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SENATE BILL NO. 797

Offered January 14, 2015

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A BILL to amend and reenact §§ 15.2-968.1 and 19.2-76.2 of the Code of Virginia, relating to use of photo-monitoring systems to enforce traffic light signals.

Patron—Locke

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-968.1 and 19.2-76.2 of the Code of Virginia are 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 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 *notice of violation* or 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 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 notice of violation for a violation of this

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SB797

59 section may be executed by mailing shall be mailed by first class mail a copy thereof to the owner,
60 lessee, or renter of the vehicle by the operator of a traffic light signal violation monitoring system. In
61 the case of a vehicle owner, the copy notice of violation shall be mailed to the address contained in the
62 records of the Department of Motor Vehicles; in the case of a vehicle lessee or renter, the copy notice
63 of violation shall be mailed to the address contained in the records of the lessor or renter. Every such
64 mailing shall include, in addition to the summons notice of violation, a notice of (i) the summoned
65 person's ability to rebut the presumption that he was the operator of the vehicle at the time of the
66 alleged violation through the filing of an affidavit as provided in this subsection D and (ii) instructions
67 for filing such affidavit, including the address to which the affidavit is to be sent. Any notice of
68 violation shall provide to the person to whom the notice was mailed at least 30 business days from the
69 mailing of the notice to inspect information collected by a traffic light signal violation monitoring
70 system in connection with the violation. Upon receipt of the notice, the person to whom the notice was
71 mailed may elect to avoid any action by the operator of the traffic light signal violation monitoring
72 system to enforce the violation in court by waiving his right to a court hearing, pleading guilty to the
73 violation, and paying a monetary penalty to the locality.

74 If the person to whom the notice was mailed does not pay the monetary penalty within 45 business
75 days from the mailing of the notice of violation, the operator of the traffic light signal violation
76 monitoring system may proceed to enforce the violation in court, and a summons may be executed
77 pursuant to § 19.2-76.2. Any summons mailed for a violation of this section shall be mailed to the
78 addresses as described above and shall provide to the person summoned at least 20 business days from
79 the mailing of the summons to inspect information collected by a traffic light signal violation monitoring
80 system in connection with the violation.

81 If the owner, lessee, or renter of the vehicle (i) files an affidavit by regular mail with the clerk of the
82 general district court that he was not the operator of the vehicle at the time of the alleged violation or
83 (ii) testifies in open court under oath that he was not the operator of the vehicle at the time of the
84 alleged violation, the presumption in subsection D shall be rebutted. Such presumption shall also be
85 rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police
86 as stolen prior to the time of the alleged violation of this section, is presented, prior to the return date
87 established on the summons issued pursuant to this section, to the court adjudicating the alleged
88 violation.

89 If the summoned person fails to appear on the date of return set out in the summons mailed pursuant
90 to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for
91 contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the
92 return date of the summons. Any summons executed for a violation of this section shall provide to the
93 person summoned at least 30 business days from the mailing of the summons to inspect information
94 collected by a traffic light signal violation monitoring system in connection with the violation.

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

agreement between the Department of Motor Vehicles and the private entity.

I. A private entity may enter into an agreement with a locality to be compensated for providing the traffic light signal violation monitoring system or equipment, and all related support services, to include 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.

§ 19.2-76.2. Mailing of summons in certain cases.

Notwithstanding the provisions of § 19.2-76, whenever a summons for a violation of a county, city, or town parking ordinance *or an ordinance for a violation of a county, city, or town ordinance enacted pursuant to § 15.2-968.1* is served in any county, city, or town it 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. In addition, whenever a summons for a violation of a county, city, or town trash ordinance punishable as a misdemeanor under § 15.2-901 is served in any county, city, or town, it may be executed by mailing a copy by first-class mail to the person who occupies the subject premises. *Further, whenever a summons for a violation of a county, city, or town ordinance enacted pursuant to § 15.2-968.1 is served in any county, city, or town, it 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 or in the case of a vehicle lessee or renter, the copy shall be mailed to the address contained in the records of the lessor or renter.* If the person ~~fail~~ 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 of this Code.

No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for his failure to appear on the return date of the summons.