

Requested by Representative REARDON

**PROPOSED AMENDMENTS TO
HOUSE BILL 4105**

1 On page 1 of the printed bill, delete lines 4 through 30 and delete pages
2 2 through 6 and insert:

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

4 “810.436. (1) Notwithstanding any other provision of law, if a city chooses
5 to operate a camera that complies with this section and ORS 810.434, a ci-
6 tation for violation of ORS 811.265 may be issued on the basis of photographs
7 from a camera taken without the presence of a police officer if the following
8 conditions are met:

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

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

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

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

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

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

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

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

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

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

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

26 “(7)(a) A registered owner of a vehicle may respond by mail to a citation
27 issued under subsection (1) of this section by submitting, within 30 days from
28 the mailing of the citation, a certificate of innocence swearing or affirming
29 that the owner was not the driver of the vehicle and by providing a photo-
30 copy of the owner’s driver license. A jurisdiction that receives a certificate

1 of innocence under this paragraph shall dismiss the citation without requir-
2 ing a court appearance by the registered owner or any other information
3 from the registered owner other than the swearing or affirmation and the
4 photocopy. The citation may be reissued only once, only to the registered
5 owner and only if the jurisdiction verifies that the registered owner appears
6 to have been the driver at the time of the violation. A registered owner may
7 not submit a certificate of innocence in response to a reissued citation.

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

19 “(8) The penalties for and all consequences of a violation of ORS 811.265
20 initiated by the use of a camera installed as provided in this section and ORS
21 810.434 are the same as for a violation initiated by any other means.

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

27 “(10)(a) **As used in this section, ‘duly authorized traffic enforcement**
28 **agent’ means an individual who:**

29 “(A) **Is employed, appointed and duly sworn in by the governing**
30 **body of the incorporated city in which the agent performs the agent’s**

1 **duties; and**

2 **“(B) Has completed all necessary technical, administrative and**
3 **other training to review photographs and issue citations under this**
4 **section.**

5 **“(b) Duly authorized traffic enforcement agents are not police offi-**
6 **cers.**

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

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

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

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

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

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

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

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

30 “(2) If the person named as the registered owner of a vehicle in the cur-

1 rent records of the Department of Transportation fails to respond to a cita-
2 tion issued under subsection (1) of this section, a default judgment under
3 ORS 153.102 may be entered for failure to appear after notice has been given
4 that the judgment will be entered.

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

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

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

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

28 “(b) If a business or public agency responds to a citation issued under
29 subsection (1) of this section by submitting, within 30 days from delivery of
30 the citation, a certificate of nonliability stating that at the time of the al-

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

9 “(7) The penalties for and all consequences of a speeding violation initi-
10 ated by the use of a camera installed as provided in this section and ORS
11 810.434 are the same as for a violation initiated by any other means.

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

17 “(9)(a) **As used in this section, ‘duly authorized traffic enforcement**
18 **agent’ means an individual who:**

19 “(A) **Is employed, appointed and duly sworn in by the governing**
20 **body of the incorporated city in which the agent performs the agent’s**
21 **duties; and**

22 “(B) **Has completed all necessary technical, administrative and**
23 **other training to review photographs and other data and issue cita-**
24 **tions under this section.**

25 “(b) **Duly authorized traffic enforcement agents are not police offi-**
26 **cers.**

27 “**SECTION 3.** ORS 810.444 is amended to read:

28 “810.444. (1) Notwithstanding any other provision of law, in the jurisdic-
29 tion operating a fixed photo radar system under ORS 810.443:

30 “(a) A citation for speeding may be issued on the basis of fixed photo

1 radar if:

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

5 “(B) A police officer **or a duly authorized traffic enforcement agent**
6 who has reviewed the photographic evidence of the conduct signs the cita-
7 tion.

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

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

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

18 “(2) A citation issued on the basis of fixed photo radar may be delivered
19 by mail or otherwise to the registered owner of the vehicle or to the driver.
20 The citation may be prepared on a digital medium, and the signature may
21 be electronic in accordance with the provisions of ORS 84.001 to 84.061.

22 “(3)(a) An individual named as the registered owner of a vehicle in cur-
23 rent records of the Department of Transportation may respond by mail to a
24 citation issued under subsection (1) of this section by submitting a certificate
25 of innocence within 30 days from the mailing of the citation swearing or
26 affirming that the registered owner was not the driver of the vehicle and by
27 providing a photocopy of the registered owner’s driver license. A jurisdiction
28 that receives a certificate of innocence under this paragraph shall dismiss
29 the citation without requiring a court appearance by the registered owner
30 or any other information from the registered owner other than the swearing

1 or affirmation and the photocopy. The citation may be reissued only once,
2 only to the registered owner and only if the jurisdiction verifies that the
3 registered owner appears to have been the driver at the time of the violation.
4 A registered owner may not submit a certificate of innocence in response to
5 a reissued citation.

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

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

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

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

30 “(7)(a) **As used in this section, ‘duly authorized traffic enforcement**

1 **agent’ means an individual who:**

2 **“(A) Is employed, appointed and duly sworn in by the governing**
3 **body of the incorporated city in which the agent performs the agent’s**
4 **duties; and**

5 **“(B) Has completed all necessary technical, administrative and**
6 **other training to review photographs and issue citations under this**
7 **section.**

8 **“(b) Duly authorized traffic enforcement agents are not police offi-**
9 **cers.**

10 **“SECTION 4.** ORS 153.083 is amended to read:

11 **“153.083. (1) Notwithstanding ORS 9.160 and 9.320, in any trial of a vio-**
12 **lation, whether created by ordinance or statute, in which a city attorney or**
13 **district attorney does not appear, the peace officer or the duly authorized**
14 **traffic enforcement agent who issued the citation for the offense may**
15 **present evidence, examine and cross-examine witnesses and make arguments**
16 **relating to:**

17 **“[(1)] (a) The application of statutes and rules to the facts in the case;**

18 **“[(2)] (b) The literal meaning of the statutes or rules at issue in the case;**

19 **“[(3)] (c) The admissibility of evidence; and**

20 **“[(4)] (d) Proper procedures to be used in the trial.**

21 **“(2)(a) As used in this section, ‘duly authorized traffic enforcement**
22 **agent’ means an individual who:**

23 **“(A) Is employed, appointed and duly sworn in by the governing**
24 **body of the incorporated city in which the agent performs the agent’s**
25 **duties; and**

26 **“(B) Has completed all necessary technical, administrative and**
27 **other training to review photographs and issue citations under ORS**
28 **810.436, 810.437 or 810.444.**

29 **“(b) Duly authorized traffic enforcement agents are not police offi-**
30 **cers as defined in 801.395.”.**

