



**Testimony of the Hon. Barry Loudermilk  
Georgia House of Representatives, District 14**

**Before the U.S. House Subcommittee on Highways and Transit**

**Wednesday June 30, 2010, 10:00AM**

**TESTIMONY OF THE HON. BARRY D. LOUDERMILK**  
**GEORGIA HOUSE OF REPRESENTATIVES, DISTRICT 14**  
**BEFORE THE U.S. HOUSE SUBCOMMITTEE ON HIGHWAYS AND TRANSIT**  
**WEDNESDAY, JUNE 30, 2010, 10:00AM**

Chairman DeFazio, Ranking member Duncan, members of the subcommittee, thank you for the invitation to testify before the House Subcommittee on Highways and Transit regarding the Utilization and Impacts of Automated Traffic Enforcement.

The Georgia General Assembly has carefully considered the operation and use of automated traffic control signal monitoring devices (red-light cameras) over the past several years. In 2008, the Georgia General Assembly enacted House Bill 77, which made fundamental changes to the way red-light cameras operate in Georgia. The legislation took effect in January of 2009 and resulted in an immediate reduction in the number of red-light running violations at intersections that operate red-light cameras.

Within 90 days of the law's implementation, the state experienced significant reductions in the number of red-light camera violations. Several local governments reported that red light violations dropped as much as 81 percent<sup>1</sup> following the implementation of HB77. Statewide, red-light camera violations dropped 72 percent<sup>2</sup> overall during the first four months following the enactment of HB77.

The provisions of HB77 significantly reduced red-light camera violations, and several local governments have discontinued their camera programs. Requiring local governments to implement sound engineering practices to improve intersection safety before implementing photo enforcement makes sense.

That's why I am pleased to have the opportunity to share the success we have seen with the members of this committee. The success comes from a focus on safety and engineering, not on expanding enforcement.

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<sup>1</sup> Georgia Department of Transportation, "2010 Red Light Camera Operation Report" 15 Mar, 2010.

<sup>2</sup> Georgia Department of Transportation, "2010 Red Light Camera Operation Report" 15 Mar, 2010

## **GEORGIA'S GROWING CONCERN ABOUT RED LIGHT CAMERA OPERATION**

The State of Georgia allows local governments to install red light cameras, but the public and the media have raised a number of concerns. In 2007, the Georgia House of Representatives began evaluating the effectiveness of red light cameras within the state. These concerns include the (1) Constitutionality of red light cameras, (2) the effectiveness of red light cameras on improving safety, (3) abuse of red light cameras by local governments and (4) a lack of state regulation and oversight of red light camera operation. Allow me to address each of these points in turn.

### **1. Constitutional Concerns**

The operation of red light cameras has raised numerous Constitutional concerns in several states.

Like the laws in most other states, Georgia's red light camera statute prohibits photographing the driver or occupants of the vehicle, due to Fourth Amendment privacy concerns. When a vehicle is detected proceeding through an intersection when the traffic signal is red, a photograph is taken of the vehicle's license plate. The license plate is compared to the state vehicle registration database to determine who the registered owner of the vehicle is. The owner is then mailed a citation, where they are given the options of paying the fine, signing an affidavit that they were not the driver of the vehicle and must identify who was the driver, or appearing in court.

This process raises serious constitutional questions. Requiring the vehicle owner to prove that he was not the operator of the vehicle places the burden of proof on the accused, in violation of the Fifth Amendment's Presumption of Innocence Clause. Requiring the vehicle owner to testify via a written statement and identify the vehicle operator violates the Fifth Amendment's Self-Incrimination Clause.

Most states have attempted to circumvent the requirements of due process by making the red light camera citations a civil penalty instead of a criminal misdemeanor. However, the Fourteenth Amendment states that no state may deprive any citizen of life, liberty or property without due process of the law.

Several courts have shared this concern. Most recently, a South Dakota court ruled against the Constitutionality of red light cameras stating that the process "...improperly reversed the burden of proof. Instead of the city proving the guilt of the accused, the accused must prove his own innocence."<sup>3</sup>

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<sup>3</sup> Wiedermann v. Sioux Falls, Circuit Court of South Dakota, 15 Jun, 2010.

In 2007, the Supreme Court of Minnesota, in the case *Minnesota v. Kuhlman*, ruled that it was unlawful to use civil penalties to avoid the burden of proof requirements. In its decision, the court stated, "The problem with the presumption that the owner was the driver is that it eliminates the presumption of innocence and shifts the burden of proof from that required by the rules of criminal procedure... Therefore the ordinance provides less procedural protection to a person charged with an ordinance violation than is provided to a person charged with a violation of the Act. Accordingly, the ordinance conflicts with the Act and is invalid."<sup>4</sup>

The California Supreme Court has a case pending regarding the legality of red light cameras. Until that is resolved, lower appellate jurisdictions in several counties have found serious fault with the way photo tickets are administered. The Orange County Superior Court, Appellate Division recently ruled that red light cameras violate the Sixth Amendment. According to the unanimous, three-judge appellate panel, "The photographs contain hearsay evidence concerning the matters depicted in the photograph including the date, time and other information... The person who entered that relevant information into the camera-computer system did not testify. The person who entered that information was not subject to being cross-examined on the underlying source of that information. The person or persons who maintain the system did not testify. No one with personal knowledge testified about how often the system is maintained. No one with personal knowledge testified about how often the date and time are verified or corrected. The custodian of records for the company that contracts with the city to maintain, monitor, store and disperse these photographs did not testify. The person with direct knowledge of the workings of the camera-computer system did not testify."<sup>5</sup>

## **2. Effectiveness of Red Light Cameras**

Our experience in Georgia calls into question the claims of effectiveness heard from the proponents of red light cameras. While the cameras are promoted as tools to improve intersection safety, accident statistics did not support that claim. The common excuse given by red light camera vendors and local governments is that an increase in rear-end collisions is expected, but there would be a reduction in other, more dangerous types of collisions. However, in January 2006, the *Atlanta Journal Constitution* reported that accidents were increasing at several red light camera enforced intersections.<sup>6</sup> Furthermore there were increases in all types of accidents,

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<sup>4</sup> *Minnesota v. Kuhlman*, Supreme Court of Minnesota, 5 Apr, 2010.

<sup>5</sup> *California v. Khaled*, Orange County, California Superior Court, Appellate Division, 25 May, 2010.

<sup>6</sup> "Accidents Skyrocket at Marietta Camera Intersection", *Atlanta Journal Constitution*, Apr 2006.

including angle collisions, sideswipes, head-on and rear end collisions.<sup>7</sup> Accidents increased from 21 percent to 54 percent with one intersection having a 128 percent increase in injuries.

In May, 2010 accident data was analyzed at 17 photo enforced intersections in the Atlanta area. Accident data was compared for a period of 6 months prior to camera installation and 6 months after installation. The results of this study showed that collisions of all types, including rear end and angle collisions, had increased at nearly half of these intersections. The more dangerous angle collisions increased at 47 percent of the intersections analyzed.<sup>8</sup>

These findings have been duplicated in the peer-reviewed studies by the University of South Florida, published in 2008 by *Florida Public Health Review*<sup>9</sup> and by the Urban Transit Institute of the North Carolina A&T University<sup>10</sup>. Although not peer-reviewed, the Virginia Department of Transportation published a landmark study in 2007 examining six full years' worth of data covering every photo enforced city in the Commonwealth of Virginia. The data showed that, overall, accidents increased 29 percent. The accidents were serious, not minor, as injuries also increased 18 percent.

### **3. Abuse of Red Light Cameras by Local Governments**

A common public concern about red light camera use is that, adoption of the technology is accompanied by a reduction in the length of yellow light times at red light camera enforced intersections. Testimony during committee hearings for House Bill 77 revealed that some local governments had been lowering the duration of the yellow light signal at camera enforced intersections. Local news media investigations followed up the claims and confirmed that yellow light times were reduced at certain intersections following the installation of red light cameras.

Such reports raised significant concern regarding the true purpose of the cameras. Annual reports on red light camera operations provided to the Georgia legislature by local governments revealed that there was an increase in red light running violations at the intersections with reduced yellow light times. The increase in violations also created an increase in revenue for the local government.

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<sup>7</sup> "Georgia Accidents Increased with Red Light Cameras", *Atlanta Journal Constitution* 2 Apr, 2006.

<sup>8</sup> Collisions at Red Light Camera Intersections Go Up, WXIA-TV, Atlanta, Georgia 11 May 2010.

<sup>9</sup> Barbara Langland-Orban, PhD., Etienne E. Pracht, PhD and John T. Large, PhD., "Red Light Running Cameras: Would Crashes, Injuries and Automobile Insurance Rates Increase If They Are Used in Florida?", *Florida Public Health Review*, 2008; 5:1-7.

<sup>10</sup> Mark Burkey, PhD. and Kofi Obeng, PhD., "A Detailed Investigation of Crash Risk Reduction Resulting From Red Light Cameras In Small Urban Areas", Urban Transit Institute, Transportation Institute North Carolina Agricultural and Technical State University, July, 2004.

Local news media also began investigating reports of vehicle owners who received red light camera tickets, but were not the driver of the vehicle or where the camera misread the tag. The news stories revealed that vehicle owners were being harassed and told to pay the fine or report who was the driver of the vehicle at the time the violation occurred. As the red light camera controversy grew, public acceptance of cameras declined.

#### **4. Limited Regulation and Oversight**

The author and sponsors of HB 77 responded to the concerns by addressing the lack of effective regulation and oversight by the state. Georgia's red light camera laws did not address specific issues such as defining under what circumstances red light cameras could be installed, uniformity of operation, and standardization of reporting requirements.

The legislature's inquiry into common practices among municipalities found that some cameras were placed at intersections that were not considered dangerous and that did not have a history of significant collision numbers. Instead, many of these were highly congested, low speed intersections that were not prone to accidents but had a high volume of left-hand turn red light camera violations. It was also discovered that the red light cameras at these intersections generated much higher revenue than other cameras.

The law also lacked penalties for local governments who failed to comply with state red light camera laws. While the prior law had required local governments to file annual reports with the legislature and the governor's office providing details about the number of citations issued, there was no penalty for non-compliance. In 2005 and 2006 about half of the local governments operating red light cameras skipped filing of the required reports, and of those who did file, many of them were received after the deadline.

Accurate and timely reporting on the location of red light cameras and the number and type of citations issued by the cameras is imperative to being able to properly analyze the effectiveness of photo enforcement in deterring red light running.

### **GEORGIA'S RESPONSE TO INTERSECTION SAFETY**

Nearly ten years ago, the Majority Leader of the United States House of Representatives, the Honorable Dick Armey, testified before this committee. He warned that changes to yellow light timing standards resulted in shorter yellows that created hazardous intersection conditions across the nation.

His report identified several studies that suggested an increase in the duration of the yellow light signal at problem intersections had the greatest impact on reducing red light running and accidents.

After considering the findings of the Majority Leader's report and analyzing the data from the red light cameras in Georgia, the General Assembly passed House Bill 77, which established statewide standards for red light camera operations and required additional time be added to the yellow light time of all camera-enforced intersections.

Studies have shown that there are three primary ways of reducing red light running. The most effective is engineering, the next is education and the least effective is enforcement. Over the past several years, the use of red light cameras has created a financial incentive for local governments to avoid making engineering changes and rely totally on the revenue generating photo enforcement.

The purpose of House Bill 77 was to require local governments to implement engineering changes at dangerous intersections before resorting to photo enforcement. It also requires that the use of red light cameras must show a decrease in red light running and accidents to continue to be operated.

House Bill 77 gave the Georgia Department of Transportation (GDOT) oversight authority and established a red light camera permitting process. As of January 2010, all red light cameras within the state must have an operating permit issued by the GDOT. Local governments who wish to operate red light cameras must submit an application to GDOT before installing and operating a red light camera. The application must include concrete evidence that the intersection is dangerous and that the camera is being considered to address a genuine safety need. Furthermore, the application must also describe all attempts to solve the problem through engineering changes.

The bill also required that annual reports be filed with the DOT, instead of the legislature. It imposed the ultimate penalty for non-compliance – forfeiture to the state of all revenues received from the red light camera while the local government was not in compliance.

The greatest impact of House Bill 77 was the requirement that all intersections that operate red light cameras must set the timing of the yellow light to the minimum federal standard, plus one additional second. The result of this provision has resulted in a significant reduction in red light running violations at photo enforce intersections across the state.

## GEORGIA'S NEW RED LIGHT CAMERA LAW IS WORKING

In January 2010, the provision for adding one additional second to the yellow light times at photo enforced intersections went into effect and the results were immediate. Within 90 days of the law going into effect, red light running violations dropped 72 percent at red light camera intersections. Some local governments reported that violations dropped as much as 81 percent.

With such a significant drop in violations, also came an equal drop in revenue. Many local governments began removing the red light cameras, as they were no longer profitable to operate. The City of Dalton, not only removed their red light cameras, but had the yellow light times extended at all of the larger intersections within the city.

Mayor David Pennington of Dalton, Georgia told WDEF Television in an interview about the city removing the red light cameras "...the only reason to me to have the traffic cameras are do they truly promote public safety at a reasonable cost...and we've seen no evidence that it reduces accidents at all."<sup>11</sup>

As a result of the additional yellow light time requirement, a total of twelve Georgia cities have removed some or all of their red light cameras. The table to the right shows the percentage drop in violations following the implementation of HB 77.

City	Violation Decrease
Dalton	68%
Duluth	75%
Decatur	66%
Gwinnett	44%
Lilburn	80%
Norcross	80%
Rome	78%
Suwanee	81%

Since the implementation of the yellow light time provision of HB 77, a total of 57 red light cameras have been removed from operation by local governments because there were no longer considered profitable. As of January 2010, the GDOT has denied 3 permits, due to the intersections were either not considered dangerous, or the accident data showed an increase in accident rates at those intersections. Also, 11 contingency permits have been issued to cities that will allow them to temporarily continue to operate the red light cameras, but the city must implement certain engineering changes.

In December of 2009, the GDOT denied three permits for red light cameras submitted by the City of Atlanta. The denial was due to the lack of evidence that the red light cameras had

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<sup>11</sup> "Dalton Rids Red Light Cameras", WDEF-TV, Chattanooga, TN, 27 Mar, 2010.



improved safety at those intersections. However, the City of Atlanta continued operating at least one of those cameras, which was the highest revenue producing camera in the state, even after the permit had been denied. Due to the enforcement provisions of HB 77, the City of Atlanta is now forfeiting \$35,000 in fine revenue generated during the time they operated the camera without a permit.

## **SUMMARY**

Evidence through the analysis of the red light camera program in Georgia, has shown that photo enforcement in the state is not an effective deterrent to intersection collisions. While many local governments still desire to operate photo enforcement as a deterrent to red light running, implementation of proven engineering practices remains the most effective measure to improve intersection safety.

While Georgia's new red light camera law doesn't fully address the Constitutional concerns of operating photo enforcement, it has successfully reduced red light running in photo enforced intersections.