

**First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0904.02 Jason Gelender x4330

**SENATE BILL 15-276**

---

**SENATE SPONSORSHIP**

**Balmer and Carroll**, Baumgardner, Cadman, Cooke, Grantham, Guzman, Hill, Holbert, Jahn, Lambert, Lundberg, Marble, Scheffel, Sonnenberg, Woods

**HOUSE SPONSORSHIP**

(None),

---

**Senate Committees**

Business, Labor, & Technology

**House Committees**

---

**A BILL FOR AN ACT**

101      **CONCERNING A REQUIREMENT THAT THE USE OF RED LIGHT CAMERAS**  
102                    **BE APPROVED BY THE VOTERS OF THE GOVERNMENT USING THE**  
103                    **CAMERAS.**

---

**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/bills summaries>.)*

The bill requires voter approval for the use of red light cameras, automated vehicle identification systems designed to detect disobedience to a traffic control signal, as follows:

!            If the state (which does not currently use red light cameras) or a local government that is not already using red light

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.*

cameras wishes to begin using them, it must submit a specified ballot question to the voters of the state or the local government, as applicable, at a general election. If the voters approve the ballot question, the state or the local government may begin to use red light cameras.

! A local government that is already using red light cameras and that wishes to continue to use them must submit a specified ballot question to its voters at the 2016 general election. If the voters approve the ballot question, the local government may continue to use red light cameras. If the voters do not approve the ballot question, the local government must discontinue its use of red light cameras within 2 months following the date of certification of the vote on the ballot question. If the local government chooses not to submit the ballot question, it must discontinue its use of red light cameras no later than the date of the 2016 general election.

If a local government fails to comply with the voter approval requirements, then on and after July 1, 2017, the state treasurer must withhold the local government's monthly highway users tax fund (HUTF) allocation payments until the local government has stopped using red light cameras or has obtained the required voter approval. Money withheld is forfeited by the local government and returned to the HUTF to be reapportioned during the next fiscal year under the existing statutory allocation formulas.

In accordance with Colorado case law, the use of automated vehicle identification systems, including red light cameras, is declared to be a matter of mixed state and local concern so that the bill supersedes any conflicting charter provision or ordinance of a home rule municipality. Any pending lawsuit challenging the constitutionality of the bill is expressly stated to not be grounds for delaying the submission of a ballot question as required by the bill.

---

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

2           **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4           (a) The Colorado supreme court determined in *City of Commerce*  
5 *City v. State*, 40 P.3d 1273 (Colo. 2002) that regulation of the manner in  
6 which municipalities use automated vehicle identification systems,  
7 specifically red light camera systems and photo radar systems, to enforce

1 traffic laws is a matter of mixed state and local concern;

2 (b) When a matter is one of mixed state and local concern, both  
3 the state and a municipality may legislate with respect to the matter, but  
4 a state statute supersedes any conflicting municipal charter provision;

5 (c) Because the regulation of the manner in which municipalities  
6 use automated vehicle identification systems is a matter of mixed state  
7 and local concern, the limitations on municipal use of red light cameras  
8 set forth in this act apply to home rule municipalities and supersede any  
9 conflicting charter provision or ordinance of a home rule municipality.

10 **SECTION 2.** In Colorado Revised Statutes, 42-4-110.5, **amend**  
11 (1) and (2) introductory portion as follows:

12 **42-4-110.5. Automated vehicle identification systems.** (1) The  
13 general assembly hereby finds and declares that the enforcement of traffic  
14 laws through the use of automated vehicle identification systems under  
15 this section is a matter of ~~statewide~~ MIXED STATE AND LOCAL concern and  
16 is an area in which uniform state standards THAT SUPERSEDE CONFLICTING  
17 LOCAL CHARTER PROVISIONS AND ORDINANCES are necessary.

18 (2) EXCEPT AS OTHERWISE PROVIDED IN SECTION 42-4-110.7, a  
19 municipality may adopt an ordinance authorizing the use of an automated  
20 vehicle identification system to detect violations of traffic regulations  
21 adopted by the municipality, or the state, a county, a city and county, or  
22 a municipality may utilize an automated vehicle identification system to  
23 detect traffic violations under state law, subject to the following  
24 conditions and limitations:

25 **SECTION 3.** In Colorado Revised Statutes, **add** 42-4-110.7 as  
26 follows:

27 **42-4-110.7. Red light cameras - voter approval required -**

1 **withholding of highway users tax fund allocation in event of**  
2 **noncompliance - legislative declaration - definitions.** (1) THE GENERAL

3 ASSEMBLY HEREBY FINDS AND DECLARES THAT THE USE OF RED LIGHT  
4 CAMERAS IS CONTROVERSIAL, AND MANY COLORADANS FIND THE USE OF  
5 RED LIGHT CAMERAS UNDESIRABLE BECAUSE:

6 (a) SOME RESEARCH STUDIES INDICATE THAT INSTALLATION OF  
7 RED LIGHT CAMERAS ACTUALLY INCREASES REAR END COLLISIONS IN SOME  
8 CASES;

9 (b) IN RARE INSTANCES, CAMERA FLASHES FROM A RED LIGHT  
10 CAMERA MAY CAUSE AN ACCIDENT BY TRIGGERING A SEIZURE IN A DRIVER  
11 WHO HAS PHOTOSENSITIVE EPILEPSY;

12 (c) SOME COLORADANS BELIEVE THAT THE PRIMARY PURPOSE OF  
13 RED LIGHT CAMERAS IS TO GENERATE REVENUE FOR THE OPERATING  
14 GOVERNMENTAL ENTITY;

15 (d) BOTH THE CONFRONTATION CLAUSE OF THE SIXTH AMENDMENT  
16 TO THE UNITED STATES CONSTITUTION AND SECTION 16 OF ARTICLE II OF  
17 THE STATE CONSTITUTION GRANT A DEFENDANT IN A CRIMINAL  
18 PROSECUTION THE RIGHT TO CONFRONT WITNESSES AGAINST HIM OR HER,  
19 BUT RED LIGHT CAMERAS CANNOT BE CONFRONTED OR CROSS-EXAMINED,  
20 AND WHEN AN ALLEGED VIOLATION IS CAPTURED BY A RED LIGHT CAMERA  
21 A LAW ENFORCEMENT OFFICER GENERALLY IS NOT AT THE SCENE.

22 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
23 REQUIRES:

24 (a) "LOCAL GOVERNMENT" MEANS A COUNTY, A CITY AND  
25 COUNTY, OR A MUNICIPALITY, INCLUDING A HOME RULE MUNICIPALITY.

26 (b) "RED LIGHT CAMERA" MEANS AN AUTOMATED VEHICLE  
27 IDENTIFICATION SYSTEM, AS DEFINED IN SECTION 42-4-110.5 (6), THAT IS

1 DESIGNED TO DETECT DISOBEDIENCE TO A TRAFFIC CONTROL SIGNAL.

2 (3) (a) IF THE STATE, OR A LOCAL GOVERNMENT THAT IS NOT  
3 ALREADY USING RED LIGHT CAMERAS AS OF THE EFFECTIVE DATE OF THIS  
4 PARAGRAPH (a), WISHES TO BEGIN USING RED LIGHT CAMERAS, IT SHALL  
5 SUBMIT THE FOLLOWING BALLOT QUESTION TO THE VOTERS OF THE STATE  
6 OR THE LOCAL GOVERNMENT, AS APPLICABLE, AT A GENERAL ELECTION:  
7 "SHALL [THE STATE/NAME OF LOCAL GOVERNMENT] BE AUTHORIZED TO  
8 USE SURVEILLANCE RED LIGHT CAMERAS AT INTERSECTIONS WHERE A  
9 TRAFFIC CONTROL SIGNAL IS PRESENT?" IF THE VOTERS APPROVE THE  
10 BALLOT QUESTION, THE STATE OR THE LOCAL GOVERNMENT, AS  
11 APPLICABLE, MAY BEGIN TO USE RED LIGHT CAMERAS.

12 (b) A LOCAL GOVERNMENT THAT IS USING RED LIGHT CAMERAS AS  
13 OF THE EFFECTIVE DATE OF THIS PARAGRAPH (b) AND THAT WISHES TO  
14 CONTINUE TO USE RED LIGHT CAMERAS SHALL SUBMIT THE FOLLOWING  
15 BALLOT QUESTION TO ITS VOTERS AT THE 2016 GENERAL ELECTION:  
16 "SHALL [NAME OF LOCAL GOVERNMENT] BE AUTHORIZED TO CONTINUE TO  
17 USE SURVEILLANCE RED LIGHT CAMERAS AT INTERSECTIONS WHERE A  
18 TRAFFIC CONTROL SIGNAL IS PRESENT?" IF THE VOTERS APPROVE THE  
19 BALLOT QUESTION, THE LOCAL GOVERNMENT MAY CONTINUE TO USE RED  
20 LIGHT CAMERAS. IF THE VOTERS DO NOT APPROVE THE BALLOT QUESTION,  
21 THE LOCAL GOVERNMENT SHALL DISCONTINUE ITS USE OF RED LIGHT  
22 CAMERAS WITHIN TWO MONTHS FOLLOWING THE DATE OF CERTIFICATION  
23 OF THE VOTE ON THE BALLOT QUESTION. IF THE LOCAL GOVERNMENT  
24 CHOOSES NOT TO SUBMIT THE BALLOT QUESTION, IT SHALL DISCONTINUE  
25 ITS USE OF RED LIGHT CAMERAS NO LATER THAN NOVEMBER 8, 2016.

26 (4) IF A LOCAL GOVERNMENT BEGINS USING RED LIGHT CAMERAS  
27 WITHOUT FIRST OBTAINING THE VOTER APPROVAL REQUIRED BY

1 PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION OR CONTINUES USING  
2 RED LIGHT CAMERAS WITHOUT OBTAINING THE VOTER APPROVAL  
3 REQUIRED BY PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION AFTER  
4 THE APPLICABLE DEADLINE FOR DISCONTINUING ITS USE OF RED LIGHT  
5 CAMERAS HAS PASSED, THEN ON AND AFTER JULY 1, 2017, THE STATE  
6 TREASURER SHALL WITHHOLD THE LOCAL GOVERNMENT'S MONTHLY  
7 HIGHWAY USERS TAX FUND ALLOCATION PAYMENTS PURSUANT TO  
8 SECTION 43-4-207 OR 43-4-208, C.R.S., UNTIL THE LOCAL GOVERNMENT  
9 STOPS USING RED LIGHT CAMERAS OR OBTAINS THE REQUIRED VOTER  
10 APPROVAL. MONEY WITHHELD IS FORFEITED BY THE LOCAL GOVERNMENT,  
11 AND THE STATE TREASURER SHALL CREDIT THE MONEY TO THE HIGHWAY  
12 USERS TAX FUND TO BE REAPPORTIONED DURING THE NEXT FISCAL YEAR  
13 AS SPECIFIED IN PART 2 OF ARTICLE 4 OF TITLE 43, C.R.S.

14 (5) NOTWITHSTANDING ANY PROVISION OF LAW TO THE  
15 CONTRARY, IF A LOCAL GOVERNMENT OR ANY OTHER PERSON CHALLENGES  
16 THE CONSTITUTIONALITY OF ANY PROVISION OF THIS SECTION, THE  
17 PENDENCY OF THE LAWSUIT IS NOT GROUNDS FOR DELAYING THE  
18 SUBMISSION OF A BALLOT QUESTION AS REQUIRED BY SUBSECTION (3) OF  
19 THIS SECTION.

20 **SECTION 4. In Colorado Revised Statutes, amend 43-4-209 as**  
21 **follows:**

22 **43-4-209. Withholding municipal allocations. EXCEPT AS**  
23 **OTHERWISE PROVIDED IN SECTION 42-4-110.7 (4), any highway users tax**  
24 **fund money withheld by the state treasurer from allocation to any city or**  
25 **incorporated town, for any reason, shall in no case be withheld for a**  
26 **period to exceed six months from the date that the payment is to be made.**  
27 **After the six-month period has expired and the municipality has failed to**

1 correct the reason for withholding, the state treasurer shall pay the  
2 withheld funds to the county in which the city or incorporated town from  
3 which the funds are withheld is located, which funds shall be spent on the  
4 streets of said city or incorporated town.

5           **SECTION 5. Act subject to petition - effective date.** This act  
6 takes effect at 12:01 a.m. on the day following the expiration of the  
7 ninety-day period after final adjournment of the general assembly (August  
8 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a  
9 referendum petition is filed pursuant to section 1 (3) of article V of the  
10 state constitution against this act or an item, section, or part of this act  
11 within such period, then the act, item, section, or part will not take effect  
12 unless approved by the people at the general election to be held in  
13 November 2016 and, in such case, will take effect on the date of the  
14 official declaration of the vote thereon by the governor.