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HOUSE BILL NO. 1574

Offered January 22, 2008

A *BILL to amend and reenact § 15.2-968.1 of the Code of Virginia, relating to photo-monitoring systems.*

Patrons—Hargrove and Peace

Unanimous consent to introduce

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-968.1 of the Code of Virginia is amended and reenacted 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 county, city, or town at any one time, provided, however, that within planning District 8, each ~~study~~ *such* locality may install and operate traffic light signal photo-monitoring systems at no more than 10 intersections, or at no more than one intersection for every 10,000 residents within each county, city, or town, whichever is greater, at any one time. *Any county, city, or town having less than 10,000 residents may install and operate a traffic light signal photo-monitoring system at no more than one intersection for every intersection within such county, city, or town that has an average daily traffic volume of at least 20,000 vehicles per day.*

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 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

INTRODUCED

HB1574

59 monetary penalty imposed under this section shall exceed \$50, nor shall it include court costs.

60 G. A summons for a violation of this section may be executed pursuant to § 19.2-76.2.
61 Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed
62 by mailing by first class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of
63 a vehicle owner, the copy shall be mailed to the address contained in the records of the Department of
64 Motor Vehicles; in the case of a vehicle lessee or renter, the copy shall be mailed to the address
65 contained in the records of the lessor or renter. Every such mailing shall include, in addition to the
66 summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the
67 operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided
68 in subsection D and (ii) instructions for filing such affidavit, including the address to which the affidavit
69 is to be sent. If the summoned person fails to appear on the date of return set out in the summons
70 mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. 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. Any summons executed for a violation of this section shall
73 provide to the person summoned at least 60 business days from the mailing of the summons to inspect
74 information collected by a traffic light signal violation monitoring system in connection with the
75 violation.

76 H. Information collected by a traffic light signal violation monitoring system installed and operated
77 pursuant to subsection A shall be limited exclusively to that information that is necessary for the
78 enforcement of traffic light violations. On behalf of a locality, a private entity may not obtain records
79 regarding the registered owners of vehicles that fail to comply with traffic light signals. Notwithstanding
80 any other provision of law, all photographs, microphotographs, electronic images, or other personal
81 information collected by a traffic light signal violation monitoring system shall be used exclusively for
82 enforcing traffic light violations and shall not (i) be open to the public; (ii) be sold or used for sales,
83 solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for
84 the enforcement of a traffic light violation or to a vehicle owner or operator as part of a challenge to the
85 violation; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding
86 relates to a violation of § 46.2-833, 46.2-835, or 46.2-836 or requested upon order from a court of
87 competent jurisdiction. Information collected under this section pertaining to a specific violation shall be
88 purged and not retained later than 60 days after the collection of any civil penalties. If a locality does
89 not execute a summons for a violation of this section within 10 business days, all information collected
90 pertaining to that suspected violation shall be purged within two business days. Any locality operating a
91 traffic light signal violation monitoring system shall annually certify compliance with this section and
92 make all records pertaining to such system available for inspection and audit by the Commonwealth
93 Transportation Commissioner or the Commissioner of the Department of Motor Vehicles or his designee.
94 Any person who discloses personal information in violation of the provisions of this subsection shall be
95 subject to a civil penalty of \$1,000.

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

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

108 K. Before the implementation of a traffic light signal violation monitoring system at an intersection,
109 the locality shall complete an engineering safety analysis that addresses signal timing and other
110 location-specific safety features. The length of the yellow phase shall be established based on the
111 recommended methodology of the Institute of Transportation Engineers. All traffic light signal violation
112 monitoring systems shall provide a minimum 0.5-second grace period between the time the signal turns
113 red and the time the first violation is recorded. If recommended by the engineering safety analysis, the
114 locality shall make reasonable location-specific safety improvements, including signs and pavement
115 markings.

116 L. Any locality that uses a traffic light signal violation monitoring system shall evaluate the system
117 on a monthly basis to ensure all cameras and traffic signals are functioning properly. Evaluation results
118 shall be made available to the public.

119 M. Any locality that uses a traffic light signal violation monitoring system to enforce traffic light
120 signals shall place conspicuous signs within 500 feet of the intersection approach at which a traffic light

121 signal violation monitoring system is used. There shall be a rebuttable presumption that such signs were
122 in place at the time of the commission of the traffic light signal violation.
123 N. Prior to or coincident with the implementation or expansion of a traffic light signal violation
124 monitoring system, a locality shall conduct a public awareness program, advising the public that the
125 locality is implementing or expanding a traffic light signal violation monitoring system.

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HB1574