
Sec. 15-1-15. Owner liability for traffic signal camera violations.

- (a) As used in this Section:
- (1) *Traffic signal camera* shall mean a type of automatic vehicle identification device operated under the general supervision of a police officer, that is placed in a fixed location at a signalized intersection within the City and which is wired and programmed to automatically photograph or digitally record the intersection and vehicles entering said intersection after a steady circular red signal or a steady red arrow signal has been displayed to such vehicles, and to record and accurately depict the vehicle's location within the intersection, the vehicle's license plate, the driver of the vehicle, the date and time of the event depicted and the elapsed time from the display of said signal.
 - (2) *Owner* shall have the meaning provided in Section 102(49) of Article II of the Model Traffic Code.
 - (3) *Person* shall mean natural persons, corporations, partnerships, limited partnerships and limited liability companies.
- (b) The Chief of Police and the Traffic Engineer are authorized and directed to deploy traffic signal cameras at one (1) or more intersections within the City for the purpose of detecting noncompliance with traffic control devices at such intersections. Traffic signal cameras shall not be used until and unless there is posted an appropriate sign in a conspicuous place not less than a reasonable distance before the area where the traffic signal camera is to be used, notifying the public that an automated vehicle identification device is in use ahead. The intersections at which traffic signal cameras are deployed may be changed from time to time among signalized intersections within the City which have high traffic volume, have above-average accident experience and have experienced injury-producing accidents.
- (c) The owner of a vehicle shall be liable for a civil penalty imposed as provided in this Section if such vehicle was used or operated with the permission of the owner, express or implied, in violation of Section 604(1)(c) of the Model Traffic Code, and such violation is evidenced by information obtained from a traffic signal camera; provided, however, that no owner of a vehicle shall be liable for a penalty imposed pursuant to this Section where the operator of such vehicle has been convicted of the underlying violation of Section 604(1)(c) of the Model Traffic Code.
- (d) Proof that a particular vehicle, identified by its license plate tag or tags in a photograph or digitally recorded image produced by a traffic signal camera, is registered to a person, as shown in records of the Colorado Department of Revenue, Motor Vehicle Division, or of the County Clerk and Recorder, or of the vehicle registration authority for any other state in which a vehicle is found to be registered, shall constitute prima facie evidence that said person is the owner of said vehicle.
- (e) Neither payment of the civil penalty assessed pursuant to a civil penalty assessment notice issued under this Section, imposition of liability under this Section by appearance and payment before the Traffic Violations Bureau, nor imposition of liability under this Section determined upon hearing before a Judge or Magistrate of the Municipal Court shall be deemed a conviction as an operator or driver. A record relating to the same shall not be transmitted to the Colorado Department of Revenue as any matter bearing upon the driving record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage or determination of the premium therefor.
- (f) The following procedures shall be followed with respect to imposition of civil penalties under this Section:
- (1) A civil penalty assessment notice shall be sent by first class mail to each person alleged to be liable as an owner for a violation recorded by a traffic signal camera of Section 604(1)(c) of the Model Traffic Code. The notice shall be addressed to the registered owner of the vehicle, shall state the name and address of the person alleged to be liable as an owner pursuant to this Section, the registration number of the vehicle involved in the violation, the location where the violation occurred, the date and time of

such violation and the identification of the traffic signal camera which recorded the violation, and shall be signed by a police officer or reserve police officer who has reviewed the photographic and other information recorded by the traffic signal camera and examined appropriate vehicle registration records and, based thereon, has reasonable grounds for believing that said owner is liable for the civil penalty assessment as provided by this Section. The notice shall state the amount of the penalty assessment and shall advise the alleged owner that the alleged owner must respond to the notice by either appearance before the Traffic Violations Bureau on or before a date stated in the notice to pay the assessment or request an adjudicatory hearing to contest the liability alleged in the notice, or by mailing payment of the penalty assessment amount to the Traffic Violations Bureau on or before said date. The notice shall advise the alleged owner of the provisions of Subsections (c) and (e) of this Section. The notice shall also contain a warning to advise the person charged that failure to contest in the manner and time provided shall be deemed an admission of civil liability and that a default judgment may be entered thereon.

- (2) If the person to whom the civil penalty assessment notice has been mailed fails to pay the civil penalty assessment or respond to the notice by timely seeking a hearing, the Clerk of the Municipal Court or Traffic Violations Bureau shall send another notice by certified mail, return receipt requested, to such person, warning him or her that in the event such notice is disregarded for a period of twenty (20) days from date of mailing, default judgment will be entered.
- (3) If a hearing is timely requested to contest liability under this Section, adjudication of the liability imposed upon owners by this Section shall be by the Municipal Judge, or one (1) of the Assistant Municipal Judges, sitting as an administrative hearing officer for the Traffic Violations Bureau. In hearings to determine liability under this Section, it shall be the City's burden to prove liability by a preponderance of evidence. The proceedings shall be conducted informally without strict adherence to the rules of evidence, provided that testimony and exhibits received and considered shall have sufficient indicia of authenticity and reliability so as to constitute competent evidence.
- (4) If an owner receives a civil penalty assessment notice pursuant to this Section for any time period during which the vehicle was reported to the Police Department as having been stolen, it shall be a valid defense to an allegation of liability for a violation of Section 604(1)(c) of the Model Traffic Code pursuant to this Section that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this Subparagraph (4), it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the Traffic Violations Bureau or Municipal Court.
- (5) An owner who is a lessor of a vehicle to which a civil penalty assessment notice was issued pursuant to this Section shall not be found liable, provided that he or she sends to the Traffic Violations Bureau or Municipal Court a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty (30) days after receiving the first civil penalty assessment notice of the date and time of such violation, together with the other information contained in the civil penalty assessment notice. Failure to send such information within such thirty-day time period shall render the owner liable for the penalty prescribed by this Section. Where the lessor complies with the provisions of this Subparagraph (5), the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for the purposes of this Section, shall be subject to liability for the violation of Section 604(1)(c) of the Model Traffic Code pursuant to this Section and shall be sent a civil penalty assessment notice pursuant to Subparagraph (f)(1) of this Section.
- (6) In the event a person to whom a civil penalty assessment notice has been sent pursuant to Subparagraph (2) above fails to pay the assessment or otherwise respond, the Clerk of the Municipal Court shall enter default judgment which identifies the vehicle involved in the violation and transmit the same to the Police Department.

-
- (g) Nothing in this Section shall be construed to limit the liability of an operator or driver of a vehicle for any violation of Section 604(1)(c) of the Model Traffic Code.
 - (h) The civil penalty assessed to owners under this Section shall be an amount of not less than fifty dollars (\$50.00) nor more than seventy-five dollars (\$75.00) for each violation. The presiding Municipal Judge shall adopt and include with the schedule of designated fines adopted under Section 15-1-6 of this Chapter a designated schedule for civil penalty assessments imposed under this Section; provided that, until the first such adoption of a designated schedule for civil penalty assessments imposed under this Section, the scheduled assessment shall be seventy-five (\$75.00) for each violation, and provided further that any failure of the presiding judge thereafter to annually adopt such a schedule of designated civil penalty assessments shall not in any way invalidate the civil penalty established herein or in any such schedule previously adopted.
 - (i) In order to implement this Section, the Purchasing Agent is authorized to solicit and award an annual contract to a vendor of traffic signal camera systems for equipment, installation, maintenance, film development and preliminary processing of penalty assessments; provided, however, that the following requirements shall apply:
 - (1) No portion of any fine or civil penalty collected through the use of the system may be paid to any manufacturer or vendor of the automated vehicle identification system equipment;
 - (2) The selection of a vendor shall be by competitive proposal process;
 - (3) No penalty assessment notice prepared by any vendor shall be mailed or served upon an owner until the notice and information upon which it has been based has been individually reviewed and approved by a City peace officer who signs his or her name upon the notice.

(Ord. No. 6119, 9-23-96; Ord. No. 6461, 8-9-99; Ord. No. 7807 §1, 5-27-08; Ord. No. 7949 §1, 12-22-08)