

LEGISLATIVE BILL 25

Approved by the Governor March 11, 1993

Introduced by Chambers, 11; Lindsay, 9

AN ACT relating to rules of the road; to amend section 39-664, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the corroboration of visual observations of speeding and the apprehension of a driver by a peace officer as prescribed; 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~~ peace officer, while being competent evidence for all other purposes, shall ~~may~~ be corroborated by the use of a radio microwaves or other microwave, mechanical, or ~~electronic speed measurement~~ device. The results of such radio microwave, mechanical, or ~~other~~ electronic speed measurement device 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, mechanical, or ~~other~~ electronic speed measurement device for the purpose of establishing the speed of any motor vehicle, the state shall prove the following:

(a) The measuring radio microwave, mechanical, or electronic speed measurement device was in proper working order at the time of conducting the measurement;

(b) The measuring radio microwave, mechanical, or electronic speed measurement 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 the radio microwave, mechanical, or electronic speed measurement device and interpreting such measurement was qualified by training and experience to properly test and operate the radio microwave, mechanical, or electronic speed measurement device; and

(d) The operator conducted external tests of accuracy upon the measuring radio microwave, mechanical, or electronic speed measurement 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.

(2) The driver of any motor vehicle measured by use of a radio microwaves or other microwave, mechanical, or ~~electronic speed measurement~~ device to be driving in excess of the applicable speed limit

may be apprehended if the apprehending officer:

(a) ~~If the apprehending officer has~~ Is in uniform and displays his or her badge of authority; and

~~(b) If such apprehending officer has~~ (i) Has observed the recording of the speed of the motor vehicle by the radio ~~microwaves or other~~ microwave, mechanical, or electronic speed measurement device; or

~~(b) If such apprehending officer has~~ (ii) Has received a radio message from ~~an~~ a peace officer who observed the speed recorded and the radio message ~~(i)~~ (A) has been dispatched immediately after the speed of the motor vehicle was recorded; and ~~(ii)~~ (B) 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.