



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 23, 2006

Mr. Michael W. Behrens, P.E.
Executive Director
Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701-2483

Opinion No. GA-0440

Re: Installation of cameras on state highway
rights-of-way to enforce compliance with traffic-
control signals (RQ-0427-GA)

Dear Mr. Behrens:

You ask whether the Texas Department of Transportation (the “department”) has authority to place cameras on state highway rights-of-way to enforce compliance with traffic-control signals.¹ You also ask whether the department may permit local authorities to install camera equipment on state highway rights-of-way for this purpose.

A “traffic-control signal” is “a manual, electric, or mechanical device that alternately directs traffic to stop and to proceed.” TEX. TRANSP. CODE ANN. § 541.304(3) (Vernon 1999). A vehicle operator must stop at a red light, *see id.* § 544.007(d) (Vernon Supp. 2005), and the failure to stop is a misdemeanor offense. *See id.* § 542.301 (Vernon 1999).

A photographic traffic monitoring system typically consists of a camera located upstream of an intersection regulated by a traffic-control signal. *See* CESAR QUIROGA, P.E., EDGAR KRAUS, IDA VAN SCHALKWYK, AND JAMES BONNESON, P.E., RED LIGHT RUNNING—A POLICY REVIEW (Mar. 2003) (Texas Transportation Institute, Texas A&M University System)² at 30–31. A pavement sensor is located just before the stop line. *See id.* The camera becomes active after the signal turns red and photographs the license plate of a vehicle that runs the red light, thus making it possible to identify the vehicle owner. *See id.* A second camera may be located downstream of the intersection to photograph the vehicle’s driver. *See id.* A photographic traffic monitoring system thus provides information that assists law enforcement officers and agencies to enforce traffic control laws.

You ask a general question about the department’s authority to place cameras on state highway rights-of-way to enforce compliance with traffic-control signals and do not inquire about a particular enforcement plan. *See* Request Letter, *supra* note 1, at 1. Accordingly, we address your question in general terms.

¹Letter from Mr. Michael W. Behrens, P.E., Executive Director, Texas Department of Transportation, to Honorable Greg Abbott, Attorney General of Texas (Dec. 20, 2005) (on file with the Opinion Committee, *also available* at <http://www.oag.state.tx.us>) [hereinafter Request Letter].

²*Available* at <http://imr.tamu.edu/projects/RLR/Publications.htm> (last visited June 23, 2006).

The department is governed by the Texas Transportation Commission (the “commission”). See TEX. TRANSP. CODE ANN. § 201.201 (Vernon 1999). The legislature has vested authority in the commission to provide for a state highway system. See *id.* §§ 201.101, .103, .104 (Vernon 1999 & Supp. 2005). The commission “shall plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads” and “shall designate as part of the state highway system a highway that it determines is necessary for the proper development and operation of the system.” *Id.* § 201.103(a)–(b) (Vernon Supp. 2005). The commission may “lay out, construct, maintain, and operate a modern state highway system” in order to “promote public safety, facilitate the movement of traffic, preserve the public’s financial investment in highways, [and] promote the national defense.” *Id.* § 203.002(a)(1) (Vernon 1999).

Pursuant to the commission’s broad authority over the state highway system, the department may install cameras on state highway rights-of-way to assist in promoting public safety, facilitating the movement of traffic, and otherwise implementing its powers and duties with respect to state highways. The department, in cooperation with certain cities, has already installed photographic equipment on highway rights-of-way and elsewhere in the cities as part of an “Intelligent Traffic System” designed to provide motorists with information about travel times, to permit quicker response times for emergency personnel, and otherwise to manage traffic.³ The department may also install cameras on state highway rights-of-way to monitor compliance with traffic-control signals, thus assisting law enforcement officers and entities to enforce traffic laws and to provide for the public safety on state highways.

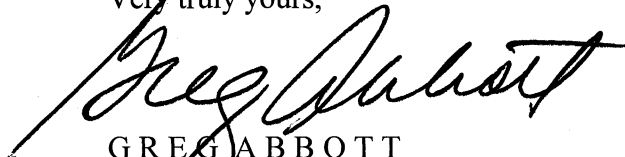
You also ask whether the department may permit local authorities to install camera equipment on state highway rights-of-way to enforce compliance with traffic-control signals. A “local authority,” which includes a county, a municipality, and any other local entity authorized to enact traffic laws under the laws of this state, “may not place or maintain a traffic-control device on a highway under the jurisdiction of the Texas Department of Transportation without that department’s permission.” *Id.* § 544.002(c); see *id.* § 541.002(3)(A) (defining “local authority”). Transportation Code section 221.002 provides that the commission and a municipal governing body may agree to: “(1) provide for the . . . control, supervision, and regulation of a designated state highway in the municipality; and (2) establish the respective liabilities and responsibilities of the commission and the municipality under the agreement.” *Id.* § 221.002. The department has moreover adopted a rule stating the circumstances when the department “may install, maintain, and operate traffic signals on the state highway system” in unincorporated areas and in incorporated cities. See 43 TEX. ADMIN. CODE § 25.5 (2006) (Tex. Dep’t of Transp., Installation, Operation, and Maintenance of Traffic Signals). The department has statutory authority to permit local authorities to install traffic-control signals on state highway rights-of-way. Pursuant to this authority, it may permit local entities to install camera equipment to monitor compliance with traffic-control signals for the purpose of enforcing traffic laws.

³See Traffic Management Systems (ITS) for Amarillo, at <http://amaitts.dot.state.tx.us/>; Dallas, Fort Worth, at <http://dfwtraffic.dot.state.tx.us/>; El Paso, at <http://www.transvista.dot.state.tx.us/>; Houston, at <http://www.houstontranstar.org/>; and San Antonio, at <http://www.transguide.dot.state.tx.us/> (last visited June 23, 2006).

S U M M A R Y

The Texas Department of Transportation may install cameras on state highway rights-of-way to monitor compliance with traffic-control signals for the purpose of enforcing traffic laws on state highways. The department may also permit local authorities to install camera equipment in connection with traffic-control signals on state highway rights-of-way for the same purpose.

Very truly yours,



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