

2007 DRAFTING REQUEST

Bill

Received: **03/21/2007**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Josh Zepnick (608) 266-1707**

By/Representing: **Chris Plata**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - traffic laws**

Extra Copies: **BAB**

Submit via email: **YES**

Requester's email: **Rep.Zepnick@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Enforcement of red light violations by traffic control photographic system monitoring

Instructions:

Wants 2001 LRB-1105 redrafted; verified that he has a copy; not limited to cities of the first class; leave out assessment

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 03/22/2007	kfollett 03/23/2007		_____			S&L
/P1			nmatzke 03/23/2007	_____	cduerst 03/23/2007		S&L
/1	agary 07/25/2007	wjackson 07/25/2007	rschlue 07/25/2007	_____	lparisi 07/25/2007	lparisi 07/25/2007	

FE Sent For:

at inty 10/3/07

<END>

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/?	agary 03/22/2007	kfollett 03/23/2007		_____			S&L
/P1		1 WLJ 7/25	nmatzke 03/23/2007	_____	cduerst 03/23/2007		

FE Sent For:

<END>

PA's:
* Please send
"1" out
jacketed.
Thank. RGB

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1?	agary	1P1/kjf 3/23	nwn 3/23	nwn/rs 3/23			

FE Sent For:

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in 3/22
2298/P1
LRB-110511
M:rs&kmg:jf
ALG:kjf
RM NR

2001 BILL

Regen

1 AN ACT to amend 345.26 (1) (b) 1., 345.26 (2) (b), 345.36 (2) (b), 345.37 (1) (b),
2 345.37 (2), 345.37 (5), 345.47 (1) (intro.), 345.47 (1) (b) and (c), 345.47 (2) and
3 (3), 345.49 and 345.61 (2) (c); and to create 349.175 of the statutes; relating
4 to: the use of traffic control photographic systems to monitor intersections,
5 imposing liability on the owners of vehicles involved in traffic control signal
6 violations, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the governing body of a municipality may not enact a traffic ordinance unless the ordinance strictly conforms to current state traffic law or the ordinance is expressly authorized by law. State law imposes liability on the owner of a vehicle that is observed violating certain laws or local ordinances, including laws or local ordinances that prohibit fleeing a traffic officer, failing to yield the right-of-way to an emergency vehicle or funeral procession, passing a fire truck or school bus, and parking in a parking space designated for vehicles with special registration plates.

This bill authorizes the governing body of a ^{county, city, village, or town} first class city to enact an ordinance that permits the use of a traffic control photographic system (TCPS) for a period of ~~five years from the effective date of this bill~~ to detect and identify motor vehicles that fail to stop at red traffic signals. A TCPS is defined as an electronic system that consists of a photographic, video, or electronic camera and a vehicle sensor that work

at intersections >>>

insert ANGL-A

BILL

in conjunction with a traffic control signal to automatically produce photographs, stamped with the time and date, of motor vehicles traveling through an intersection. The bill ~~directs that~~ the ordinance ~~must~~ include a provision that allows a traffic officer employed by the ~~first class city~~ to issue a traffic citation to the owner of a vehicle that fails to stop at an intersection marked by a red traffic signal and that is detected by a TCPS. The ordinance must require the local authority to send to the owner of the vehicle, by certified mail, the traffic citation and the photograph of the owner's vehicle failing to stop at a red traffic signal. The governing body of a ~~first class city~~ that uses a TCPS is required to erect signs at a sufficient distance from an intersection monitored by a TCPS to warn motor vehicle operators that the intersection is monitored by a TCPS.

If an owner is issued a traffic citation for a violation of the local ordinance, the owner may assert the following defenses:

1. The vehicle was reported stolen before the violation occurred or within a reasonable time after the violation occurred.
2. A person other than the owner admits committing the violation.
3. If the vehicle is owned by, and registered in the name of, a lessor, a lessee who is identified by the lessor had possession of the vehicle at the time of the traffic signal violation.
4. If the vehicle is owned by a motor vehicle dealer, the vehicle was being operated by another person on a trial run and the dealer provided a traffic officer with the person's name, address, and operator's license number.

If an owner successfully asserts one of these defenses, then the operator, or, with respect to item 3., above, the lessee of the vehicle at the time of the violation, ~~shall~~ be charged with failing to stop at a red traffic signal.

A vehicle owner who is convicted of a violation of the local ordinance may be required to forfeit ~~not less than \$20 nor more than \$40 for a first violation and not less than \$50 nor more than \$100 for a second or subsequent violation, including prior state or local traffic light violations.~~ These are the same penalties as those imposed by current law for running a red traffic signal. However, if a forfeiture is imposed under the ordinance, the owner of the vehicle is also required to pay an inattentive driver assessment of \$50 for the first violation and \$100 for the second or subsequent violation. The assessment must be forwarded to the city treasurer and used solely for the maintenance, administration, and operation of the TCPS.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 ~~SECTION 1. 345.26 (1) (b) 1. of the statutes is amended to read:~~
 2 ~~345.26 (1) (b) 1. If the person makes a deposit for a violation of a traffic~~
 3 ~~regulation, the person need not appear in court at the time fixed in the citation, and~~

requires
 >
 >
 County, city, village, or town
 >
 >
 use twice

insert ANAL-B

must
 >

insert ANAL-C
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insert ANAL-D

a duplicate of
 video, or digital image

BILL

1 the person will be deemed to have tendered a plea of no contest and submitted to a
2 forfeiture and a penalty assessment, if required by s. 757.05, a jail assessment, if
3 required by s. 302.46 (1), a railroad crossing improvement assessment, if required
4 by s. 346.177, 346.495, or 346.65 (4r), and a crime laboratories and drug law
5 enforcement assessment, if required by s. 165.755, and an inattentive driver
6 assessment, if required by a local ordinance enacted under s. 349.175, plus any
7 applicable fees prescribed in ch. 814, not to exceed the amount of the deposit that the
8 court may accept as provided in s. 345.37; and

9 **SECTION 2.** 345.26 (2) (b) of the statutes is amended to read:

10 345.26 (2) (b) In addition to the amount in par. (a), the deposit shall include
11 court costs, including any applicable fees prescribed in ch. 814, any applicable
12 penalty assessment, any applicable jail assessment, any applicable railroad crossing
13 improvement assessment and, any applicable crime laboratories and drug law
14 enforcement assessment, and any applicable inattentive driver assessment.

15 **SECTION 3.** 345.36 (2) (b) of the statutes is amended to read:

16 345.36 (2) (b) Deem the nonappearance a plea of no contest and enter judgment
17 accordingly. If the defendant has posted bond for appearance at that date, the court
18 may also order the bond forfeited. The court shall promptly mail a copy of the
19 judgment to the defendant. The judgment shall allow not less than 20 days from the
20 date thereof for payment of any forfeiture, penalty assessment, jail assessment,
21 railroad crossing improvement assessment, crime laboratories and drug law
22 enforcement assessment, inattentive driver assessment if required by a local
23 ordinance enacted under s. 349.175, and costs imposed. If the defendant moves to
24 open the judgment within 20 days after the date set for trial, and shows to the
25 satisfaction of the court that the failure to appear was due to mistake, inadvertence,

BILL**SECTION 3**

1 surprise, or excusable neglect, the court shall open the judgment, reinstate the not
2 guilty plea, and set a new trial date. The court may impose costs under s. 814.07.
3 The court shall immediately notify the department to delete the record of conviction
4 based upon the original judgment.

5 **SECTION 4.** 345.37 (1) (b) of the statutes is amended to read:

6 345.37 (1) (b) Deem the nonappearance a plea of no contest and enter judgment
7 accordingly. If the defendant has posted bond for appearance at that date, the court
8 may also order the bond forfeited. The court shall promptly mail a copy or notice of
9 the judgment to the defendant. The judgment shall allow not less than 20 days from
10 the date thereof for payment of any forfeiture, penalty assessment, railroad crossing
11 improvement assessment, crime laboratories and drug law enforcement assessment,
12 inattentive driver assessment if required by a local ordinance enacted under s.
13 349.175, and costs imposed. If the defendant moves to open the judgment within 6
14 months after the court appearance date fixed in the citation, and shows to the
15 satisfaction of the court that the failure to appear was due to mistake, inadvertence,
16 surprise, or excusable neglect, the court shall open the judgment, accept a not guilty
17 plea and set a trial date. The court may impose costs under s. 814.07. The court shall
18 immediately notify the department to delete the record of conviction based upon the
19 original judgment. If the offense involved is a nonmoving traffic violation and the
20 defendant is subject to s. 345.28 (5) (c), a default judgment may be entered and
21 opened as provided in s. 345.28 (5) (c).

22 **SECTION 5.** 345.37 (2) of the statutes is amended to read:

23 345.37 (2) If the defendant has made a deposit under s. 345.26, the citation may
24 serve as the initial pleading and the defendant shall be deemed to have tendered a
25 plea of no contest and submitted to a forfeiture and a penalty assessment, if required

BILL

1 by s. 757.05, a jail assessment, if required by s. 302.46 (1), a railroad crossing
2 improvement assessment, if required by s. 346.177, 346.495, or 346.65 (4r), and a
3 crime laboratories and drug law enforcement assessment, if required by s. 165.755,
4 and an inattentive driver assessment, if required by a local ordinance enacted under
5 s. 349.175, plus costs, including any applicable fees prescribed in ch. 814, not
6 exceeding the amount of the deposit. The court may either accept the plea of no
7 contest and enter judgment accordingly, or reject the plea and issue a summons
8 under ch. 968. If the defendant fails to appear in response to the summons, the court
9 shall issue a warrant under ch. 968. If the court accepts the plea of no contest, the
10 defendant may move within 6 months after the date set for the appearance to
11 withdraw the plea of no contest, open the judgment, and enter a plea of not guilty
12 upon a showing to the satisfaction of the court that the failure to appear was due to
13 mistake, inadvertence, surprise, or excusable neglect. If on reopening the defendant
14 is found not guilty, the court shall immediately notify the department to delete the
15 record of conviction based on the original proceeding and shall order the defendant's
16 deposit returned.

17 **SECTION 6.** 345.37 (5) of the statutes is amended to read:

18 345.37 (5) Within 5 working days after forfeiture of deposit or entry of default
19 judgment, the official receiving the forfeiture, the penalty assessment, if required by
20 s. 757.05, the jail assessment, if required by s. 302.46 (1), the railroad crossing
21 improvement assessment, if required by s. 346.177, 346.495, or 346.65 (4r), and the
22 crime laboratories and drug law enforcement assessment, if required by s. 165.755,
23 and the inattentive driver assessment, if required by a local ordinance enacted under
24 s. 349.175, shall forward to the department a certification of the entry of default
25 judgment or a judgment of forfeiture.

BILL**SECTION 7**

1 **SECTION 7.** 345.47 (1) (intro.) of the statutes is amended to read:

2 345.47 (1) (intro.) If the defendant is found guilty, the court may enter
3 judgment against the defendant for a monetary amount not to exceed the maximum
4 forfeiture, penalty assessment, if required by s. 757.05, the jail assessment, if
5 required by s. 302.46 (1), the railroad crossing improvement assessment, if required
6 by s. 346.177, 346.495, or 346.65 (4r), and the crime laboratories and drug law
7 enforcement assessment, if required by s. 165.755, and the inattentive driver
8 assessment, if required by a local ordinance enacted under s. 349.175, provided for
9 the violation and for costs under s. 345.53 and, in addition, may suspend or revoke
10 his or her operating privilege under s. 343.30. If the judgment is not paid, the court
11 shall order:

12 **SECTION 8.** 345.47 (1) (b) and (c) of the statutes are amended to read:

13 345.47 (1) (b) In lieu of imprisonment and in addition to any other suspension
14 or revocation, that the defendant's operating privilege be suspended. The operating
15 privilege shall be suspended for 30 days or until the person pays the forfeiture, the
16 penalty assessment, if required by s. 757.05, the jail assessment, if required by s.
17 302.46 (1), the railroad crossing improvement assessment, if required by s. 346.177,
18 346.495, or 346.65 (4r), and the crime laboratories and drug law enforcement
19 assessment, if required by s. 165.755, and the inattentive driver assessment, if
20 required by a local ordinance enacted under s. 349.175, but not to exceed 2 years.
21 Suspension under this paragraph shall not affect the power of the court to suspend
22 or revoke under s. 343.30 or the power of the secretary to suspend or revoke the
23 operating privilege. This paragraph does not apply if the judgment was entered
24 solely for violation of an ordinance to the violator's operation of a motor vehicle.

BILL

1 (c) If a court or judge suspends an operating privilege under this section, the
2 court or judge shall immediately take possession of the suspended license and shall
3 forward it to the department together with the notice of suspension, which shall
4 clearly state that the suspension was for failure to pay a forfeiture, a penalty
5 assessment, if required by s. 757.05, a jail assessment, if required by s. 302.46 (1),
6 a railroad crossing improvement assessment, if required by s. 346.177, 346.495, or
7 346.65 (4r), and a crime laboratories and drug law enforcement assessment, if
8 required by s. 165.755, and an inattentive driver assessment, if required by a local
9 ordinance enacted under s. 349.175, imposed by the court. The notice of suspension
10 and the suspended license, if it is available, shall be forwarded to the department
11 within 48 hours after the order of suspension. If the forfeiture, penalty assessment,
12 jail assessment, railroad crossing improvement assessment and, crime laboratories
13 and drug law enforcement assessment, and inattentive driver assessment are paid
14 during a period of suspension, the court or judge shall immediately notify the
15 department. Upon receipt of the notice and payment of the reinstatement fee under
16 s. 343.21 (1) (j), the department shall return the surrendered license.

17 **SECTION 9.** 345.47 (2) and (3) of the statutes are amended to read:

18 345.47 (2) The payment of any judgment may be suspended or deferred for not
19 more than 60 days in the discretion of the court. In cases where a deposit has been
20 made, any forfeitures, penalty assessments, jail assessments, railroad crossing
21 improvement assessments, crime laboratories and drug law enforcement
22 assessments, inattentive driver assessments, and costs shall be taken out of the
23 deposit and the balance, if any, returned to the defendant.

24 (3) When a defendant is imprisoned for nonpayment of a forfeiture, a penalty
25 assessment, a jail assessment, a railroad crossing improvement assessment or, a

BILL

1 ~~crime laboratories and drug law enforcement assessment, or an inattentive driver~~
2 ~~assessment~~ for an action brought by a municipality located in more than one county,
3 any commitment to a county institution shall be to the county in which the action was
4 tried.

5 **SECTION 10.** 345.49 of the statutes is amended to read:

6 345.49 (1) Any person imprisoned under s. 345.47 for nonpayment of a
7 forfeiture, a penalty assessment, if required by s. 757.05, a jail assessment, if
8 required by s. 302.46 (1), a railroad crossing improvement assessment, if required
9 by s. 346.177, 346.495, or 346.65 (4r), ~~or~~ a crime laboratories and drug law
10 enforcement assessment, if required by s. 165.755, or an inattentive driver
11 assessment, if required by a local ordinance enacted under s. 349.175, may, on
12 request, be allowed to work under s. 303.08. If the person does work, earnings shall
13 be applied on the unpaid forfeiture, penalty assessment, jail assessment, railroad
14 crossing improvement assessment ~~or~~, crime laboratories and drug law enforcement
15 assessment, or inattentive driver assessment after payment of personal board and
16 expenses and support of personal dependents to the extent directed by the court.

17 (2) Any person who is subject to imprisonment under s. 345.47 for nonpayment
18 of a forfeiture, penalty assessment, jail assessment, railroad crossing improvement
19 assessment ~~or~~, crime laboratories and drug law enforcement assessment, or
20 inattentive driver assessment may be placed on probation to some person
21 satisfactory to the court for not more than 90 days or until the forfeiture, penalty
22 assessment, jail assessment, railroad crossing improvement assessment ~~or~~, crime
23 laboratories and drug law enforcement assessment, or inattentive driver assessment
24 is paid if that is done before expiration of the 90-day period. The payment of the
25 forfeiture, penalty assessment, jail assessment, railroad crossing improvement

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1 assessment ~~or~~, crime laboratories and drug law enforcement assessment, or
2 inattentive driver assessment during that period shall be a condition of the
3 probation. If the forfeiture, penalty assessment, jail assessment, railroad crossing
4 improvement assessment ~~or~~, crime laboratories and drug law enforcement
5 assessment, or inattentive driver assessment is not paid or the court deems that the
6 interests of justice require, probation may be terminated and the defendant
7 imprisoned as provided in sub. (1) or s. 345.47.

8 **SECTION 11.** 345.61 (2) (c) of the statutes is amended to read:

9 345.61 (2) (c) “Guaranteed arrest bond certificate” as used in this section means
10 any printed card or other certificate issued by an automobile club, association, or
11 insurance company to any of its members or insureds, which card or certificate is
12 signed by the member or insureds and contains a printed statement that the
13 automobile club, association, or insurance company and a surety company, or an
14 insurance company authorized to transact both automobile liability insurance and
15 surety business, guarantee the appearance of the persons whose signature appears
16 on the card or certificate and that they will, in the event of failure of the person to
17 appear in court at the time of trial, pay any fine or forfeiture imposed on the person,
18 including the penalty assessment required by s. 757.05, the jail assessment required
19 by s. 302.46 (1), the railroad crossing improvement assessment required by s.
20 346.177, 346.495, or 346.65 (4r) and, the crime laboratories and drug law
21 enforcement assessment required by s. 165.755, and the inattentive driver
22 assessment, if required by a local ordinance enacted under s. 349.175, in an amount
23 not exceeding \$200, or \$1,000 as provided in sub. (1) (b).

24 **SECTION 12.** 349.175⁰⁷ of the statutes is created to read:

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1 ⁰⁷~~349.175~~ **Authority to use traffic control photographic systems.** (1) In
2 this section:

3 (a) In addition to the meaning given in s. 340.01 (42), "owner" means, with
4 respect to a vehicle that is registered, or that is required to be registered, by a lessee
5 of the vehicle under ch. 341, the lessee of the vehicle.

6 (b) "Traffic control photographic system" means an electronic system consisting
7 of a photographic, video, or electronic camera and a vehicle sensor installed for use
8 with an official traffic control signal to automatically produce photographs or video
9 or digital images, stamped with the time and date, of vehicles moving through an
10 intersection.

11 ~~(2) No 1st class city may use a traffic control photographic system to determine
12 compliance with any state or local traffic law except as provided in an ordinance
13 enacted under this section.~~

14 ~~(3) Subject to sub. (4), the governing body of a 1st class city may enact an
15 ordinance that allows the use of a traffic control photographic system until the first
16 day of the 61st month beginning after the effective date of this subsection [revisor
17 inserts date], for the purpose of detecting a violation of s. 346.37 or an ordinance
18 enacted in conformity with s. 346.37, and that may subject a person to a forfeiture
19 for being the owner of a vehicle involved in a violation of s. 346.37 or an ordinance
20 enacted in conformity with s. 346.37.~~

MSX
10-13

21 ³~~(4)~~ An ordinance enacted under sub. ²~~(3)~~ shall include all of the following:

22 (a) A requirement that an official traffic sign be placed at a sufficient distance
23 from an intersection monitored by a traffic control photographic system to provide
24 motor vehicle operators adequate notice that the intersection is monitored by a
25 traffic control photographic system.

BILL

1 (b) Except as provided in par. (d), a provision that the owner of a vehicle
 2 involved in a violation of s. 346.37 ^{(1) (c) 1. or 3.} or an ordinance enacted in conformity with s.
 3 346.37 that is detected by a traffic control photographic system may be subject to a
 4 forfeiture ~~and assessment~~ under pars. (e) and (f) for owning the vehicle involved in
 5 the violation.

6 (c) A requirement that, if a traffic officer employed by the governing body
 7 ^{of the county, city, village, or town} prepares a uniform traffic citation under s. 345.11 for a violation of an ordinance
 8 enacted under this section, the traffic officer shall serve the owner of the vehicle with
 9 the citation by ~~certified mail addressed to the owner's last known address.~~ A traffic
 10 officer shall send with the citation ^{a duplicate of} the photograph, video, or digital image, taken by
 11 the traffic control photographic system, of the ~~owner's motor vehicle~~ ^{involved in the violation}

12 (d) ^{are} All of the following ~~are~~ defenses to a violation of an ordinance enacted under this
 13 section:

14 1. That a report that the vehicle was stolen was made by the owner to a law
 15 enforcement agency before the violation occurred or within a reasonable time after
 16 the violation occurred.

17 2. That the owner of the vehicle provided a traffic officer with the name and
 18 address of the person operating the vehicle at the time of the violation and the person
 19 so named admits operating the vehicle at the time of the violation. In that case, the
 20 person operating the vehicle may be charged with a violation of s. 346.37 ^{or a local}
 21 ordinance enacted in conformity with s. 346.37.

22 3. That the vehicle is owned by a lessor of vehicles and is registered in the name
 23 of the lessor, that at the time of the violation the vehicle was in the possession of a
 24 lessee, and that the lessor provided a traffic officer with the information required

Insert 11-9

Insert 11-12

BILL

(1) (c) 1. or 3.

1 under s. 343.46 (3). In that case, the lessee may be charged with a violation of s.
2 346.37 or a local ordinance enacted in conformity with s. 346.37.

3 4. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but
4 including the persons specified in s. 340.01 (11) (a) to (d), at the time of the violation
5 the vehicle was being operated by a person on a trial run, and the dealer provided
6 a traffic officer with the name, address, and operator's license number of the person
7 operating the vehicle. In that case, the person operating the vehicle may be charged
8 with a violation of s. 346.37 or a local ordinance enacted in conformity with s. 346.37.

Ind. 12-9

9 (e) ~~Subject to par. (em),~~ a provision that permits a court to impose the following
10 forfeitures:

11 1. For a first violation of an ordinance enacted under this section, not less than
12 \$20 nor more than \$40.

13 2. For a 2nd or subsequent violation within a year of an ordinance enacted
14 under this section, not less than \$50 nor more than \$100. For purposes of this

15 ~~subdivision,~~ a violation of ss. 346.37 to 346.39 or a local ordinance in conformity with
16 ss. 346.37 to 346.39 shall be counted as a prior violation.

17 (em) For a violation of an ordinance enacted under this section that occurs
18 where persons engaged in work in a highway maintenance or construction area or
19 in a utility work area are at risk from traffic, a provision that requires the doubling
20 of any applicable minimum and maximum forfeiture specified in par. (e).

21 (f) A provision that requires a court to impose an inattentive driver assessment
22 equal to \$50 for the first violation and \$100 for the 2nd violation and all subsequent
23 violations whenever a court imposes a forfeiture as provided in par. (e). The clerk of
24 the court shall collect and transmit the assessment to the city treasurer.

BILL

insert
13-2

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(5) A 1st class city may use any moneys received under sub. (4) (f) only for the maintenance, administration, and operation of traffic control photographic systems.

(END)

D-Note

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2298/Plins
ARG:.....

INSERT ANAL-A:

(no P) on highways under the jurisdiction of the county, city, village, or town

INSERT ANAL-B:

(no P) it is not a defense that the owner was not in control of the vehicle at the time of the violation, except that

INSERT ANAL-C:

(no P) the same amount imposed on a vehicle operator under current law for running a red traffic signal

INSERT ANAL-D:

(no P) However, the vehicle owner's operating privilege may not be suspended or revoked and the owner may not be assessed any demerit points on his or her driving record.

INSERT 10-15:

(2) Subject to sub. (3), the governing body of any county, city, village, or town may enact an ordinance that allows the use of a traffic control photographic system on highways under the jurisdiction of the county, city, village, or town for the purpose of detecting a violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance in conformity with s. 346.37 (1) (c) 1. or 3., and that may subject a person to a forfeiture for being the owner of a vehicle involved in a violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance in conformity with s. 346.37 (1) (c) 1. or 3.

INSERT 11-9:

(no P) mailing the citation by certified mail addressed to the owner's last-known address within 48 hours after the violation

INSERT 11-12:

A provision that it is not a defense to a violation of the ordinance that the owner was not in control of the vehicle at the time of the violation, except that no P

INSERT 12-9:

A provision that permits a court to impose a forfeiture for a violation of an ordinance enacted under this section. The forfeiture shall be consistent with the forfeiture that would be imposed under s. 346.43 for a violation of s. 346.37 (1) (c) 1. or 3. or that would be imposed by a local ordinance for a violation of an ordinance enacted in conformity with s. 346.37 (1) (c) 1. or 3. no P

INSERT 13-2:

(4) Imposition of liability for a violation of an ordinance enacted under this section shall not result in the suspension or revocation of a person's operating license under s. 343.30, nor shall it result in demerit points being recorded on a person's driving record under s. 343.32 (2) (a).

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2298/P1dn

ARG... *gf*

Date

ATTN: Chris Plata

Please review the attached draft carefully to ensure that it is consistent with your intent.

The attached draft has been slightly revised and updated. The draft authorizes local authorities to use photographic systems to enforce s. 346.37 (1) (c) 1. or 3. (or a conforming local ordinance) relating to stopping at red lights. I note that the draft only allows photographic systems to be used to detect and identify vehicles that fail to stop at red lights at intersections. It does not allow photographic systems to be used to detect other traffic control signal violations under s. 346.37 (such as failure to yield the right-of-way to pedestrians at a green light or violations that do not occur at an intersection).

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2298/P1dn
ARG:kjf:nwn

March 23, 2007

ATTN: Chris Plata

Please review the attached draft carefully to ensure that it is consistent with your intent.

The attached draft has been slightly revised and updated. The draft authorizes local authorities to use photographic systems to enforce s. 346.37 (1) (c) 1. or 3. (or a conforming local ordinance) relating to stopping at red lights. I note that the draft only allows photographic systems to be used to detect and identify vehicles that fail to stop at red lights at intersections. It does not allow photographic systems to be used to detect other traffic control signal violations under s. 346.37 (such as failure to yield the right-of-way to pedestrians at a green light or violations that do not occur at an intersection).

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State of Wisconsin
LEGISLATIVE REFERENCE BUREAU

**RESEARCH APPENDIX -
PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 04/25/2007 (Per: BAB)



Appendix A

The 2007 drafting file for LRB-2298/P1

has been copied/added to the drafting file for

2007 LRB-2334

* The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as an appendix, to the new 2007 drafting file. If introduced this section will be examined and added, as a separate appendix, to the electronic drafting file folder.

* This cover sheet was added to rear of the original 2007 drafting file. The drafting file was then returned, intact, to its folder and filed.



State of Wisconsin
2007 - 2008 LEGISLATURE

TODAY

in 7/25

LRB-2298/Pr 1

ARG:kjf:wnw

stays
RNR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

7/25 Per Josh - make "11"

Editors: No changes

Regen

1 AN ACT to create 349.07 of the statutes; relating to: the use of traffic control
2 photographic systems to monitor intersections, imposing liability on the
3 owners of vehicles involved in traffic control signal violations, and providing a
4 penalty.

Analysis by the Legislative Reference Bureau

Under current law, the governing body of a municipality may not enact a traffic ordinance unless the ordinance strictly conforms to current state traffic law or the ordinance is expressly authorized by law. State law imposes liability on the owner of a vehicle that is observed violating certain laws or local ordinances, including laws or local ordinances that prohibit fleeing a traffic officer, failing to yield the right-of-way to an emergency vehicle or funeral procession, passing a fire truck or school bus, and parking in a parking space designated for vehicles with special registration plates.

This bill authorizes the governing body of a county, city, village, or town to enact an ordinance that permits the use of a traffic control photographic system (TCPS) on highways under the jurisdiction of the county, city, village, or town to detect and identify motor vehicles that fail to stop at red traffic signals at intersections. A TCPS is defined as an electronic system that consists of a photographic, video, or electronic camera and a vehicle sensor that work in conjunction with a traffic control signal to automatically produce photographs, stamped with the time and date, of motor vehicles traveling through an intersection. The bill requires the ordinance to include a provision that allows a traffic officer employed by the county, city, village, or town

to issue a traffic citation to the owner of a vehicle that fails to stop at an intersection marked by a red traffic signal and that is detected by a TCPS. The ordinance must require the local authority to send to the owner of the vehicle, by certified mail, the traffic citation and a duplicate of the photograph, video, or digital image of the vehicle failing to stop at a red traffic signal. The governing body of a county, city, village, or town that uses a TCPS is required to erect signs at a sufficient distance from an intersection monitored by a TCPS to warn motor vehicle operators that the intersection is monitored by a TCPS.

If an owner is issued a traffic citation for a violation of the local ordinance, it is not a defense that the owner was not in control of the vehicle at the time of the violation, except that the owner may assert the following defenses:

1. The vehicle was reported stolen before the violation occurred or within a reasonable time after the violation occurred.
2. A person other than the owner admits committing the violation.
3. If the vehicle is owned by, and registered in the name of, a lessor, a lessee who is identified by the lessor had possession of the vehicle at the time of the traffic signal violation.
4. If the vehicle is owned by a motor vehicle dealer, the vehicle was being operated by another person on a trial run and the dealer provided a traffic officer with the person's name, address, and operator's license number.

If an owner successfully asserts one of these defenses, then the operator, or, with respect to item 3., above, the lessee of the vehicle at the time of the violation, must be charged with failing to stop at a red traffic signal.

A vehicle owner who is convicted of a violation of the local ordinance may be required to forfeit the same amount imposed on a vehicle operator under current law for running a red traffic signal (not less than \$20 nor more than \$40 for a first violation and not less than \$50 nor more than \$100 for a second or subsequent violation, including prior state or local traffic light violations). However, the vehicle owner's operating privilege may not be suspended or revoked and the owner may not be assessed any demerit points on his or her driving record.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 349.107 of the statutes is created to read:
- 2 **349.107 Authority to use traffic control photographic systems.** (1) In
- 3 this section:

1 (a) In addition to the meaning given in s. 340.01 (42), "owner" means, with
2 respect to a vehicle that is registered, or that is required to be registered, by a lessee
3 of the vehicle under ch. 341, the lessee of the vehicle.

4 (b) "Traffic control photographic system" means an electronic system consisting
5 of a photographic, video, or electronic camera and a vehicle sensor installed for use
6 with an official traffic control signal to automatically produce photographs or video
7 or digital images, stamped with the time and date, of vehicles moving through an
8 intersection.

9 (2) Subject to sub. (3), the governing body of any county, city, village, or town
10 may enact an ordinance that allows the use of a traffic control photographic system
11 on highways under the jurisdiction of the county, city, village, or town for the purpose
12 of detecting a violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance in conformity
13 with s. 346.37 (1) (c) 1. or 3., and that may subject a person to a forfeiture for being
14 the owner of a vehicle involved in a violation of s. 346.37 (1) (c) 1. or 3. or a local
15 ordinance in conformity with s. 346.37 (1) (c) 1. or 3.

16 (3) An ordinance enacted under sub. (2) shall include all of the following:

17 (a) A requirement that an official traffic sign be placed at a sufficient distance
18 from an intersection monitored by a traffic control photographic system to provide
19 motor vehicle operators adequate notice that the intersection is monitored by a
20 traffic control photographic system.

21 (b) Except as provided in par. (d), a provision that the owner of a vehicle
22 involved in a violation of s. 346.37 (1) (c) 1. or 3. or an ordinance enacted in conformity
23 with s. 346.37 (1) (c) 1. or 3. that is detected by a traffic control photographic system
24 may be subject to a forfeiture under par. (e) for owning the vehicle involved in the
25 violation.

1 (c) A requirement that, if a traffic officer employed by the governing body of the
2 county, city, village, or town prepares a uniform traffic citation under s. 345.11 for a
3 violation of an ordinance enacted under this section, the traffic officer shall serve the
4 owner of the vehicle with the citation by mailing the citation by certified mail
5 addressed to the owner's last-known address within 48 hours after the violation. A
6 traffic officer shall send with the citation a duplicate of the photograph, video, or
7 digital image, taken by the traffic control photographic system, of the vehicle
8 involved in the violation.

9 (d) A provision that it is not a defense to a violation of the ordinance that the
10 owner was not in control of the vehicle at the time of the violation, except that all of
11 the following are defenses to a violation of an ordinance enacted under this section:

12 1. That a report that the vehicle was stolen was made by the owner to a law
13 enforcement agency before the violation occurred or within a reasonable time after
14 the violation occurred.

15 2. That the owner of the vehicle provided a traffic officer with the name and
16 address of the person operating the vehicle at the time of the violation and the person
17 so named admits operating the vehicle at the time of the violation. In that case, the
18 person operating the vehicle may be charged with a violation of s. 346.37 (1) (c) 1. or
19 3. or a local ordinance enacted in conformity with s. 346.37 (1) (c) 1. or 3.

20 3. That the vehicle is owned by a lessor of vehicles and is registered in the name
21 of the lessor, that at the time of the violation the vehicle was in the possession of a
22 lessee, and that the lessor provided a traffic officer with the information required
23 under s. 343.46 (3). In that case, the lessee may be charged with a violation of s.
24 346.37 (1) (c) 1. or 3. or a local ordinance enacted in conformity with s. 346.37 (1) (c)
25 1. or 3.

