the court to relieve the owner or the employee, renter or lessee  
36 from the judgment as provided in ORS 153.105 if the failure to appear was due to mistake,  
37 inadvertence, surprise or excusable neglect.

38       **SECTION 6. Section 2 of this 2017 Act and the amendments to ORS 810.434, 810.435 and**  
39 **810.436 by sections 3 to 5 of this 2017 Act apply to conduct occurring on or after the effective**  
40 **date of this 2017 Act.**

41       **SECTION 7. This 2017 Act takes effect on the 91st day after the date on which the 2017**  
42 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**