

42-4-110.5. Automated vehicle identification systems.

(1) The general assembly hereby finds and declares that the enforcement of traffic laws through the use of automated vehicle identification systems under this section is a matter of statewide concern and is an area in which uniform state standards are necessary.

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

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

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

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

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

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

(b) Notwithstanding any other provision of the statutes to the contrary, the state, a county, a city and county, or a municipality may not report to the department any conviction or entry of judgment against a

defendant for violation of a municipal traffic regulation or a traffic violation under state law if the violation was detected through the use of an automated vehicle identification system.

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

(d) (I) Except as provided in subparagraph (II) of this paragraph (d), the state, a county, a city and county, or a municipality may not use an automated vehicle identification system unless there is posted an appropriate temporary sign in a conspicuous place not fewer than three hundred feet before the area in which the automated vehicle identification device is to be used notifying the public that an automated vehicle identification device is in use immediately ahead. The requirement of this subparagraph (I) shall not be deemed satisfied by the posting of a permanent sign or signs at the borders of a county, city and county, or municipality, nor by the posting of a permanent sign in an area in which an automated vehicle identification device is to be used, but this subparagraph (I) shall not be deemed a prohibition against the posting of such permanent signs.

(II) An automated vehicle identification system designed to detect disobedience to a traffic control signal shall not be used unless the state, a county, a city and county, or a municipality using such system conspicuously posts a sign at a reasonable distance notifying the public that an automated vehicle identification device is in use immediately ahead.

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

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

(g) (I) The state, a county, a city and county, or a municipality shall not issue a penalty assessment notice or summons for a violation detected using an automated vehicle identification system unless the violation occurred within a school zone, as defined in section [42-4-615](#); within a residential neighborhood; within a maintenance, construction, or repair zone designated pursuant to section [42-4-614](#); or along a street that borders a municipal park.

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

(III) This paragraph (g) shall not apply to an automated vehicle identification system designed to detect disobedience to a traffic control signal.

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

the department under section [42-2-121](#).

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

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

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

(III) Subparagraph (I) of this paragraph (b) shall not apply within a maintenance, construction, or repair zone designated pursuant to section [42-4-614](#).

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

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

(5) If the state, a county, a city and county, or a municipality has established an automated vehicle identification system for the enforcement of municipal traffic regulations or state traffic laws, then no portion of any fine collected through the use of such system may be paid to the manufacturer or vendor of the automated vehicle identification system equipment. The compensation paid by the state, county, city and county, or municipality for such equipment shall be based upon the value of such equipment and may not be based upon the number of traffic citations issued or the revenue generated by such equipment.

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

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

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

Source: **L. 97:** Entire section added, p. 1667, § 1, effective June 5. **L. 99:** (1.5) and (4.5) added and (2), (4), and (5) amended, p. 612, § 1, effective May 17. **L. 2002:** (2)(a), (2)(d), and (4.5) amended and (2)(f), (2)(g), and (4.7) added, pp. 570, 572, §§ 1, 2, effective May 24. **L. 2004:** (2)(d) amended, p. 351, § 1, effective August 4. **L. 2008:** (1.5) and (2)(g)(I) amended and (1.7) and (4)(b)(III) added, pp. 2080, 2081, §§ 4, 5, effective June 3.

Editor's note: Section 9 of chapter 412, Session Laws of Colorado 2008, provides that the act amending subsections (1.5) and (2)(g)(I) and enacting subsections (1.7) and (4)(b)(III) applies to acts committed on or after June 3, 2008.

Cross references: Section 1 of chapter 412, Session Laws of Colorado 2008, provides that the act amending subsections (1.5) and (2)(g)(I) and enacting subsections (1.7) and (4)(b)(III) shall be known and may be cited as the "Charles Mather Highway Safety Act".

ANNOTATION

This section supersedes conflicting provisions of municipal ordinances. Regulation of automated vehicle identification systems to enforce traffic laws is a matter of mixed local and state concern. In the event of conflict, state law prevails. *City of Commerce City v. State*, 40 P.3d 1273 (Colo. 2002).