



## 2007 ASSEMBLY BILL 528

October 4, 2007 - Introduced by Representatives ZEPNICK, HONADEL, BERCEAU, FIELDS, SINICKI, BLACK, BIES, TOWNSEND, SOLETSKI, PARISI, MUSSER, BALLWEG and A. OTT, cosponsored by Senator CARPENTER. Referred to Committee on Urban and Local Affairs.

1     **AN ACT** *to create* 349.107 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

**ASSEMBLY BILL 528**

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:

**ASSEMBLY BILL 528**

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.

**ASSEMBLY BILL 528****SECTION 1**

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.

