

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0346.03 Chuck Brackney x2295

SENATE BILL 12-050

SENATE SPONSORSHIP

Renfroe, Grantham, Harvey, Lambert, Lundberg, Neville

HOUSE SPONSORSHIP

Baumgardner,

Senate Committees
Transportation

House Committees

A BILL FOR AN ACT

101 CONCERNING THE ELIMINATION OF THE USE OF AUTOMATED VEHICLE
102 IDENTIFICATION SYSTEMS FOR TRAFFIC LAW ENFORCEMENT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billssummaries>.)

The bill repeals the authorization for municipalities to use automated vehicle identification systems to identify violators of traffic regulations and issue citations based on photographic evidence, and creates a prohibition on such activity.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 42-4-110.5
3 as follows:

4 **42-4-110.5. Automated vehicle identification systems -**
5 **prohibition.** (1) ~~The general assembly hereby finds and declares that the~~
6 ~~enforcement of traffic laws through the use of automated vehicle~~
7 ~~identification systems under this section is a matter of statewide concern~~
8 ~~and is an area in which uniform state standards are necessary~~ A
9 GOVERNMENTAL ENTITY OR AGENT THEREOF SHALL NOT ISSUE A TRAFFIC
10 CITATION PURSUANT TO THIS ARTICLE BASED ON EVIDENCE GATHERED AS
11 A RESULT OF AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM USED ON
12 ANY HIGHWAYS, ROADS, OR STREETS; EXCEPT THAT A GOVERNMENTAL
13 ENTITY OR AGENT THEREOF OR A TOLL ROAD OR TOLL HIGHWAY COMPANY
14 MAY USE AN AUTOMATED VEHICLE IDENTIFICATION SYSTEM TO ASSESS
15 TOLLS AND CHARGES FOR, AND ISSUE CITATIONS FOR VIOLATIONS
16 RELATING TO, HIGH OCCUPANCY VEHICLE AND HIGH OCCUPANCY TOLL
17 LANES PURSUANT TO SECTION 42-4-1012 (1) (d) AND TO ASSESS TOLLS
18 AND CIVIL PENALTIES FOR TOLL ROADS AND HIGHWAYS PURSUANT TO
19 SECTION 43-3-302, C.R.S. EVIDENCE OBTAINED FROM SUCH USE SHALL
20 NOT BE REPORTED TO THE DEPARTMENT FOR ANY PURPOSE, TO ANY
21 PERSON OR ENTITY FOR USE ON ANY CREDIT REPORT, OR TO ANY
22 INSURANCE COMPANY FOR INSURANCE PURPOSES.

23 (2) AS USED IN THIS SECTION, "AUTOMATED VEHICLE
24 IDENTIFICATION SYSTEM" MEANS A SYSTEM WHEREBY A MACHINE IS USED
25 TO AUTOMATICALLY DETECT A VIOLATION OF A TRAFFIC REGULATION AND
26 SIMULTANEOUSLY RECORD A PHOTOGRAPH OF THE VEHICLE, THE

1 OPERATOR OF THE VEHICLE, OR THE LICENSE PLATE OF THE VEHICLE.

2 ~~(1.5) Except for the authorization contained in subsection (1.7) of~~
3 ~~this section, nothing in this section shall apply to a violation detected by~~
4 ~~an automated vehicle identification device for driving twenty-five miles~~
5 ~~per hour or more in excess of the reasonable and prudent speed or~~
6 ~~twenty-five miles per hour or more in excess of the maximum speed limit~~
7 ~~of seventy-five miles per hour detected by the use of an automated~~
8 ~~vehicle identification device.~~

9 ~~(1.7) (a) Upon request from the department of transportation, the~~
10 ~~department of public safety shall utilize an automated vehicle~~
11 ~~identification system to detect speeding violations under part 11 of this~~
12 ~~article within a highway maintenance, repair, or construction zone~~
13 ~~designated pursuant to section 42-4-614 (1) (a), if the department of~~
14 ~~public safety complies with subsections (2) to (6) of this section. An~~
15 ~~automated vehicle identification system shall not be used under this~~
16 ~~subsection (1.7) unless maintenance, repair, or construction is occurring~~
17 ~~at the time the system is being used. The department of public safety may~~
18 ~~contract with a vendor to implement this subsection (1.7). If the~~
19 ~~department of public safety contracts with a vendor, the contract shall~~
20 ~~incorporate the processing elements specified by the department of public~~
21 ~~safety. The department of public safety may contract with the vendor to~~
22 ~~notify violators, collect and remit the penalties and surcharges to the state~~
23 ~~treasury less the vendor's expenses, reconcile payments against~~
24 ~~outstanding violations, implement collection efforts, and notify the~~
25 ~~department of public safety of unpaid violations for possible referral to~~
26 ~~the judicial system. No penalty assessment or summons and complaint or~~
27 ~~a penalty or surcharge for a violation detected by an automated vehicle~~

1 identification system under this subsection (1.7) shall be forwarded to the
2 department for processing.

3 ~~(b) The department of transportation shall reimburse the~~
4 ~~department of public safety for the direct and indirect costs of complying~~
5 ~~with this subsection (1.7).~~

6 (2) ~~A municipality may adopt an ordinance authorizing the use of~~
7 ~~an automated vehicle identification system to detect violations of traffic~~
8 ~~regulations adopted by the municipality, or the state, a county, a city and~~
9 ~~county, or a municipality may utilize an automated vehicle identification~~
10 ~~system to detect traffic violations under state law, subject to the following~~
11 ~~conditions and limitations:~~

12 (a) ~~(I) (Deleted by amendment, L. 2002, p. 570, § 1, effective May~~
13 ~~24, 2002.)~~

14 ~~(H) If the state, a county, a city and county, or a municipality~~
15 ~~detects any alleged violation of a municipal traffic regulation or a traffic~~
16 ~~violation under state law through the use of an automated vehicle~~
17 ~~identification system, then the state, county, city and county, or~~
18 ~~municipality shall serve the penalty assessment notice or summons and~~
19 ~~complaint for the alleged violation on the defendant no later than ninety~~
20 ~~days after the alleged violation occurred. If a penalty assessment notice~~
21 ~~or summons and complaint for a violation detected using an automated~~
22 ~~vehicle identification system is personally served, the state, a county, a~~
23 ~~city and county, or a municipality may only charge the actual costs of~~
24 ~~service of process that shall be no more than the amount usually charged~~
25 ~~for civil service of process.~~

26 (b) ~~Notwithstanding any other provision of the statutes to the~~
27 ~~contrary, the state, a county, a city and county, or a municipality may not~~

1 report to the department any conviction or entry of judgment against a
2 defendant for violation of a municipal traffic regulation or a traffic
3 violation under state law if the violation was detected through the use of
4 an automated vehicle identification system.

5 (c) The state, a county, a city and county, or a municipality may
6 not report to the department any outstanding judgment or warrant for
7 purposes of section 42-2-107 (5) or 42-2-118 (3) based upon any
8 violation or alleged violation of a municipal traffic regulation or traffic
9 violation under state law detected through the use of an automated vehicle
10 identification system.

11 (d) (I) The state, a county, a city and county, or a municipality
12 may not use an automated vehicle identification system to detect a
13 violation of part 11 of this article or a local speed ordinance unless there
14 is posted an appropriate temporary sign in a conspicuous place not fewer
15 than three hundred feet before the area in which the automated vehicle
16 identification device is to be used notifying the public that an automated
17 vehicle identification device is in use immediately ahead. The
18 requirement of this subparagraph (I) shall not be deemed satisfied by the
19 posting of a permanent sign or signs at the borders of a county, city and
20 county, or municipality, nor by the posting of a permanent sign in an area
21 in which an automated vehicle identification device is to be used, but this
22 subparagraph (I) shall not be deemed a prohibition against the posting of
23 such permanent signs.

24 (H) Except as provided in subparagraph (I) of this paragraph (d),
25 an automated vehicle identification system designed to detect
26 disobedience to a traffic control signal or another violation of this article
27 or a local traffic ordinance shall not be used unless the state, county, city

1 and county, or municipality using such system conspicuously posts a sign
2 notifying the public that an automated vehicle identification device is in
3 use immediately ahead. The sign shall:

4 (A) ~~Be placed in a conspicuous place not fewer than two hundred~~
5 ~~feet nor more than five hundred feet before the automated vehicle~~
6 ~~identification system; and~~

7 (B) ~~Use lettering that is at least four inches high for upper case~~
8 ~~letters and two and nine-tenths inches high for lower case letters.~~

9 (e) ~~The state, a county, a city and county, or a municipality may~~
10 ~~not require a registered owner of a vehicle to disclose the identity of a~~
11 ~~driver of the vehicle who is detected through the use of an automated~~
12 ~~vehicle identification system. However, the registered owner may be~~
13 ~~required to submit evidence that the owner was not the driver at the time~~
14 ~~of the alleged violation.~~

15 (f) ~~The state, a county, a city and county, or a municipality shall~~
16 ~~not issue a penalty assessment notice or summons for a violation detected~~
17 ~~using an automated vehicle identification system unless, at the time the~~
18 ~~violation is alleged to have occurred, an officer or employee of the state,~~
19 ~~the county, the city and county, or the municipality is present during the~~
20 ~~operation of the automated vehicle identification device; except that this~~
21 ~~paragraph (f) shall not apply to an automated vehicle identification system~~
22 ~~designed to detect violations for disobedience to a traffic control signal.~~

23 (g) (I) ~~The state, a county, a city and county, or a municipality~~
24 ~~shall not issue a penalty assessment notice or summons for a violation~~
25 ~~detected using an automated vehicle identification system unless the~~
26 ~~violation occurred within a school zone, as defined in section 42-4-615;~~
27 ~~within a residential neighborhood; within a maintenance, construction, or~~

1 repair zone designated pursuant to section 42-4-614; or along a street that
2 borders a municipal park.

3 ~~(H) For purposes of this paragraph (g), unless the context~~
4 ~~otherwise requires, "residential neighborhood" means any block on which~~
5 ~~a majority of the improvements along both sides of the street are~~
6 ~~residential dwellings and the speed limit is thirty-five miles per hour or~~
7 ~~less.~~

8 ~~(HH) This paragraph (g) shall not apply to an automated vehicle~~
9 ~~identification system designed to detect disobedience to a traffic control~~
10 ~~signal.~~

11 ~~(3) The department has no authority to assess any points against~~
12 ~~a license under section 42-2-127 upon entry of a conviction or judgment~~
13 ~~for a violation of a municipal traffic regulation or a traffic violation under~~
14 ~~state law if the violation was detected through the use of an automated~~
15 ~~vehicle identification system. The department may not keep any record of~~
16 ~~such violation in the official records maintained by the department under~~
17 ~~section 42-2-121.~~

18 ~~(4) (a) If the state, a county, a city and county, or a municipality~~
19 ~~detects a speeding violation of less than ten miles per hour over the~~
20 ~~reasonable and prudent speed under a municipal traffic regulation or~~
21 ~~under state law through the use of an automated vehicle identification~~
22 ~~system and the violation is the first violation by such driver that the state,~~
23 ~~county, city and county, or municipality has detected using an automated~~
24 ~~vehicle identification system, then the state, county, city and county, or~~
25 ~~municipality shall mail such driver a warning regarding the violation and~~
26 ~~the state, county, city and county, or municipality may not impose any~~
27 ~~penalty or surcharge for such first violation.~~

1 ~~(b) (I) If the state, a county, a city and county, or a municipality~~
2 ~~detects a second or subsequent speeding violation under a municipal~~
3 ~~traffic regulation or under state law by a driver, or a first such violation~~
4 ~~by the driver if the provisions of paragraph (a) of this subsection (4) do~~
5 ~~not apply, through the use of an automated vehicle identification system,~~
6 ~~then, except as may be permitted in subparagraph (H) of this paragraph~~
7 ~~(b), the maximum penalty that the state, county, city and county, or~~
8 ~~municipality may impose for such violation, including any surcharge, is~~
9 ~~forty dollars.~~

10 ~~(H) If any violation described in subparagraph (I) of this~~
11 ~~paragraph (b) occurs within a school zone, as defined in section 42-4-615,~~
12 ~~the maximum penalty that may be imposed shall be doubled.~~

13 ~~(HH) Subparagraph (I) of this paragraph (b) shall not apply within~~
14 ~~a maintenance, construction, or repair zone designated pursuant to section~~
15 ~~42-4-614.~~

16 ~~(4.5) If the state, a county, a city and county, or a municipality~~
17 ~~detects a violation under a municipal traffic regulation or under state law~~
18 ~~for disobedience to a traffic control signal through the use of an~~
19 ~~automated vehicle identification system, the maximum penalty that the~~
20 ~~state, a county, a city and county, or a municipality may impose for such~~
21 ~~violation, including any surcharge, is seventy-five dollars.~~

22 ~~(4.7) If a driver fails to pay a penalty imposed for a violation~~
23 ~~detected using an automated vehicle identification device, the state, a~~
24 ~~county, a city and county, or a municipality shall not attempt to enforce~~
25 ~~such a penalty by immobilizing the driver's vehicle.~~

26 ~~(5) If the state, a county, a city and county, or a municipality has~~
27 ~~established an automated vehicle identification system for the~~

1 enforcement of municipal traffic regulations or state traffic laws, then no
2 portion of any fine collected through the use of such system may be paid
3 to the manufacturer or vendor of the automated vehicle identification
4 system equipment. The compensation paid by the state, county, city and
5 county, or municipality for such equipment shall be based upon the value
6 of such equipment and may not be based upon the number of traffic
7 citations issued or the revenue generated by such equipment.

8 (6) ~~As used in this section, the term "automated vehicle~~
9 ~~identification system" means a system whereby:~~

10 (a) ~~A machine is used to automatically detect a violation of a~~
11 ~~traffic regulation and simultaneously record a photograph of the vehicle,~~
12 ~~the operator of the vehicle, and the license plate of the vehicle; and~~

13 (b) ~~A penalty assessment notice or summons and complaint is~~
14 ~~issued to the registered owner of the motor vehicle.~~

15 **SECTION 2.** In Colorado Revised Statutes, 42-2-107, **repeal** (5)

16 (a) (II) as follows:

17 **42-2-107. Application for license or instruction permit -**
18 **anatomical gifts - donations to Emily Maureen Ellen Keyes organ and**
19 **tissue donation awareness fund - legislative declaration - repeal.**

20 (5) (a) (II) ~~For the purposes of this subsection (5), "outstanding~~
21 ~~judgments or warrants" does not include any judgment or warrant~~
22 ~~reported to the department in violation of the provisions of section~~
23 ~~42-4-110.5(2)(c).~~

24 **SECTION 3.** In Colorado Revised Statutes, 42-2-118, **repeal** (3)

25 (a) (II) as follows:

26 **42-2-118. Renewal of license in person or by mail - donations**
27 **to Emily Maureen Ellen Keyes organ and tissue donation awareness**

1 **fund - repeal.** (3) (a) (II) ~~For the purposes of this subsection (3),~~
2 ~~"outstanding judgments or warrants" does not include any judgment or~~
3 ~~warrant reported to the department in violation of the provisions of~~
4 ~~section 42-4-110.5 (2) (c).~~

5 **SECTION 4.** In Colorado Revised Statutes, 42-2-122, **amend** (1)
6 (h) (I) as follows:

7 **42-2-122. Department may cancel license - limited license for**
8 **physical or mental limitations.** (1) The department has the authority to
9 cancel, deny, or deny the reissuance of any driver's or minor driver's
10 license upon determining that the licensee was not entitled to the issuance
11 thereof for any of the following reasons:

12 (h) (I) The person has an outstanding judgment or warrant referred
13 to in section 42-4-1709 (7) issued against such person. ~~except that, as~~
14 ~~used in this paragraph (h), "judgment or warrant" shall not include any~~
15 ~~judgment or warrant reported to the department in violation of section~~
16 ~~42-4-110.5 (2) (c).~~

17 **SECTION 5.** In Colorado Revised Statutes, 42-2-127, **repeal**
18 (5.8) as follows:

19 **42-2-127. Authority to suspend license - to deny license - type**
20 **of conviction - points.** (5.8) ~~Notwithstanding any other provision of this~~
21 ~~section, the department may not assess any points for a violation if such~~
22 ~~assessment of points is prohibited under section 42-4-110.5 (3).~~

23 **SECTION 6.** In Colorado Revised Statutes, 42-3-113, **repeal** (10)
24 as follows:

25 **42-3-113. Records of application and registration.**
26 (10) (a) ~~Whenever a person asks the department or any other state~~
27 ~~department or agency for the name or address of the owner of a motor~~

1 ~~vehicle registered under this section, the department or agency shall~~
2 ~~require the person to disclose if the purpose of the request is to determine~~
3 ~~the name or address of a person suspected of a violation of a state or~~
4 ~~municipal law detected through the use of an automated vehicle~~
5 ~~identification system as described in section 42-4-110.5. If the purpose of~~
6 ~~the request is to determine the name or address of such a suspect, the~~
7 ~~department or agency shall release such information only if the county or~~
8 ~~municipality for which the request is made complies with section~~
9 ~~42-4-110.5.~~

10 (b) ~~No person who receives the name or address of the registered~~
11 ~~owner of a motor vehicle from the department or from a person who~~
12 ~~receives the information from the department shall release such~~
13 ~~information to a county or a municipality unless the county or~~
14 ~~municipality complies with state laws concerning the use of automated~~
15 ~~identification devices.~~

16 **SECTION 7. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 7, 2012, if adjournment sine die is on May 9, 2012); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the
21 state constitution against this act or an item, section, or part of this act
22 within such period, then the act, item, section, or part will not take effect
23 unless approved by the people at the general election to be held in
24 November 2012 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.