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HOUSE BILL NO. 961

Offered January 11, 2006

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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.

Patrons—Bulova, Eisenberg, Englin, Scott, J.M. and Watts

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 bodies of the Counties of Arlington and Fairfax; the Cities of Alexandria, Fairfax, Falls Church, and Virginia Beach; and the Town of Vienna 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. 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 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.

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 a vehicle proceeding legally through an intersection unless the image appears incidental to the recorded 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.

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

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

75 I. On behalf of a locality, a private entity may not obtain records regarding the registered owners of
76 vehicles that fail to comply with traffic light signals. A private entity may enter into an agreement with
77 a locality to be compensated for providing the traffic light signal violation-monitoring system or
78 equipment, and all related support services, to include consulting, operations, and administration.
79 However, only a law-enforcement officer of the locality may swear to or affirm the certificate required
80 by subsection C. No agreement between a locality and a private entity to provide for a traffic light
81 signal violation-monitoring system, equipment, and related support services shall base the compensation
82 or payment for the system or services on the number of citations issued or the amount of fines collected
83 under this section. Instead, any agreement for compensation for the system or services shall be based on
84 a flat fee.

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

91 K. Before the implementation of a traffic light signal violation-monitoring system at an intersection,
92 the locality shall complete an engineering safety analysis that addresses signal timing and other
93 location-specific safety features. The length of the yellow phase shall be established based on the
94 recommended methodology of the Institute of Transportation Engineers.

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

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

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