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**HOUSE BILL NO. 1778**

Offered January 10, 2007

Prefiled December 28, 2006

A *BILL to amend the Code of Virginia by adding a section numbered 15.2-968.1, relating to local ordinances establishing certain traffic signal enforcement programs; civil penalty.*

Patron—Cosgrove

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 15.2-968.1 as follows:**

§ 15.2-968.1. *Use of photo-monitoring systems to enforce traffic light signals.*

A. *The governing body of any county, city, or town may provide by ordinance for the establishment of a traffic signal enforcement 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 one intersection for every 10,000 residents 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 police 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 for a violation of any local ordinance adopted as provided in this section, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in violation of such ordinance, 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. 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, video, 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.*

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. Each locality shall designate at least 50% of all fines collected, excluding court costs, for transportation purposes in the locality in which the fine was collected.*

G. *A summons for a violation of this section may be executed pursuant to § 19.2-76.2. Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed by mailing by first class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of the Department of*

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

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

72 *I. Information collected by a photo-monitoring system installed and operated pursuant to subsection*  
73 *A shall be limited exclusively to that information that is necessary for the enforcement of traffic light*  
74 *violations. On behalf of a locality, a private entity may not obtain records regarding the registered*  
75 *owners of vehicles that fail to comply with traffic light signals. Notwithstanding any other provision of*  
76 *law, all photographs, microphotographs, electronic images, or other data collected by a*  
77 *photo-monitoring system shall be used exclusively for enforcing traffic light violations and shall not (i)*  
78 *be open to the public; (ii) be sold or used for sales, solicitation, or marketing purposes; (iii) be*  
79 *disclosed to any other entity except as may be necessary for the enforcement of a traffic light violation*  
80 *or to a vehicle owner or operator as part of a challenge to the violation; or (iv) be used in a court in a*  
81 *pending action or proceeding unless the action or proceeding relates to a violation of §§ 46.2-833,*  
82 *46.2-835, or § 46.2-836 or requested upon order from a court of competent jurisdiction. Information*  
83 *collected under this section shall be purged and not retained later than 60 days after the collection of*  
84 *any civil penalties. Any locality operating a photo-monitoring system shall annually certify compliance*  
85 *with this section and make all records pertaining to such system available for inspection and audit by*  
86 *the Commonwealth Transportation Commissioner or the Commissioner of the Department of Motor*  
87 *Vehicles or their designee.*

88 *J. A private entity may enter into an agreement with a locality to be compensated for providing the*  
89 *traffic light signal violation monitoring system or equipment, and all related support services, to include*  
90 *consulting, operations and administration. However, only a police officer employed by a locality may*  
91 *swear to or affirm the certificate required by subsection C. No locality shall enter into an agreement for*  
92 *compensation based on the number of violations or convictions produced.*

93 *K. When selecting potential intersections for a traffic light signal violation monitoring system, a*  
94 *locality shall consider factors such as (i) the accident rate for the intersection, (ii) the rate of red light*  
95 *violations occurring at the intersection (number of violations per number of vehicles), (iii) the difficulty*  
96 *experienced by law-enforcement officers in patrol cars or on foot in apprehending violators, and (iv) the*  
97 *ability of law-enforcement officers to apprehend violators safely within a reasonable distance from the*  
98 *violation. Localities may consider the risk to pedestrians as a factor, if applicable. A locality shall*  
99 *submit a list of intersections to the Virginia Department of Transportation for final approval.*

100 *L. Before the implementation of a traffic light signal violation monitoring system at an intersection,*  
101 *the locality shall complete an engineering safety analysis that addresses signal timing and other*  
102 *location-specific safety features. The length of the yellow phase shall be established based on the*  
103 *recommended methodology of the Institute of Transportation Engineers. All traffic light signal violation*  
104 *monitoring systems shall provide a minimum 0.3-second grace period between the time the signal turns*  
105 *red and the time the first violation is recorded. If recommended by the engineering safety analysis, the*  
106 *locality shall make reasonable location-specific safety improvements, including signs and pavement*  
107 *markings.*

108 *M. Prior to or coincident with the implementation or expansion of a traffic light signal violation*  
109 *monitoring system, a locality shall conduct a public awareness program, advising the public that the*  
110 *locality is implementing or expanding a traffic light signal violation monitoring system.*