

HB 3357-3
(LC 3638)
4/2/21 (HE/ps)

Requested by Representative REARDON

**PROPOSED AMENDMENTS TO
HOUSE BILL 3357**

1 On page 1 of the printed bill, line 2, after “810.437” insert “and sections
2 1, 2 and 3, chapter 721, Oregon Laws 2015; and repealing section 4, chapter
3 721, Oregon Laws 2015”.

4 Delete lines 4 through 31.

5 Delete pages 2 and 3.

6 On page 4, delete lines 1 through 12 and insert:

7 **“SECTION 1. ORS 810.436 is amended to read:**

8 “810.436. (1) Notwithstanding any other provision of law, if a city chooses
9 to operate a camera that complies with this section and ORS 810.434, a ci-
10 tation for violation of ORS 811.265 may be issued on the basis of photographs
11 from a camera taken without the presence of a police officer if the following
12 conditions are met:

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

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

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

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

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

5 “(f) A police officer **or a duly authorized traffic enforcement agent**
6 who has reviewed the photograph signs the citation. The citation may be
7 prepared on a digital medium, and the signature may be electronic in ac-
8 cordance with the provisions of ORS 84.001 to 84.061.

9 “(2) Notwithstanding subsection (1) of this section, if the city issues a
10 citation under ORS 810.437 for exceeding the speed limit under ORS 811.111
11 or designated speed posted under ORS 810.180 by 11 to 20 miles per hour, the
12 city may not issue a citation under this section for violation of ORS 811.265
13 arising out of the same criminal episode, as defined in ORS 131.505.

14 “(3) If the person named as the registered owner of a vehicle in the cur-
15 rent records of the Department of Transportation fails to respond to a cita-
16 tion issued under subsection (1) of this section, a default judgment under
17 ORS 153.102 may be entered for failure to appear after notice has been given
18 that the judgment will be entered.

19 “(4) A rebuttable presumption exists that the registered owner of the ve-
20 hicle was the driver of the vehicle when the citation was issued and deliv-
21 ered as provided in this section.

22 “(5) A person issued a citation under subsection (1) of this section may
23 respond to the citation by submitting a certificate of innocence or a certif-
24 icate of nonliability under subsection (7) of this section or any other re-
25 sponse allowed by law.

26 “(6) A citation for violation of ORS 811.265 issued on the basis of photo-
27 graphs from a camera installed as provided in this section and ORS 810.434
28 may be delivered by mail or otherwise to the registered owner of the vehicle
29 or to the driver if the driver is identifiable from the photograph.

30 “(7)(a) A registered owner of a vehicle may respond by mail to a citation

1 issued under subsection (1) of this section by submitting, within 30 days from
2 the mailing of the citation, a certificate of innocence swearing or affirming
3 that the owner was not the driver of the vehicle and by providing a photo-
4 copy of the owner's driver license. A jurisdiction that receives a certificate
5 of innocence under this paragraph shall dismiss the citation without requir-
6 ing a court appearance by the registered owner or any other information
7 from the registered owner other than the swearing or affirmation and the
8 photocopy. The citation may be reissued only once, only to the registered
9 owner and only if the jurisdiction verifies that the registered owner appears
10 to have been the driver at the time of the violation. A registered owner may
11 not submit a certificate of innocence in response to a reissued citation.

12 “(b) If a business or public agency responds to a citation issued under
13 subsection (1) of this section by submitting, within 30 days from the mailing
14 of the citation, a certificate of nonliability stating that at the time of the
15 alleged violation the vehicle was in the custody and control of an employee
16 or was in the custody and control of a renter or lessee under the terms of
17 a motor vehicle rental agreement or lease, and if the business or public
18 agency provides the driver license number, name and address of the em-
19 ployee, renter or lessee, the citation shall be dismissed with respect to the
20 business or public agency. The citation may then be reissued and delivered
21 by mail or otherwise to the employee, renter or lessee identified in the cer-
22 tificate of nonliability.

23 “(8) The penalties for and all consequences of a violation of ORS 811.265
24 initiated by the use of a camera installed as provided in this section and ORS
25 810.434 are the same as for a violation initiated by any other means.

26 “(9) A registered owner or an employee, renter or lessee against whom a
27 judgment for failure to appear is entered may move the court to relieve the
28 owner or the employee, renter or lessee from the judgment as provided in
29 ORS 153.105 if the failure to appear was due to mistake, inadvertence, sur-
30 prise or excusable neglect.

1 “(10) As used in this section, ‘duly authorized traffic enforcement
2 agent’ means an employee of a city who is appointed, duly sworn and
3 trained by the city to review photographs and issue citations under
4 this section. Duly authorized traffic enforcement agents are not police
5 officers.

6 “**SECTION 2.** ORS 810.437 is amended to read:

7 “810.437. (1) Notwithstanding any other provision of law, if a city chooses
8 to operate cameras that comply with this section and ORS 810.434, a citation
9 for speeding may be issued on the basis of photographs from a camera and
10 other technology, including but not limited to sensors, that measure the
11 speed of a vehicle without the presence of a police officer if the following
12 conditions are met:

13 “(a) Signs are posted, so far as is practicable, on all major routes entering
14 the jurisdiction indicating that compliance with traffic laws is enforced
15 through cameras and other technology.

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

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

21 “(d) The registered owner is given 30 days from the date the citation is
22 delivered to respond to the citation.

23 “(e) A police officer **or a duly authorized traffic enforcement agent**
24 who has reviewed the photograph and other data signs the citation. The ci-
25 tation may be prepared on a digital medium, and the signature may be elec-
26 tronic in accordance with the provisions of ORS 84.001 to 84.061.

27 “(f) The person exceeded the speed limit or designated speed by 11 miles
28 per hour or greater.

29 “(2) If the person named as the registered owner of a vehicle in the cur-
30 rent records of the Department of Transportation fails to respond to a cita-

1 tion issued under subsection (1) of this section, a default judgment under
2 ORS 153.102 may be entered for failure to appear after notice has been given
3 that the judgment will be entered.

4 “(3) A rebuttable presumption exists that the registered owner of the ve-
5 hicle was the driver of the vehicle when the citation was issued and deliv-
6 ered as provided in this section.

7 “(4) A person issued a citation under subsection (1) of this section may
8 respond to the citation by submitting a certificate of innocence or a certifi-
9 cate of nonliability under subsection (6) of this section or any other re-
10 sponse allowed by law.

11 “(5) A citation issued under this section on the basis of photographs from
12 a camera installed as provided in this section and ORS 810.434 may be de-
13 livered by mail or otherwise to the registered owner of the vehicle or to the
14 driver if the driver is identifiable from the photograph.

15 “(6)(a) A registered owner of a vehicle may respond by mail to a citation
16 issued under subsection (1) of this section by submitting, within 30 days from
17 delivery of the citation, a certificate of innocence swearing or affirming that
18 the owner was not the driver of the vehicle and by providing a photocopy
19 of the owner’s driver license. A jurisdiction that receives a certificate of
20 innocence under this paragraph shall dismiss the citation without requiring
21 a court appearance by the registered owner or any other information from
22 the registered owner other than the swearing or affirmation and the photo-
23 copy. The citation may be reissued only once, only to the registered owner
24 and only if the jurisdiction verifies that the registered owner appears to have
25 been the driver at the time of the violation. A registered owner may not
26 submit a certificate of innocence in response to a reissued citation.

27 “(b) If a business or public agency responds to a citation issued under
28 subsection (1) of this section by submitting, within 30 days from delivery of
29 the citation, a certificate of nonliability stating that at the time of the al-
30 leged violation the vehicle was in the custody and control of an employee

1 or was in the custody and control of a renter or lessee under the terms of
2 a motor vehicle rental agreement or lease, and if the business or public
3 agency provides the driver license number, name and address of the em-
4 ployee, renter or lessee, the citation shall be dismissed with respect to the
5 business or public agency. The citation may then be reissued and delivered
6 by mail or otherwise to the employee, renter or lessee identified in the cer-
7 tificate of nonliability.

8 “(7) The penalties for and all consequences of a speeding violation initi-
9 ated by the use of a camera installed as provided in this section and ORS
10 810.434 are the same as for a violation initiated by any other means.

11 “(8) A registered owner or an employee, renter or lessee against whom a
12 judgment for failure to appear is entered may move the court to relieve the
13 owner or the employee, renter or lessee from the judgment as provided in
14 ORS 153.105 if the failure to appear was due to mistake, inadvertence, sur-
15 prise or excusable neglect.

16 “(9) **As used in this section, ‘duly authorized traffic enforcement**
17 **agent’ means an employee of a city who is appointed, duly sworn and**
18 **trained by the city to review photographs and issue citations under**
19 **this section. Duly authorized traffic enforcement agents are not police**
20 **officers.**

21 “**SECTION 3.** Section 1, chapter 721, Oregon Laws 2015, is amended to
22 read:

23 “**Sec. 1.** *[(1) As used in this section, ‘urban high crash corridor’ means a*
24 *segment of highway that has an incidence rate of reported traffic crashes re-*
25 *sulting in fatalities or serious injuries that is at least 25 percent higher than*
26 *the rate for highways with the same speed limit or designated speed within the*
27 *jurisdiction on average between January 1, 2006, and January 1, 2016, and for*
28 *which the governing body of the city makes a finding that speeding has had*
29 *a negative impact on traffic safety.]*

30 “(1) **As used in this section:**

1 “(a) ‘Metropolitan planning organization’ has the meaning given
2 that term in ORS 197.629.

3 “(b) ‘Urban high crash corridor’ means a segment of highway that
4 has been identified as a safety priority by the Department of Trans-
5 portation or the governing body of a city.

6 “(2) Notwithstanding ORS 810.438, [*the City of Portland*] a city with a
7 population of 50,000 or more, a city with a population of less than 500
8 or a city within a metropolitan planning organization may, at its own
9 cost, operate a fixed photo radar system on urban high crash corridors.

10 “(3) A fixed photo radar unit operated under this section:

11 “(a) May not be used on controlled access highways.

12 “(b) May not be used unless a sign is posted announcing ‘Traffic Laws
13 Photo Enforced.’ The sign posted under this paragraph must:

14 “(A) Be on the street on which the fixed photo radar unit is being oper-
15 ated;

16 “(B) Be between 100 and 400 yards before the location of the fixed photo
17 radar unit;

18 “(C) Be at least two feet above ground level;

19 “(D) Provide drivers with information about the driver’s current rate of
20 speed; and

21 “(E) Conform with specifications for traffic control devices approved by
22 the Oregon Transportation Commission under ORS 810.200.

23 “(c) Must remain in the same location for at least 180 days.

24 “[(4) *The City of Portland shall, once each biennium, conduct an outcome*
25 *evaluation for the purposes of subsection (5) of this section that includes:]*

26 “[(a) *The effect of the operation of the fixed photo radar system on traffic*
27 *safety;]*

28 “[(b) *The degree of public acceptance of the operation of the fixed photo*
29 *radar system; and]*

30 “[(c) *The process of administering the use of the fixed photo radar*

1 *system.]*

2 “[(5) *By March 1 of each odd-numbered year, the City of Portland shall*
3 *present to the Legislative Assembly the outcome evaluation conducted by the*
4 *city under subsection (4) of this section in the manner provided in ORS*
5 *192.245.]*

6 “**SECTION 4.** Section 2, chapter 721, Oregon Laws 2015, is amended to
7 read:

8 “**Sec. 2.** (1) Notwithstanding any other provision of law, in [*the jurisdic-*
9 *tion*] **a city** operating a fixed photo radar system under section 1 [*of this 2015*
10 *Act*], **chapter 721, Oregon Laws 2015:**

11 “(a) A citation for speeding may be issued on the basis of fixed photo
12 radar if:

13 “(A) A sign that provides drivers with information about the driver’s
14 current rate of speed is posted between 100 and 400 yards before the location
15 of each fixed photo radar unit; and

16 “(B) A police officer **or duly authorized traffic enforcement agent** who
17 has reviewed the photographic evidence of the conduct signs the citation.

18 “(b) A rebuttable presumption exists that the registered owner of the ve-
19 hicle was the driver of the vehicle when the citation is issued and delivered
20 as provided in subsection (2) of this section.

21 “(c) An individual issued a citation under this subsection may respond to
22 the citation by submitting a certificate of innocence under subsection (3)(a)
23 of this section or may make any other response allowed by law.

24 “(d) A business or public agency issued a citation under this subsection
25 may respond to the citation by submitting an affidavit of nonliability under
26 subsection (3)(b) of this section or may make any other response allowed by
27 law.

28 “(2) A citation issued on the basis of fixed photo radar may be delivered
29 by mail or otherwise to the registered owner of the vehicle or to the driver.
30 The citation may be prepared on a digital medium, and the signature may

1 be electronic in accordance with the provisions of ORS 84.001 to 84.061.

2 “(3)(a) An individual named as the registered owner of a vehicle in cur-
3 rent records of the Department of Transportation may respond by mail to a
4 citation issued under subsection (1) of this section by submitting a certificate
5 of innocence within 30 days from the mailing of the citation swearing or
6 affirming that the registered owner was not the driver of the vehicle and by
7 providing a photocopy of the registered owner’s driver license. A
8 [jurisdiction] **city** that receives a certificate of innocence under this para-
9 graph shall dismiss the citation without requiring a court appearance by the
10 registered owner or any other information from the registered owner other
11 than the swearing or affirmation and the photocopy. The citation may be
12 reissued only once, only to the registered owner and only if the
13 [jurisdiction] **city** verifies that the registered owner appears to have been the
14 driver at the time of the violation. A registered owner may not submit a
15 certificate of innocence in response to a reissued citation.

16 “(b) If a business or public agency named as the registered owner of a
17 vehicle in current records of the Department of Transportation responds to
18 a citation issued under subsection (1) of this section by submitting an affi-
19 davit of nonliability within 30 days from the mailing of the citation stating
20 that at the time of the alleged speeding violation the vehicle was in the
21 custody and control of an employee, or was in the custody and control of a
22 renter or lessee under the terms of a rental agreement or lease, and if the
23 business or public agency provides the driver license number, name and ad-
24 dress of the employee, renter or lessee, the citation shall be dismissed with
25 respect to the business or public agency. The citation may then be issued and
26 delivered by mail or otherwise to the employee, renter or lessee identified in
27 the affidavit of nonliability.

28 “(4) If the registered owner, employee, renter or lessee fails to respond to
29 a citation issued under this section, a default judgment under ORS 153.102
30 may be entered for failure to appear after notice has been given that the

1 judgment will be entered.

2 “(5) The penalties for and all consequences of a speeding violation initi-
3 ated by the use of fixed photo radar are the same as for a speeding violation
4 initiated by any other means.

5 “(6) A registered owner, employee, renter or lessee against whom a judg-
6 ment for failure to appear is entered may move the court to relieve the reg-
7 istered owner, employee, renter or lessee from the judgment as provided in
8 ORS 153.105 if the failure to appear was due to mistake, inadvertence, sur-
9 prise or excusable neglect.

10 “(7) **As used in this section, ‘duly authorized traffic enforcement**
11 **agent’ means an employee of a city who is appointed, duly sworn and**
12 **trained by the city to review photographs and issue citations under**
13 **this section. Duly authorized traffic enforcement agents are not police**
14 **officers.**

15 “**SECTION 5.** Section 3, chapter 721, Oregon Laws 2015, is amended to
16 read:

17 “**Sec. 3.** Notwithstanding ORS 153.675, all of the amounts paid to [*the*
18 *City of Portland*] **a city** under ORS 153.640 from citations issued under sec-
19 tion 2 [*of this 2015 Act*], **chapter 721, Oregon Laws 2015**, may be used only
20 for the costs of operating and maintaining fixed photo radar units in urban
21 high crash corridors, as defined in section 1 [*of this 2015 Act*], **chapter 721,**
22 **Oregon Laws 2015**, and for improving traffic safety for all modes of trans-
23 portation.

24 “**SECTION 6.** Section 4, chapter 721, Oregon Laws 2015, is
25 **repealed.**”.

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