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SENATE BILL NO. 1108

Offered January 10, 2001

Prefiled January 10, 2001

A BILL to amend and reenact § 46.2-833.01 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 14 of Title 15.2 a section numbered 15.2-1434 and by adding a section numbered 46.2-833.01:01, relating to local government use of photo-monitoring systems to enforce traffic light signals.

Patrons—Couric; Delegate: McQuigg

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-833.01 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 4 of Chapter 14 of Title 15.2 a section numbered 15.2-1434 and by adding a section numbered 46.2-833.01:01 as follows:

§ 15.2-1434. Ordinances authorizing the use of photo-monitoring systems to enforce traffic light signals; resolution of local governing body required.

A. Prior to adopting any ordinance authorizing the use of a photo-monitoring system, the local governing body, wherein use of such a system is being proposed, shall adopt a resolution, in accordance with the requirements of this section.

B. The resolution required under this section shall be adopted only after holding a public hearing with respect thereto, at which citizens shall have an opportunity to be heard. The local governing body shall publish notice of the hearing once in a newspaper of general circulation in the county, city or town wherein such use of a photo-monitoring system is being proposed. The public hearing shall not be held until at least five days after the notice is published in the newspaper. At such hearing, the governing body shall consider the following issues:

- 1. The revenue impact to the locality;
- 2. The structure and engineering of the intersection, including, but not limited to, signal timing, visibility, pavement markings, and traffic signs;
- 3. Whether or not the intersection where the locality opts to use a photo-monitoring system meets one of the requirements under subsection C;
- 4. Whether or not the photo-monitoring system shall be used for the purpose of collision avoidance in addition to or in lieu of traffic light signals enforcement; and
- 5. Any other criteria, facts and circumstances that the governing body deems pertinent.

C. A locality may use a photo-monitoring system only in an intersection that meets one of the following requirements:

- 1. An intersection where the per vehicle accident rate is twice that of a comparable intersection;
- 2. An intersection where the total lane count in all directions leading up to that intersection is twelve or more so that such large lane count makes manual policing of the intersection impractical;
- 3. An intersection that is physically arrayed in such manner that an officer on foot or in a patrol car cannot apprehend a violator without subjecting pedestrians, motorists or himself to undue risk; or
- 4. An intersection that does not have an area where a motorist can be safely stopped outside the roadway within 500 yards of the intersection, or an area within 500 yards where the motorist can be stopped without impeding normal business or social activities.

D. Any resolution adopted pursuant to this section shall state therein the following:

- 1. That the provisions of this section have been examined and met;
- 2. That the photo-monitoring systems will not be used for the sole purpose of raising revenue;
- 3. The location of each intersection that the governing body had considered for the purpose of determining whether to use a photo-monitoring system; and
- 4. The location of each intersection wherein the governing body has determined to use a photo-monitoring system pursuant to this section.

E. Any ordinance adopted pursuant to this section must include a requirement that the law-enforcement agency having jurisdiction over each intersection wherein the photo-monitoring system will be used annually report to the governing body in writing (i) regarding the compliance with this section and § 46.2-833.01, (ii) the impact of using a photo-monitoring system, and (iii) recommending whether use of such a photo-monitoring system shall be continued or ceased.

F. Any locality that uses or will be using a photo-monitoring system pursuant to this section shall

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59 *publicize the use of such system with, at a minimum, conspicuous traffic signs to alert drivers of its use.*
60 § 46.2-833.01. Use of photo-monitoring systems to enforce traffic light signals; penalty.

61 A. The governing body of ~~any city having a population of more than 390,000, any city having a~~
62 ~~population of at least 200,000 but less than 225,000, any county having the urban county executive form~~
63 ~~of government, any county adjacent to such county, and any city or town adjacent to or surrounded by~~
64 ~~such county except any county having the county executive form of government and the cities~~
65 ~~surrounded by such county~~ a locality that has met the requirements of § 15.2-1434 may provide by
66 ordinance for the establishment of a ~~demonstration~~ program imposing monetary liability on the operator
67 of a motor vehicle for failure to comply with traffic light signals in such locality in accordance with the
68 provisions of this section. ~~Each such locality may install and operate traffic light signal~~
69 ~~photo-monitoring systems at no more than twenty-five intersections within each locality at any one time.~~

70 B. The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to this section
71 if such vehicle is found, as evidenced by information obtained from a traffic light signal violation
72 monitoring system, to have failed to comply with a traffic light signal within such locality.

73 C. Proof of a violation of this section shall be evidenced by information obtained from a traffic light
74 signal violation monitoring system authorized pursuant to this section. A certificate, sworn to or affirmed
75 by a ~~technician~~ sworn law-enforcement officer employed by a locality authorized to impose penalties
76 pursuant to this section, or a facsimile thereof, based upon inspection of photographs, microphotographs,
77 videotape, or other recorded images produced by a traffic light signal violation monitoring system, shall
78 be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape,
79 or other recorded images evidencing such a violation shall be available for inspection in any proceeding
80 to adjudicate the liability for such violation pursuant to an ordinance adopted pursuant to this section.

81 D. In the prosecution of an offense established under this section, prima facie evidence that the
82 vehicle described in the summons issued pursuant to this section was operated in violation of this
83 section, together with proof that the defendant was at the time of such violation the owner, lessee, or
84 renter of the vehicle, shall constitute in evidence a rebuttable presumption that such owner, lessee, or
85 renter of the vehicle was the person who committed the violation. Such presumption shall be rebutted if
86 the owner, lessee, or renter of the vehicle (i) files an affidavit by regular mail with the clerk of the
87 general district court that he or she was not the operator of the vehicle at the time of the alleged
88 violation or (ii) testifies in open court under oath that he or she was not the operator of the vehicle at
89 the time of the alleged violation. Such presumption shall also be rebutted if a certified copy of a police
90 report, showing that the vehicle had been reported to the police as stolen prior to the time of the alleged
91 violation of this section, is presented, prior to the return date established on the summons issued
92 pursuant to this section, to the court adjudicating the alleged violation.

93 *In prosecution of an offense established under this section, a resolution or a certified copy of such*
94 *resolution of the local governing body adopted pursuant to § 15.2-1434 and stating that the intersection*
95 *where the violation has occurred meets one of the requirements under subsection C of § 15.2-1434 shall*
96 *be conclusive proof that the requirements of §§ 15.2-1434 and 46.2-833.01 have been satisfied.*

97 E. For purposes of this section "owner" means the registered owner of such vehicle on record with
98 the Department of Motor Vehicles. For purposes of this section, "traffic light signal violation-monitoring
99 system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically
100 produces two or more photographs, two or more microphotographs, a videotape, or other recorded
101 images of each vehicle at the time it is used or operated in violation of §§ 46.2-833, 46.2-835, or
102 § 46.2-836. For each such vehicle, at least one recorded image shall be of the vehicle before it has
103 illegally entered the intersection, and at least one recorded image shall be of the same vehicle after it
104 has illegally entered that intersection.

105 F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator
106 and shall not be made part of the operating record of the person upon whom such liability is imposed
107 nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No
108 monetary penalty imposed under this section shall exceed fifty dollars nor shall it include court costs.

109 G. A summons for a violation of this section may be executed pursuant to § 19.2-76.2.
110 Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed
111 by mailing by first-class mail a copy thereof to the address of the owner, lessee, or renter of the vehicle
112 as shown, in the case of vehicle owners, in the records of the Department of Motor Vehicles or, in the
113 case of vehicle lessees or renters, in the records of the lessor or renter. Every such mailing shall include,
114 in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that
115 he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit
116 as provided in subsection D of this section and (ii) instructions for filing such affidavit, including the
117 address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return
118 set out in the summons mailed pursuant to this section, the summons shall be executed in the manner
119 set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be
120 instituted for failure to appear on the return date of the summons.

121 H. In any action at law brought by any person or entity as the result of personal injury or death or
122 damage to property, such evidence derived from a photo-monitoring system shall be admissible in the
123 same method prescribed as required in the prosecution of an offense established under this section
124 without the requirements of authentication as otherwise required by law.

125 I. On behalf of a locality, a private entity may not obtain records regarding the registered owners of
126 vehicles which fail to comply with traffic light signals. A private entity may enter into an agreement
127 with a locality to be compensated for providing the traffic light signal violation-monitoring system or
128 equipment, and all related support services, to include consulting, operations and administration.
129 However, only ~~an employee~~ *a sworn law-enforcement officer* of the locality may swear to or affirm the
130 certificate required by subsection C.

131 ~~J. The provisions of this section shall expire on July 1, 2005.~~

132 *§ 46.2-833.01:01. Localities authorized to use photo-monitoring system prior to July 1, 2001.*

133 *Any locality that was authorized to use a photo-monitoring system to enforce traffic light signals*
134 *prior to July 1, 2001, pursuant to § 46.2-833.01 as that section was effective on June 30, 2001, may*
135 *continue to do so until July 1, 2005. Such locality may use a photo-monitoring system to enforce traffic*
136 *light signals on and after July 1, 2005, only if such locality enacts an ordinance pursuant to*
137 *§ 15.2-1434.*