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HOUSE BILL NO. 2587

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Roads and Internal Navigation)

(Patron Prior to Substitute—Delegate Mims)

House Amendments in [] — February 7, 1995

A BILL to amend the Code of Virginia by adding a section numbered 46.2-833.01, relating to traffic lights; violations; photo-monitoring demonstration programs for certain localities.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 46.2-833.01 as follows:

§ 46.2-833.01. Liability for failure of operator to comply with traffic light signals; pilot program in certain localities.

A. The governing body of any city having a population of more than 390,000, any city having a population of at least 200,000 but less than 225,000, any city having a population of more than 19,500 but less than 21,000, and any county having the urban county executive form of government may provide by ordinance for the establishment of a demonstration 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 twenty-five 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 technician 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 of an offense established under this section, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, shall constitute in evidence a rebuttable presumption that such registered owner of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the registered owner 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. For purposes of this section "owner" does not mean a vehicle rental or vehicle leasing company. 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, a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this section.

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 fifty dollars and shall not 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 of the vehicle as shown on the records of the Department of Motor Vehicles. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons.

ENGROSSED

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60 [*H. In any action at law brought by any person or entity as the result of personal injury or death*
61 *or damage to property, such evidence derived from a photo-monitoring system shall be admissible in the*
62 *same method proscribed as required in the prosecution of an offense established under this section*
63 *without the requirements of authentication as otherwise required by law.]*
64 **2. That the provisions of this act shall expire on July 1, 1998.**