

State of Arkansas  
92nd General Assembly  
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As Engrossed: H2/19/19

# A Bill

HOUSE BILL 1304

By: Representative M. Gray

By: Senator Rapert

## For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS SPEED TRAP LAW; TO  
PROVIDE FOR AUTOMATIC LEGISLATIVE AUDIT OF  
MUNICIPALITIES UNDER THE ARKANSAS SPEED TRAP LAW; AND  
FOR OTHER PURPOSES.

### Subtitle

TO AMEND THE ARKANSAS SPEED TRAP LAW; AND  
TO PROVIDE FOR AUTOMATIC LEGISLATIVE  
AUDIT OF MUNICIPALITIES UNDER THE  
ARKANSAS SPEED TRAP LAW.

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

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

*As used in this subchapter:*

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

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

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

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



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

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

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

(i) Misdemeanor;

(ii) Violation of state law; or

(iii) Violation of a local ordinance.

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

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

12-8-403. Inquiry to determine abuse.

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

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

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

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

the investigation.

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

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

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

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

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

12-8-405. Required audit inquiry.

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

/s/M. Gray

APPROVED: 3/7/19