

Clause 6 in Report No. 3 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on February 16, 2017.

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Bill 65 - *Safer School Zone Act, 2016*

Committee of the Whole recommends adoption of the following recommendations, as amended, in the report dated January 27, 2017 from the Regional Solicitor:

1. Council adopt the Resolution in Attachment 1, on Bill 65, Safer Schools Zones Act, to advocate for amendments to allow for technology based enforcement of offences to be administered through an administrative monetary penalty system.
2. The Regional Clerk circulate this report to the Clerks of the local municipalities seeking similar resolutions supporting the Region's position.
3. The Regional Clerk circulate this report to the Association of Municipalities of Ontario, the Ministry of Transportation and the Ministry of the Attorney General.

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Report dated January 27, 2017 from the Regional Solicitor now follows:

1. Recommendations

It is recommended that:

1. Council adopt the Resolution in Attachment 1, on Bill 65, *Safer Schools Zones Act*, to advocate for amendments to allow for technology based enforcement of offences to be administered through an administrative monetary penalty system.
2. This report be circulated by the Regional Clerk to the Clerks of the local municipalities, the Association of Municipalities of Ontario, the Ministry of Transportation and the Ministry of the Attorney General.

## 2. Purpose

This report advises Council of the provisions of Bill 65 *Safer School Zones Act, 2016* ("Bill 65") which would amend the *Highway Traffic Act* ("HTA") to allow for the use of technology to enforce speeding offences in community safety and school zones and the impact of these amendments on municipalities and the Provincial Offences Act ("POA") Courts. This report also recommends advocacy to allow for enforcement of such offences as well as Red Light Camera offences through administrative penalties

## 3. Background

On November 15, 2016 the Minister of Transportation introduced Bill 65. The intent of Bill 65 is to amend the *Highway Traffic Act* (HTA) by repealing the current photo radar provisions and enact a new automated speed enforcement system ("ASE"). Municipalities would be able to enact bylaws to allow the use of the ASE in community safety and schools zones.

## 4. Analysis and Implications

Bill 65 would allow municipalities to enact bylaws implementing ASE in community safety and school zones to increase safety through the efficient enforcement of speed limits

The HTA provides municipalities the authority to enact bylaws designating community safety zones and school zones. Despite being enacted by a municipality such bylaws create HTA offences which are administered through the POA Courts as they are not municipal bylaw offences.

Enforcement would follow a process similar to the Red Light Camera program in that the owner of the vehicle would be charged with the speeding infraction under the HTA and the charge would proceed through the POA court system with options for payment, guilty-pleas or a request for trial.

Under Bill 65 in its current form, the full costs of implementation and operation of ASE would be borne by the municipality, and administration and fine revenue would remain with the POA Courts

Under Bill 65 as proposed, implementation of ASE in community safety and school zones would be the responsibility of the municipality and any operational costs would be incurred by the municipality accordingly. There is no mechanism

within the existing POA framework for local municipalities to recover costs of ASE programs through HTA fine revenue. This program would not fall within the purview of York Regional Police and has no direct impact on police operations.

The Region's local municipalities receive fine revenue for bylaw offences and the Region's Court Services retains the fine revenue from HTA offences

Under the POA Court Inter-municipal Agreement, local municipalities receive fine revenue for municipal bylaw offences (Sections 433 and 434 of the *Municipal Act*, 2001). Fine revenue for HTA offences are collected and retained by Court Services to cover the costs of operating the POA Court program.

Section 102.1 of the *Municipal Act*, 2001 currently authorizes municipalities to implement an administrative monetary penalty system for parking bylaws. Administrative penalties are an alternate mechanism for enforcement of bylaws. The offender is given a monetary penalty (ticket) without the right to dispute the ticket in court. There is a right to have the penalty reviewed by a Screening Officer and to further dispute that decision before a Hearing Officer. The Screening Officer and Hearing Officer are appointed by the municipality and can reduce the amount to be paid or grant additional time to pay an administrative penalty. Where a municipality has enacted a bylaw with administrative penalties, the offences under the bylaw are not POA offences and are not enforced through the POA Courts.

Bill 68, *Modernizing Ontario's Municipal Legislation Act*, 2016 includes provisions to expand the ability of municipalities to implement administrative penalties for enforcement of municipal bylaws, beyond parking and licensing, but these proposed provisions would not extend to HTA offences including ASES.

Enforcement through AMPS would result in efficient enforcement in community safety and school zone and reduce pressure created by scheduling constraints and backlog in the POA Courts system

The Region's Court Services program, like most POA Courts, is experiencing significant backlog in scheduling trial matters within the courts. Increased court closures due to a judicial shortage are creating significant pressures on the Region's POA court program. Court Services does not have the capacity to schedule additional trial requests that would result from ASE charges.

Court Services and other POA Court programs have been advocating for legislative amendments to allow certain HTA offences, including Red Light Camera and photo radar, to be enforced exclusively through administrative

penalties. This would relieve constraints on court capacity and reserve court time for matters requiring in-person evidence by enforcement officers and witnesses.

Municipalities currently have the authority to implement administrative penalties for licensing bylaws. Technology-based offences can be enforced efficiently and effectively through administrative penalties and would provide an option for municipalities to operate ASE and recover costs.

Legislative changes are required to address the costs associated with ASE and the projected activity increase in the POA Courts

POA Courts staff have been lobbying the Ministry of Transportation to make amendments to the HTA that will allow for ASE charges to be administered under administrative penalties. The Association of Municipalities Ontario (“AMO”) and POA Court program administrators have also been lobbying the Ministry of the Attorney General to support changes necessary to allow technology-based offences including Red Light Cameras and speed enforcement to be administered through administrative penalties.

Section 21.1 of the HTA was enacted to allow for the Lieutenant Governor in Council to make a regulation prescribing administrative penalties for certain offences under the HTA and the regulations. The section has not yet been proclaimed and a regulation has not been enacted.

Local municipalities are encouraged to work with other Ontario municipalities and AMO to advocate for a regulation under s 21.1 of the HTA and the proclamation of that section that will allow for administrative penalties to be used for enforcement of the ASE and Red Light Camera programs.

## 5. Financial Considerations

Since the Region retains fine revenue from HTA offences in its POA Courts, the Region could operate ASE on its roads and retain fine revenue resulting from ASE offences. Future reporting on implementation would address the subject of expected cost-recovery. POA fines would offset such costs. Enforcement through administrative penalties could reduce the costs of enforcement by avoiding the costs associated with the POA courts.

## 6. Local Municipal Impact

If local municipalities in York Region implement ASE under Bill 65 as drafted, they will incur these operational costs without any revenue to offset those costs. A collaborative approach with the local municipalities and AMO is necessary to

advocate for the tools municipalities need to enforce ASE in a cost effective manner thereby responding to the safety issues local municipalities have identified within community safety and school zones. ASE offers a practical alternative to traffic calming-achieving the same desired behaviour by penalizing offenders. It provides another tool for municipalities to consider in addressing community concerns about speeding.

## 7. Conclusion

The proposed ASE provisions of Bill 65 are intended to be a benefit to municipalities. However for ASE to be effective it is necessary for a regulation to be enacted and section 21.1 of the HTA to be proclaimed so that administrative penalty provisions would apply to ASE and Red Light Camera programs.

For more information on this report, please contact Lisa Brooks, Director Court Operations 1-877-464-9675 ext. 73209

The Senior Management Group has reviewed this report.

January 27, 2017

Attachments (1)

7268200

Accessible formats or communication supports are available upon request.

Resolution of \_\_\_\_\_

Moved by \_\_\_\_\_

Seconded by \_\_\_\_\_

WHEREAS the Legislature introduced Bill 65 – *Safer School Zones Act, 2016* (Bill 65) on November 15, 2016 to repeal the existing photo radar provisions of the Highway Traffic Act (*HTA*) and replace them with provision for automated speed enforcement;

AND WHEREAS Bill 65 would allow municipalities, by bylaw, to implement and operate automated speed enforcement in community safety zones and school zones on roads under their jurisdiction;

AND WHEREAS municipalities would be responsible for the implementation and operational costs of automated speed enforcement on roads under their jurisdiction;

AND WHEREAS the bylaws designating community safety zones and school zones or implementing the automated speed enforcement would be enacted under the *HTA* and would create *HTA* offences;

AND WHEREAS *HTA* offences are administered through the *Provincial Offences Act* courts and any *HTA* fine revenue collected through the POA courts would be retained by the POA court program not the local municipality;

AND WHEREAS the *Municipal Act, 2001* authorizes municipalities to implement an administrative monetary penalty system for parking and licensing bylaws, and Bill 68 *Modernizing Ontario's Municipal Legislation Act, 2016* proposes to expand authority for administrative monetary penalties to other municipal bylaws;

AND WHEREAS penalties for offences arising out of enforcement through technology such as automated speed enforcement and red light cameras can be administered effectively and efficiently through an administrative monetary penalty system;

AND WHEREAS POA Court administration have been calling on the government to allow other technology-based offences including red light cameras to be administered through administrative penalties;

AND WHEREAS s. 21.1 of the *Highway Traffic Act* if proclaimed would allow for a regulation to be made authorizing enforcement of prescribed offences through administrative monetary penalties rather than the POA courts;

BE IT RESOLVED THAT Council requests the Minister of Transportation in conjunction with the Lieutenant Governor in Council to make a regulation pursuant to s. 21.1 of the *Highway Traffic Act*, that would allow for offences created by automated speed enforcement and red light cameras to be administered through the administrative monetary penalties and for the Attorney General to support the necessary changes to allow technology based enforcement of offences to be administered through administrative monetary penalties.