

A SUMMARY OF HOUSE BILL 4598 AS INTRODUCED 4-17-01

House Bill 4598 would amend the Michigan Vehicle Code to allow the Department of State Police, the Department of Transportation, county boards of commissioners, boards of county road commissioners, and other local authorities having jurisdiction over highways or streets to use unmanned traffic monitoring devices at intersections with traffic control signals, if they adopt a traffic monitoring implementation plan.

Traffic monitoring implementation plan. Under the bill, a traffic monitoring implementation plan for an intersection could be adopted if the following conditions applied:

- repeated violations of the vehicle code had occurred at the intersection related to the failure of a vehicle operator to comply with a traffic control signal; and,

- other safety measures, including but not limited to, traffic control signal timing adjustments, lane improvements, line of sight improvements, modified traffic signs, education, or other law enforcement strategies had been considered but had failed to significantly reduce the number of violations occurring at the intersection.

The bill specifies that a traffic monitoring implementation plan would be required to include at least the following:

- a plan for the direct management of any unmanned traffic monitoring devices by an appropriate law enforcement agency;

- an unmanned traffic monitoring device data collection plan for the purpose of evaluating the effectiveness of the devices; and,

- a public education campaign to enhance public awareness of unmanned traffic monitoring devices and enforcement activities.

House Bill 4598 would require that a monitoring jurisdiction solicit recommendations from law enforcement officers, prosecutors, judges, and other interested parties when developing the plan.

Signed monitoring devices. The bill would require that each unmanned traffic monitoring device be sufficiently marked or identified, or that a sign be placed at or near the

intersection indicating that the intersection is monitored by an unmanned traffic monitoring device.

Baseline data; notice; ongoing evaluation. Under the bill, a person would be responsible for a civil infraction if he or she committed a violation on the basis of evidence obtained from a traffic monitoring device, beginning 61 days after installation of the device. However, the bill specifies that for the first 30 days after the installation of the device, the law enforcement agency responsible for its management would be required to collect data regarding any violations, for the purpose of establishing a baseline to measure the effectiveness of the device. Then, during the second 30 days after installation, a person otherwise responsible for a civil infraction would be issued a written warning only. Finally, the bill specifies that while an unmanned traffic monitoring device is installed, the responsible law enforcement agency would be required to continue collecting data regarding any violations in order to regularly evaluate the effectiveness of the device.

Evidence. Under the bill, a sworn statement of a police officer or local authority having jurisdiction, based upon inspection of photographs, videotape, or digital images, would be prima facie evidence of the facts contained in the sworn statement. Those images would be available for inspection in a proceeding to adjudicate liability for a violation.

Rebuttable presumptions. The bill also specifies that when prosecuting an offense, the prima facie evidence together with proof that the defendant was the registered owner of the vehicle would constitute a rebuttable presumption that the owner was the person responsible for the violation. A presumption could be rebutted if the registered owner of the vehicle filed an affidavit (by regular mail) with the clerk of the court, or testified in open court under oath, that he or was not the operator of the vehicle at the time of the alleged violation. The presumption also could be rebutted if a certified copy of a police report that showed the vehicle stolen before the time of the alleged violation were presented before the return date established on the issued citation. For purposes of this provision, the owner of a leased or rented vehicle would be required to provide the name and address of the person to whom the vehicle was leased or rented at the time of the violation.

Issuing citations. Under the bill, a citation could be executed by mailing a copy of the citation, by first class mail, to the vehicle owner, as shown on the secretary of state's records. If the summoned person failed to appear on the date set out in the citation mailed first class, then a copy would be sent by certified mail, return receipt requested. If the summoned person failed to appear on either of the dates, the citation would be executed in the manner provided by law for personal service, and if a sworn complaint were filed with the court, proceedings for contempt or arrest of the person summoned by mail would be instituted for failure to appear on the return date.

Definitions. Under the bill, "unmanned traffic monitoring device" would be defined to mean a photographic, video, or electronic digital camera and vehicle sensors installed to work in conjunction with an official traffic control device to automatically produce photographs, video or digital images of each vehicle committing a violation of the vehicle code at an intersection with a traffic control signal. "Monitoring jurisdiction" would be defined to mean a local

authority having jurisdiction over a highway or street that has approved a traffic monitoring implementation plan under the bill.

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Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.