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HOUSE BILL NO. 2189

Offered January 10, 2007

Prefiled January 9, 2007

A BILL to amend and reenact §§ 4.05 and 5.05, as amended, of Chapter 576 of the Acts of Assembly of 1978, which provided a charter for the City of Newport News, and to amend Chapter 576 of the Acts of Assembly of 1978 by adding a section numbered 2.07, relating to traffic light signal enforcement, council meetings, and duties of city manager.

Patron—Oder

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.05 and 5.05, as amended, of Chapter 576 of the Acts of Assembly of 1978 are amended and reenacted and that Chapter 576 of the Acts of Assembly of 1978 is amended by adding a section numbered 2.07 as follows:

§ 2.07. Use of photo-monitoring system to enforce traffic light signals.

A. The city council 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 the city in accordance with the provisions of this section.

B. The operator of a vehicle shall be liable to the City of Newport News for a monetary civil penalty imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a traffic light signal violation monitoring system, for failing to comply with a traffic light signal within the city.

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 the city, 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 pursuant to an ordinance adopted under the provisions of this section, prima facie evidence that the vehicle described in the summons was operated in violation of such an ordinance, together with proof that the defendant was at the time of such violation an 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 a registered owner of such vehicle on record with the Virginia 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 of the Code of Virginia. 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 monetary penalty pursuant to an ordinance adopted pursuant to the provisions of 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 by an ordinance adopted pursuant to the provisions of this section shall exceed \$50, nor shall such penalty

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59 include court costs.

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

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

78 § 4.05. Inaugural meetings; induction of members and election of vice-mayor.

79 The first meeting of a newly elected council shall take place ~~in the council chambers at ten o'clock~~
80 ~~a.m. on the first day of July following their election or if such day shall fall on Sunday, then on the~~
81 ~~following Monday. It shall be called to order by the mayor. The on the date of the first regularly~~
82 ~~scheduled meeting of the city council in the month of July following their election at 10:00 a.m. at a~~
83 ~~place specified for same in the notice sent to the council members in accord with the manner set forth~~
84 ~~in § 4.06 of this charter for special meetings. At or before this first meeting, the oath of office shall be~~
85 administered to the duly elected members as provided by law. In the absence of the mayor, the meeting
86 may be called to order by the city clerk. The first business of the council shall be the election of a
87 vice-mayor and the adoption of rules of procedure. Until this business has been completed, the council
88 shall not adjourn for a period longer than forty-eight hours.

89 § 5.05. Duties.

90 It shall be the duty of the city manager to:

91 A. Attend all meetings of the council with the right to speak but not to vote;

92 B. Keep the council advised of the financial condition and the future needs of the city and of all
93 matters pertaining to its proper administration, and make such recommendations as may seem to him
94 desirable;

95 C. Prepare and submit the annual budget to the council as provided in Chapter 6 of this charter and
96 be responsible for its administration after its adoption;

97 D. Prepare in suitable form for publication and submit to the council not later than ~~its first meeting~~
98 ~~in November the thirty-first day of December~~ of each year, a concise, comprehensive report of the
99 financial transactions and administrative activities of the city government during the fiscal year ending
100 on the preceding thirtieth day of June, and cause to be printed such number of copies thereof as the
101 council shall direct;

102 E. Prepare and submit to council quarterly statements of all revenues, expenditures and encumbrances
103 of funds in sufficient detail to show the exact financial condition of the city; council may by ordinance
104 prescribe more frequent financial reporting;

105 F. Perform such other duties as may be prescribed by the council or which may be required of the
106 chief executive officer of a city by the general laws of the Commonwealth other than the duties
107 conferred on the mayor by this charter;

108 G. Execute, under the direction of the council, all contracts, deeds and other papers, and the seal of
109 the corporation shall be affixed, and attested by the city clerk; and

110 H. Have direction of and control over all departments of the city except as otherwise provided by
111 this charter.