

079372726

## SENATE BILL NO. 829

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation  
on January 11, 2007)

(Patron Prior to Substitute—Senator Devolites Davis)

A *BILL to amend the Code of Virginia by adding a section numbered 15.2-968.1, relating to use of photo-monitoring systems to enforce traffic light signals; penalty.*

**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; penalty.*

A. *The governing bodies of the Counties of Arlington, Fairfax, and Loudoun; 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 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 25 intersections 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 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 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 or she was not the operator of the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he or she 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, 446.2-835, 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.*

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 address of the owner, lessee, or renter of the vehicle as shown, in the case of vehicle owners, in the records of the Department of Motor Vehicles or, in the case of vehicle lessees or renters, in the records of the lessor or renter. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the*

60 presumption that he was the operator of the vehicle at the time of the alleged violation through the  
61 filing of an affidavit as provided in subsection D of this section and (ii) instructions for filing such  
62 affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to  
63 appear on the date of return set out in the summons mailed pursuant to this section, the summons shall  
64 be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person  
65 summoned by mailing shall be instituted for failure to appear on the return date of the summons.

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

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

86 J. A private entity may enter into an agreement with a locality to be compensated for providing the  
87 traffic light signal violation-monitoring system or equipment, and all related support services, to include  
88 consulting, operations, and administration. However, only a law-enforcement officer of the locality may  
89 swear to or affirm the certificate required by subsection C. No locality shall enter into an agreement for  
90 compensation based on the number of violations or monetary penalties imposed.

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

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

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