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SENATE BILL NO. 756

Offered January 14, 2015

Prefiled December 22, 2014

A *BILL to provide for a referendum to approve and continue the use of traffic light signal photo-monitoring systems and to amend and reenact § 15.2-968.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-968.2, all relating to traffic light signal photo-monitoring systems.*

Patrons—Black; Delegate: Cole

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. § 1. A. *On or before August 14, 2015, the circuit court of each county and city that has passed an ordinance pursuant to § 15.2-968.1 prior to July 1, 2015, shall order a referendum to be held on the question of whether the qualified voters desire the county or city to use traffic light signal photo-monitoring systems. The referendum shall be held at the time of the November 2015 general election. The question to be placed on the ballot shall be as follows:*

"Shall the [County of ____][City of ____] use traffic light signal photo-monitoring systems?"

[] Yes

[] No"

The election shall be held and the results certified as provided in §§ 24.2-682 and 24.2-684.

B. *Following certification of the election results by the electoral board, the court shall enter an order proclaiming the results of such election and a duly certified copy of such order shall be transmitted to the governing body of the county or city and the State Board of Elections. If a majority of the voters voting in the referendum vote "No" in a particular locality, the existing ordinance enacted pursuant to § 15.2-968.1 shall be void effective January 1, 2016.*

2. That § 15.2-968.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-968.2 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, *after a referendum pursuant to § 15.2-968.2 in which a majority of voters approve traffic light signal photo-monitoring systems*, 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 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.

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

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SB756

59 vehicle at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy
60 of a police report, showing that the vehicle had been reported to the police as stolen prior to the time of
61 the alleged violation of this section, is presented, prior to the return date established on the summons
62 issued pursuant to this section, to the court adjudicating the alleged violation.

63 E. For purposes of this section, "owner" means the registered owner of such vehicle on record with
64 the Department of Motor Vehicles. For purposes of this section, "traffic light signal violation monitoring
65 system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically
66 produces two or more photographs, two or more microphotographs, video, or other recorded images of
67 each vehicle at the time it is used or operated in violation of § 46.2-833, 46.2-835, or 46.2-836. For
68 each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the
69 intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered
70 that intersection.

71 F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator
72 and shall not be made part of the operating record of the person upon whom such liability is imposed,
73 nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No
74 monetary penalty imposed under this section shall exceed \$50, nor shall it include court costs.

75 G. A summons for a violation of this section may be executed pursuant to § 19.2-76.2.
76 Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed
77 by mailing by first class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of
78 a vehicle owner, the copy shall be mailed to the address contained in the records of the Department of
79 Motor Vehicles; in the case of a vehicle lessee or renter, the copy shall be mailed to the address
80 contained in the records of the lessor or renter. Every such mailing shall include, in addition to the
81 summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the
82 operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided
83 in subsection D and (ii) instructions for filing such affidavit, including the address to which the affidavit
84 is to be sent. If the summoned person fails to appear on the date of return set out in the summons
85 mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No
86 proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to
87 appear on the return date of the summons. Any summons executed for a violation of this section shall
88 provide to the person summoned at least 30 business days from the mailing of the summons to inspect
89 information collected by a traffic light signal violation monitoring system in connection with the
90 violation.

91 H. Information collected by a traffic light signal violation monitoring system installed and operated
92 pursuant to subsection A shall be limited exclusively to that information that is necessary for the
93 enforcement of traffic light violations. On behalf of a locality, a private entity that operates a traffic
94 light signal violation monitoring system may enter into an agreement with the Department of Motor
95 Vehicles, in accordance with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner
96 information regarding the registered owners of vehicles that fail to comply with a traffic light signal.
97 Information provided to the operator of a traffic light signal violation monitoring system shall be
98 protected in a database with security comparable to that of the Department of Motor Vehicles' system,
99 and used only for enforcement against individuals who violate the provisions of this section.
100 Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or
101 other personal information collected by a traffic light signal violation monitoring system shall be used
102 exclusively for enforcing traffic light violations and shall not (i) be open to the public; (ii) be sold or
103 used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be
104 necessary for the enforcement of a traffic light violation or to a vehicle owner or operator as part of a
105 challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action
106 or proceeding relates to a violation of § 46.2-833, 46.2-835, or 46.2-836 or requested upon order from a
107 court of competent jurisdiction. Information collected under this section pertaining to a specific violation
108 shall be purged and not retained later than 60 days after the collection of any civil penalties. If a
109 locality does not execute a summons for a violation of this section within 10 business days, all
110 information collected pertaining to that suspected violation shall be purged within two business days.
111 Any locality operating a traffic light signal violation monitoring system shall annually certify compliance
112 with this section and make all records pertaining to such system available for inspection and audit by
113 the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or his
114 designee. Any person who discloses personal information in violation of the provisions of this
115 subsection shall be subject to a civil penalty of \$1,000 per disclosure. Any unauthorized use or
116 disclosure of such personal information shall be grounds for termination of the agreement between the
117 Department of Motor Vehicles and the private entity.

118 I. A private entity may enter into an agreement with a locality to be compensated for providing the
119 traffic light signal violation monitoring system or equipment, and all related support services, to include
120 consulting, operations and administration. However, only a law-enforcement officer employed by a

locality may swear to or affirm the certificate required by subsection C. No locality shall enter into an agreement for compensation based on the number of violations or monetary penalties imposed.

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

K. Before the implementation of a traffic light signal violation monitoring system at an intersection, the locality shall complete an engineering safety analysis that addresses signal timing and other location-specific safety features. The length of the yellow phase shall be established based on the recommended methodology of the Institute of Transportation Engineers. No traffic light signal violation monitoring system shall be implemented or utilized for a traffic signal having a yellow signal phase length of less than three seconds. All traffic light signal violation monitoring systems shall provide a minimum 0.5-second grace period between the time the signal turns red and the time the first violation is recorded. If recommended by the engineering safety analysis, the locality shall make reasonable location-specific safety improvements, including signs and pavement markings.

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

M. Any locality that uses a traffic light signal violation monitoring system to enforce traffic light signals shall place conspicuous signs within 500 feet of the intersection approach at which a traffic light signal violation monitoring system is used. There shall be a rebuttable presumption that such signs were in place at the time of the commission of the traffic light signal violation.

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

O. Notwithstanding any other provision of this section, if a vehicle depicted in images recorded by a traffic light signal photo-monitoring system is owned, leased, or rented by a county, city, or town, then the county, city, or town may access and use the recorded images and associated information for employee disciplinary purposes.

§ 15.2-968.2. Referendum for the use of traffic light signal photo-monitoring systems.

A. Prior to the adoption of an ordinance pursuant to § 15.2-968.1, the circuit court of each county and city shall order a referendum to be held on the question of whether the qualified voters desire the county or city to use traffic light signal photo-monitoring systems. The question to be placed on the ballot shall be as follows:

"Shall the [County of ____][City of ____] use traffic light signal photo-monitoring systems?

[] Yes

[] No"

The election shall be held and the results certified as provided in §§ 24.2-682 and 24.2-684.

B. Following certification of the election results by the electoral board, the court shall enter an order proclaiming the results of such election and a duly certified copy of such order shall be transmitted to the governing body of the county or city and the State Board of Elections. If a majority of the voters voting in the referendum vote "Yes" in a particular locality, then an ordinance may be enacted. If a majority of the voters voting in the referendum vote "No" in a particular locality, then an ordinance shall not be enacted pursuant to § 15.2-968.1.

3. That the ordinances enacted by localities whose voters approve the use of traffic light signal photo-monitoring systems pursuant to the first enactment of this act shall remain valid after the approval.