

HOUSE BILL NO. HB0203

Photo radar.

Sponsored by: Representative(s) Cohee and Senator(s) Fecht

A BILL

for

1 AN ACT relating to automated vehicle identification
2 systems; providing for issuance of penalty assessments
3 through automated vehicle identification systems; providing
4 for a hearing; providing fines; providing conforming
5 amendments; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 31-5-1215 is created to read:

10

11 **31-5-1215. Automated vehicle identification systems.**

12

13 (a) The state, a county or a city or town, through
14 its law enforcement agency may use an automated vehicle
15 identification system to detect violations of traffic
16 regulations adopted by the state, county, city or town
17 subject to the following conditions and limitations:

1

2 (i) If the law enforcement agency detects any
3 alleged violation of a traffic regulation through the use
4 of an automated vehicle identification system, the agency
5 shall serve a penalty assessment notice for the alleged
6 violation on the registered owner of the vehicle no later
7 than ninety (90) days after the alleged violation occurred;

8

9 (ii) Notwithstanding any other provision of
10 Wyoming statutes, the agency shall not report to the
11 department of motor vehicles any penalty assessment or
12 judgment for violation of a traffic regulation under this
13 section if the violation was detected solely through use of
14 an automated vehicle identification system;

15

16 (iii) The agency shall not report to the
17 department of motor vehicles any outstanding penalty
18 assessment or judgment under this section based upon any
19 violation or alleged violation of a traffic regulation
20 detected solely through the use of an automated vehicle
21 identification system;

22

23 (iv) If the registered owner of a vehicle
24 asserts that he is not the driver of the vehicle, the

1 agency may require the owner to disclose the identity of a
2 driver of the vehicle who is detected through the use of an
3 automated vehicle identification system;

4

5 (v) The department of motor vehicles shall not
6 keep a record of a penalty assessment or judgment under
7 this section for a violation of a traffic regulation if the
8 violation was detected solely through the use of an
9 automated vehicle identification system;

10

11 (vi) If the agency detects a speeding violation
12 of less than ten (10) miles per hour over the posted speed
13 limit solely through the use of an automated vehicle
14 identification system and the violation is the first
15 violation detected for that vehicle using an automated
16 vehicle identification system, the agency shall mail the
17 driver a warning regarding the violation and the agency
18 shall not impose any penalty or surcharge for the
19 violation;

20

21 (vii) Except as provided in paragraph (viii) of
22 this subsection, if the agency detects a second or
23 subsequent speeding violation by a vehicle, or a first
24 violation of any other traffic regulation solely through

1 the use of an automated vehicle identification system, the
2 maximum penalty the agency may impose for the violation,
3 including any surcharge, is four hundred dollars (\$400.00),
4 unless the violation occurs within a school zone or
5 construction zone, in which case the maximum penalty shall
6 be double the penalty imposed if the violation did not
7 occur in a school zone or construction zone;

8

9 (viii) If the agency detects a violation of W.S.
10 31-5-402 through 31-5-405, or any similar local law, solely
11 through the use of an automated traffic control system, the
12 maximum penalty the agency may impose for the violation,
13 including any surcharge, is two hundred fifty dollars
14 (\$250.00);

15

16 (ix) If a driver fails to pay a penalty imposed
17 for a violation detected solely using an automated vehicle
18 identification system, the agency shall issue a summons and
19 complaint requiring the driver to appear for a hearing as
20 provided in paragraph (xi) of this subsection. If a
21 summons and complaint for a violation detected solely using
22 an automated vehicle identification system is personally
23 served, the agency may only charge the actual costs of
24 service of process. Service shall be perfected by mailing

1 a summons to the address listed in the vehicle's
2 registration. If service in this manner is unsuccessful,
3 personal service may be attempted, but in no case shall an
4 arrest warrant issue for a violation detected solely by an
5 automated vehicle identification system;

6

7 (x) A penalty notice issued under this section
8 shall inform the recipient of the right to contest the
9 issuance of the notice and that they may request, within
10 ten (10) days of receiving notice, a hearing in the
11 municipal or circuit court for the jurisdiction. No
12 penalty shall be assessed unless the driver of the vehicle
13 can be clearly identified;

14

15 (xi) Any violation detected solely by an
16 automated vehicle identification system shall be deemed
17 administrative in nature and not a criminal act. Hearings
18 under this section shall be conducted by the court in
19 accordance with the Wyoming administrative procedure act.
20 The burden of proving all elements of the violation,
21 including identity and service of process shall be on the
22 agency utilizing the automated vehicle identification
23 system and shall be proven by a preponderance of the
24 evidence.

1

2 (b) As used in this section, the term "automated
3 vehicle identification system" means a system whereby:

4

5 (i) A machine is used to automatically detect a
6 violation of a traffic regulation and simultaneously
7 records a photograph of the vehicle, the operator of the
8 vehicle and the license plate of the vehicle; and

9

10 (ii) A penalty assessment notice is issued to
11 the registered owner of the vehicle.

12

13 **Section 2.** W.S. 31-5-109(a) by creating a new
14 paragraph (xxi), 31-5-1201(a), 31-5-1205(j), 31-5-1211(a)
15 and 31-5-1214(a) are amended to read:

16

17 **31-5-109. General powers of local authorities.**

18

19 (a) This act does not prevent local authorities with
20 respect to streets and highways under their jurisdiction
21 and within the reasonable exercise of the police power
22 from:

23

1 (xxi) Enforcing traffic violations within its
2 jurisdiction through the use of an automated vehicle
3 identification system as provided in W.S. 31-5-1215.

4
5 **31-5-1201. Violation of provisions to constitute**
6 **misdemeanor; penalties.**

7
8 (a) Except as provided in W.S. 31-5-1215, it is a
9 misdemeanor for any person to violate any of the provisions
10 of this act or rules and regulations authorized under this
11 act unless the violation is by this act or other law of
12 this state declared to be a felony.

13
14 **31-5-1205. Traffic citations; notice to appear in**
15 **court; release upon written promise to appear; procedure**
16 **before judge or court; arrest for driving under the**
17 **influence.**

18
19 (j) The procedure prescribed by this section is not
20 exclusive to this act, but is applicable in all proceedings
21 arising out of an alleged violation of a statute, ordinance
22 or regulation relating to operation or use of any vehicle
23 or to use of the highways, except as provided in W.S.
24 31-5-1215.

1

2 **31-5-1211. Disposition and records of traffic**
3 **citations.**

4

5 (a) Every traffic enforcement officer upon issuing a
6 traffic citation to an alleged violator of any provision of
7 the motor vehicle laws of this state or of any traffic
8 ordinance of any city or town shall deposit the original or
9 a copy of the traffic citation with a court having
10 jurisdiction over the alleged offense or with its traffic
11 violations bureau. As used in this section, "citation"
12 does not include a penalty assessment as provided in W.S.
13 31-5-1215.

14

15 **31-5-1214. Record of traffic cases; reports of**
16 **convictions.**

17

18 (a) Every judge of a court shall keep or cause to be
19 kept a record of every traffic complaint, traffic citation
20 or other legal form of traffic charge deposited with or
21 presented to the court and shall keep a record of every
22 official action by the court in reference thereto,
23 including but not limited to a record of every conviction,
24 forfeiture of bail, judgment of acquittal and the amount of

1 fine or forfeiture resulting from every traffic complaint
2 or citation deposited with or presented to the court. As
3 used in this section, "traffic complaint, citation or legal
4 charge" does not include a penalty assessment as provided
5 in W.S. 31-5-1215.

6

7 **Section 3.** This act is effective July 1, 2007.

8

9

(END)