

Requested by HOUSE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
HOUSE BILL 2409**

1 On page 1 of the printed bill, line 2, delete “and 810.435” and insert “,
2 810.435 and 810.436”.

3 In line 9, delete “sensors” and insert “other technology, including but not
4 limited to sensors,”.

5 In line 12, delete “sensors” and insert “other technology”.

6 In line 18, delete “mailed” and insert “delivered”.

7 In line 20, delete “sensor” and insert “other”.

8 In line 23, delete “10” and insert “11”.

9 On page 2, line 9, delete “the mailing” and insert “delivery”.

10 In line 19, delete “the mailing” and insert “delivery”.

11 In line 38, delete “10” and insert “11”.

12 In line 39, delete “10” and insert “11”.

13 On page 3, line 16, delete “10” and insert “11”.

14 In line 17, delete “10” and insert “11”.

15 Delete lines 18 through 22 and insert:

16 **“SECTION 5.** ORS 810.436 is amended to read:

17 “810.436. (1) Notwithstanding any other provision of law, if a city chooses
18 to operate a camera that complies with this section and ORS 810.434, a ci-
19 tation for violation of ORS 811.265 may be issued on the basis of photographs
20 from a camera taken without the presence of a police officer if the following
21 conditions are met:

1 “(a) Signs are posted, so far as is practicable, on all major routes entering
2 the jurisdiction indicating that compliance with traffic control devices is
3 enforced through cameras.

4 “(b) For each traffic control device at which a camera is installed, signs
5 indicating that a camera may be in operation at the device are posted before
6 the device at a location near the device.

7 “(c) If the traffic control device is a traffic light, the yellow light shows
8 for at least the length of time recommended by the standard set by the In-
9 stitute of Transportation Engineers.

10 “(d) The citation is mailed to the registered owner of the vehicle, or to
11 the driver if identifiable, within 10 business days of the alleged violation.

12 “(e) The registered owner is given 30 days from the date the citation is
13 mailed to respond to the citation.

14 “(f) A police officer who has reviewed the photograph signs the citation.
15 The citation may be prepared on a digital medium, and the signature may
16 be electronic in accordance with the provisions of ORS 84.001 to 84.061.

17 **“(2) Notwithstanding subsection (1) of this section, if the city issues**
18 **a citation under section 2 of this 2017 Act for exceeding the speed limit**
19 **under ORS 811.111 or designated speed posted under ORS 810.180 by 11**
20 **to 20 miles per hour, the city may not issue a citation under this sec-**
21 **tion for violation of ORS 811.265 arising out of the same criminal epi-**
22 **sode, as defined in ORS 131.505.**

23 “[2] (3) If the person named as the registered owner of a vehicle in the
24 current records of the Department of Transportation fails to respond to a
25 citation issued under subsection (1) of this section, a default judgment under
26 ORS 153.102 may be entered for failure to appear after notice has been given
27 that the judgment will be entered.

28 “[3] (4) A rebuttable presumption exists that the registered owner of the
29 vehicle was the driver of the vehicle when the citation was issued and de-
30 livered as provided in this section.

1 “~~[(4)]~~ **(5)** A person issued a citation under subsection (1) of this section
2 may respond to the citation by submitting a certificate of innocence or a
3 certificate of nonliability under subsection ~~[(6)]~~ **(7)** of this section or any
4 other response allowed by law.

5 “~~[(5)]~~ **(6)** A citation for violation of ORS 811.265 issued on the basis of
6 photographs from a camera installed as provided in this section and ORS
7 810.434 may be delivered by mail or otherwise to the registered owner of the
8 vehicle or to the driver if the driver is identifiable from the photograph.

9 “~~[(6)(a)]~~ **(7)(a)** A registered owner of a vehicle may respond by mail to a
10 citation issued under subsection (1) of this section by submitting, within 30
11 days from the mailing of the citation, a certificate of innocence swearing or
12 affirming that the owner was not the driver of the vehicle and by providing
13 a photocopy of the owner’s driver license. A jurisdiction that receives a
14 certificate of innocence under this paragraph shall dismiss the citation
15 without requiring a court appearance by the registered owner or any other
16 information from the registered owner other than the swearing or affirma-
17 tion and the photocopy. The citation may be reissued only once, only to the
18 registered owner and only if the jurisdiction verifies that the registered
19 owner appears to have been the driver at the time of the violation. A regis-
20 tered owner may not submit a certificate of innocence in response to a reis-
21 sued citation.

22 “(b) If a business or public agency responds to a citation issued under
23 subsection (1) of this section by submitting, within 30 days from the mailing
24 of the citation, a certificate of nonliability stating that at the time of the
25 alleged violation the vehicle was in the custody and control of an employee
26 or was in the custody and control of a renter or lessee under the terms of
27 a motor vehicle rental agreement or lease, and if the business or public
28 agency provides the driver license number, name and address of the em-
29 ployee, renter or lessee, the citation shall be dismissed with respect to the
30 business or public agency. The citation may then be reissued and delivered

1 by mail or otherwise to the employee, renter or lessee identified in the cer-
2 tificate of nonliability.

3 “[7] (8) The penalties for and all consequences of a violation of ORS
4 811.265 initiated by the use of a camera installed as provided in this section
5 and ORS 810.434 are the same as for a violation initiated by any other means.

6 “[8] (9) A registered owner or an employee, renter or lessee against
7 whom a judgment for failure to appear is entered may move the court to
8 relieve the owner or the employee, renter or lessee from the judgment as
9 provided in ORS 153.105 if the failure to appear was due to mistake,
10 inadvertence, surprise or excusable neglect.

11 **“SECTION 6. Section 2 of this 2017 Act and the amendments to ORS**
12 **810.434, 810.435 and 810.436 by sections 3 to 5 of this 2017 Act apply to**
13 **conduct occurring on or after the effective date of this 2017 Act.**

14 **“SECTION 7. This 2017 Act takes effect on the 91st day after the**
15 **date on which the 2017 regular session of the Seventy-ninth Legislative**
16 **Assembly adjourns sine die.”.**

17