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SENATE BILL NO. 41

Offered January 9, 2002

Prefiled December 27, 2001

A *BILL to amend and reenact § 46.2-833.01 of the Code of Virginia, relating to use of photo-monitoring systems to enforce traffic light signals; penalty.*

Patron—Marye

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 as follows:

§ 46.2-833.01. Use of photo-monitoring systems to enforce traffic light signals; penalty.

A. The governing body of any city having a population of more than 390,000, any city having a population of at least 200,000 but less than 225,000, *any town having a population greater than 35,000*, any county having the urban county executive form of government, any county adjacent to such county, and any city or town adjacent to or surrounded by such county except any county having the county executive form of government and the cities surrounded by such county may provide by ordinance for the establishment of a demonstration program imposing monetary liability on the operator of a motor vehicle for failure to comply with traffic light signals in such locality in accordance with the provisions of this section. Each such locality may install and operate traffic light signal photo-monitoring systems at no more than twenty-five intersections within each locality at any one time.

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

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

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

E. For purposes of this section "owner" means the registered owner of such vehicle on record with the Department of Motor Vehicles. For purposes of this section, "traffic light signal violation-monitoring system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, a videotape, or other recorded images of each vehicle *with sufficient resolution to read the license plate on the vehicle*, at the time it is used or operated in violation of §§ 46.2-833, 46.2-835, or § 46.2-836. For each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered that intersection. *No traffic light signal violation-monitoring system shall record the image of a vehicle proceeding legally through an intersection during the green phase of a signal, unless the image appears incidental to the recorded image of a vehicle illegally entering an intersection during the red phase of a signal.*

F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No

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59 monetary penalty imposed under this section shall exceed fifty dollars nor shall it include court costs.

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

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

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

82 *J. At an intersection approach in which a traffic light signal violation-monitoring system is used, a*
83 *locality shall ensure that the timing of the yellow phase of the signal meets or exceeds the minimum*
84 *time recommended by the Institute of Transportation Engineers.*

85 *K. Any locality that uses a traffic light signal violation-monitoring system to enforce traffic light*
86 *signals shall place signs indicating such use at or near the boundary of the locality on all primary*
87 *highways. There shall exist a rebuttable presumption that such signs were in place at the time of the*
88 *commission of the violation. An affidavit filed by the chief executive or administrative officer of the*
89 *locality shall be admissible in evidence to support or rebut the presumption.*

90 *L. Prior to or coincident with the implementation or expansion of a traffic light signal*
91 *violation-monitoring system, a locality shall implement a public awareness program, advising the public*
92 *of such implementation.*

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