

LEGISLATIVE BILL 88

Approved by the Governor February 24, 1983

Introduced by Chambers, 11

AN ACT to amend section 39-664, Reissue Revised Statutes of Nebraska, 1943, relating to speed detecting devices; to provide duties for the state; to establish the necessary proofs when using a speed detecting device; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 39-664, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-664. (1) Determinations made regarding the speed of any motor vehicle based upon the visual observation of any law enforcement officer may be corroborated by the use of radio microwaves or other electronic device. The results of such radio microwave or other electronic speed measurement may be accepted as competent evidence of the speed of such motor vehicle in any court or legal proceeding when the speed of the vehicle is at issue. Before the state may offer in evidence the results of such radio microwave or other electronic speed measurement for the purpose of establishing the speed of any motor vehicle, the state shall prove the following:

(a) The measuring device was in proper working order at the time of conducting the measurement;

(b) The measuring device was being operated in such a manner and under such conditions so as to allow a minimum possibility of distortion or outside interference;

(c) The person operating such device and interpreting such measurement was qualified by training and experience to properly test and operate the device; and

(d) The operator conducted external tests of accuracy upon the measuring device, within a reasonable time both prior to and subsequent to an arrest being made, and the measuring device was found to be in proper working order. The speed of any motor vehicle may be determined by the use of radio microwaves or other

electronic device. The results of such determinations shall be accepted as prima facie evidence of the speed of the vehicle in any court or legal proceedings when the speed of the vehicle is at issue:

(2) The driver of any motor vehicle found measured by use of radio microwaves or other electronic device to be driving in excess of the applicable speed limit may be apprehended:

(a) If the apprehending officer has observed the recording of the speed of the motor vehicle by the radio microwaves or other electronic device;

(b) If such apprehending officer has received a radio message from an officer who observed the speed recorded and the radio message (i) has been dispatched immediately after the speed of the motor vehicle was recorded, and (ii) gives a description of the vehicle and its recorded speed; and

(c) If the apprehending officer is in uniform or displays his or her badge of authority.

Sec. 2. That original section 39-664, Reissue Revised Statutes of Nebraska, 1943, is repealed.