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HOUSE BILL NO. 181**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee for Courts of Justice
on February 20, 2006)

(Patron Prior to Substitute—Delegate McEachin)

A *BILL to amend and reenact § 46.2-821 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-833.02, relating to motor vehicle code violations.*

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-821 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-833.02 as follows:

§ 46.2-821. Vehicles before entering certain highways shall stop or yield right-of-way.

The driver of a vehicle approaching an intersection on a highway controlled by a stop sign shall, immediately before entering such intersection, stop at a clearly marked stop line, or, in the absence of a stop line, stop before entering the crosswalk on the near side of the intersection, or, in the absence of a marked crosswalk, stop at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. Before proceeding, he shall yield the right-of-way to the driver of any vehicle approaching on such other highway from either direction.

Where a "Yield Right-of-Way" sign is posted, the driver of a vehicle approaching or entering such intersection shall slow down to a speed reasonable for the existing conditions, yield the right-of-way to the driver of another vehicle approaching or entering such intersection from another direction, and, if required for safety, shall stop at a clearly marked stop line, or, in the absence of a stop line, stop before entering the crosswalk on the near side of the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway, and shall yield the right-of-way to the driver of any vehicle approaching on such other highway from either direction.

The driver of any motor vehicle may be detained for a violation of this section if the detaining law-enforcement officer is in uniform, displays his badge of authority, and (i) has observed the violation or (ii) has received a radio message from another law-enforcement officer who observed the violation. In the case of a person being detained based on a radio message, the message shall be sent immediately after the violation is observed, and the observing officer shall furnish the license number or other positive identification of the vehicle to the detaining officer.

§ 46.2-833.02. *Use of photo-monitoring systems to enforce traffic light signals; penalty.*

A. Any governing body may provide by ordinance for the establishment of a traffic safety 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 violation-monitoring systems at no more than 25 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 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 was not the operator of the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he 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.

60 *E. For purposes of this section:*

61 *"Owner" means the registered owner of such vehicle on record with the Department of Motor*
62 *Vehicles.*

63 *"Traffic light signal violation-monitoring system" means a vehicle sensor installed to work in*
64 *conjunction with a traffic light that automatically produces two or more photographs, two or more*
65 *microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or*
66 *operated in violation of § 46.2-833, 46.2-835, or 46.2-836. For each such vehicle, at least one recorded*
67 *image shall be of the vehicle before it has illegally entered the intersection, and at least one recorded*
68 *image shall be of the same vehicle after it has illegally entered that intersection.*

69 *F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator*
70 *and shall not be made part of the operating record of the person upon whom such liability is imposed*
71 *nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No*
72 *monetary penalty imposed under this section shall exceed \$50 nor shall it include court costs.*

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

85 *H. In any action at law brought by any person or entity as the result of personal injury or death or*
86 *damage to property, such evidence derived from a traffic light signal violation-monitoring system shall*
87 *be admissible in the same method prescribed as required in the prosecution of an offense established*
88 *under this section without the requirements of authentication as otherwise required by law.*

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