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HOUSE BILL NO. 718

Offered January 11, 2006

Prefiled January 10, 2006

A *BILL to amend the Code of Virginia by adding a section numbered 46.2-833.02, relating to use of photo-monitoring systems to enforce traffic light signals.*

Patron—McQuigg

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 46.2-833.02 as follows:**

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

A. *The governing body of any county, or city or town may, after holding a public hearing, 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. No traffic light signal violation-monitoring system shall be used for the sole purpose of generating revenue.*

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 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 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.*

E. *For purposes of this section:*

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

"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 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 any vehicle proceeding lawfully through an intersection unless the image appears incidental to the recording of an image of a vehicle 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 monetary penalty imposed under this section shall exceed \$50 nor shall it include court costs.*

G. *A summons for a violation of this section may be executed pursuant to § 19.2-76.2.*

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

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

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

80 J. When selecting intersections for a traffic light signal violation-monitoring system, a locality shall
81 consider factors such as (i) the accident rate for the intersection, (ii) the rate of red light violations
82 occurring at the intersection (number of violations per number of vehicles), (iii) the difficulty
83 experienced by law-enforcement officers in patrol cars or on foot in apprehending violators, and (iv) the
84 ability of law-enforcement officers to apprehend violators safely within a reasonable distance from the
85 violation. Localities may consider the risk to pedestrians as a factor, if applicable.

86 K. Before the implementation of a traffic light signal violation-monitoring system at an intersection,
87 the locality shall complete an engineering safety analysis that addresses signal timing and other
88 location-specific safety features. The length of the yellow phase shall be established based on the
89 recommended methodology of the Institute of Transportation Engineers. All traffic light signal
90 violation-monitoring systems shall provide a minimum 0.3-second grace period between the time the
91 signal turns red and the first violation is recorded. If recommended by the engineering safety analysis,
92 the locality shall make reasonable location-specific safety improvements, including signs and pavement
93 markings.

94 L. Any locality that uses a traffic light signal violation-monitoring system to enforce traffic light
95 signals shall place conspicuous signs within 500 feet of the intersection approach at which a traffic light
96 signal violation-monitoring system is used. There shall be a rebuttable presumption that such signs were
97 in place at the time of the commission of the traffic light signal violation.

98 M. Any locality that uses a traffic light signal violation-monitoring system shall evaluate the program
99 at least annually. This evaluation shall include at a minimum a review of the monthly violation rates,
100 rear-end accidents, and other accidents attributed to traffic light signal violations at the intersections
101 equipped with cameras. Evaluation results shall be made available to the public.

102 N. Prior to or coincident with the implementation or expansion of a traffic light signal
103 violation-monitoring system, a locality shall conduct a public awareness program, advising the public
104 that the locality is implementing or expanding a traffic light signal violation-monitoring system.