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HOUSE BILL NO. 2716

Offered January 10, 2007

Prefiled January 10, 2007

A *BILL to amend Chapters 779 and 798 of the Acts of Assembly of 1993, which provided a charter for James City County by adding a section numbered 2.5, relating to traffic light signal enforcement.*

Patrons—Barlow; Senator: Norment

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That Chapters 779 and 798 of the Acts of Assembly of 1993 is amended by adding a section numbered 2.5 as follows:

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

A. *The county 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 county in accordance with the provisions of this section.*

B. *The operator of a vehicle shall be liable to the county 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 county.*

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 county, 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 include court costs.*

G. *A summons for a violation of this section may be executed pursuant to § 19.2-76.2 of the Code of Virginia. Notwithstanding the provisions of § 19.2-76 of the Code of Virginia, a summons for a violation*

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

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