

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: H2/19/19

A Bill

HOUSE BILL 1304

5 By: Representative M. Gray
6 By: Senator Rapert
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS SPEED TRAP LAW; TO
10 PROVIDE FOR AUTOMATIC LEGISLATIVE AUDIT OF
11 MUNICIPALITIES UNDER THE ARKANSAS SPEED TRAP LAW; AND
12 FOR OTHER PURPOSES.
13
14

Subtitle

16 TO AMEND THE ARKANSAS SPEED TRAP LAW; AND
17 TO PROVIDE FOR AUTOMATIC LEGISLATIVE
18 AUDIT OF MUNICIPALITIES UNDER THE
19 ARKANSAS SPEED TRAP LAW.
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 *SECTION 1. Arkansas Code § 12-8-402 is amended to read as follows:*
25 *12-8-402. Definitions.*

26 *As used in this subchapter:*

27 (1) "Abusing police power" means ~~the exercise of~~ exercising
28 *police power to enforce criminal and traffic laws for the principal purpose*
29 *of raising revenue for ~~the~~ an affected municipality and not for the purpose*
30 *of public safety and welfare;*

31 (2) "Affected highway" means any highway which is part of the
32 *state highway system; ~~and~~*

33 (3) "Affected municipality" means ~~any~~ a city of the first class,
34 a city of the second class, or an incorporated town through which passes an
35 *affected highway;*

36 (4) "Enterprise fund" means a proprietary fund type used to



1 report an activity for which a fee is charged to external users for goods or
 2 services;

3 (5) "Fiduciary fund" means a fund type used to report assets
 4 held in a trustee or agency capacity and which cannot be used to support an
 5 affected municipality's own programs; and

6 (6)(A) "Revenue" means moneys resulting from fines and costs
 7 from traffic offense citations written by or arrests made by an affected
 8 municipality's law enforcement agency or moneys resulting from ancillary
 9 actions related to the enforcement of a traffic offense, including failure to
 10 appear and failure to pay, if the traffic offense is a:

11 (i) Misdemeanor;

12 (ii) Violation of state law; or

13 (iii) Violation of a local ordinance.

14 (B) "Revenue" does not include moneys received by an
 15 affected municipality and remitted to another governmental entity.

16
 17 SECTION 2. Arkansas Code § 12-8-403 is amended to read as follows:

18 12-8-403. Inquiry to determine abuse.

19 (a)(1) Upon the request of the prosecuting attorney of ~~any~~ a judicial
 20 district in which an affected municipality is located, the Director of the
 21 Department of Arkansas State Police ~~is authorized to~~ may investigate and
 22 determine whether ~~any~~ the affected municipality is abusing police power by
 23 conducting an unlawful speed trap.

24 (2)(A) The investigation shall require the affected municipality
 25 to submit a certified record of all fines, costs, citations, and municipal
 26 expenditures, ~~and~~ as well as the percentage of speeding citations that are
 27 written for persons speeding ten miles per hour (10 m.p.h.) or less than the
 28 posted speed limit.

29 (B) The records required under subdivision (a)(2)(A) of
 30 this section ~~may be over a reasonable period of time~~ encompass a reasonable
 31 time period as requested by the Department of Arkansas State Police, ~~but in~~
 32 ~~no event shall there be less than~~ shall contain at least ninety (90) days
 33 days' worth of documentation.

34 (C)(i) The affected municipality shall submit the
 35 requested records within thirty (30) days, unless an extension for submission
 36 is approved by the director, and shall cooperate with all other aspects of

1 the investigation.

2 (ii) Failure to comply with ~~any~~ a requirement of
3 this section shall result in automatic sanctions.

4 (b) It ~~shall be~~ is presumed that the affected municipality is abusing
5 police power by conducting an unlawful speed trap upon a finding by the
6 director that:

7 (1) The amount of revenue ~~produced by fines and costs from~~
8 ~~traffic offenses that are misdemeanors or violations of state law or local~~
9 ~~ordinance for which citations are written by the police department of the~~
10 ~~affected municipality occurring on the affected highways exceeds~~ for the
11 affected municipality exceeded thirty percent (30%) of the affected
12 municipality's total expenditures, less capital expenditures, water
13 department expenditures, sewer department expenditures, fiduciary fund
14 expenditures, enterprise fund expenditures, and debt service, in the
15 preceding year; or

16 (2) More than fifty percent (50%) of the summons written for the
17 traffic offense of speeding that is a misdemeanor, ~~or~~ a violation of state
18 law, or a violation of a local ordinance in the affected municipality are
19 written for speed limit violations that are ten miles per hour (10 m.p.h.) or
20 less than the posted speed limit.

21
22 SECTION 3. Arkansas Code Title 12, Chapter 8, Subchapter 4, is amended
23 to add an additional section to read as follows:

24 12-8-405. Required audit inquiry.

25 An audit of an affected municipality under § 10-4-412 or § 14-58-101
26 shall include an inquiry to determine whether the affected municipality is
27 potentially abusing police power.

28
29 /s/M. Gray

30
31
32 APPROVED: 3/7/19