

HOUSE No. 02914

The Commonwealth of Massachusetts

PRESENTED BY:

Kevin G. Honan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

**AN ACT PERMITTING THE USE OF AUTOMATED ROAD SAFETY CAMERA SYSTEMS
AS A MEANS OF PROMOTING TRAFFIC SAFETY IN THE CITIES OF THE
COMMONWEALTH. .**

PETITION OF:

NAME:

Kevin G. Honan

DISTRICT/ADDRESS:

17th Suffolk

HOUSE No. 02914

By Mr. Honan of Boston, a petition (accompanied by bill, House, No. 2914) of Kevin G. Honan for legislation to permit the use of automated road safety camera systems. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

AN ACT PERMITTING THE USE OF AUTOMATED ROAD SAFETY CAMERA SYSTEMS AS A MEANS OF PROMOTING TRAFFIC SAFETY IN THE CITIES OF THE COMMONWEALTH. .

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. (a) Notwithstanding the provisions of any general or special law to the contrary,
2 any city town or political subdivision may, upon the acceptance of this act, employ an automated
3 road safety camera system which may be both mobile and fixed along any portion of any ways
4 within its control and may promulgate local measures imposing a penalty on the owner of a
5 motor vehicle for failure by the operator thereof to comply with the laws, codes, regulations,
6 ordinances, rules and/or other forms of legislation governing traffic law and regulations in said
7 cities at which an automated safety camera violation monitoring system is located.
- 8 (b)As used in this act, the following words shall, unless the content clearly indicates otherwise,
9 have the following meanings: "Local measure", shall mean the ordinances, rules and regulations
10 adopted by any city town or political subdivision, whichever is applicable, establishing a

11 schedule of fines imposed on the owner of a motor vehicle for failure by the operator thereof to
12 comply with the laws, codes, regulations, ordinances, rules and/or other forms of legislation
13 governing the traffic laws and regulations in said cities at which an automated road safety
14 camera system is located; "Motor vehicle", shall have the meaning provided in section 1 of
15 chapter 90 of the General Laws; "Operator", shall have the meaning provided in section 1 of
16 chapter 90 of the General Laws; "Owner", shall have the meaning provided in section 1 of
17 chapter 90 of the General Laws; "Automated Road Safety Camera System", shall mean an
18 automated motor vehicle sensor device installed which produces two or more digital
19 photographs of each motor vehicle at the time it is used or operated in a manner that is in
20 violation of traffic laws and regulations where the automated road camera safety system is
21 located. The photographs, must, at a minimum, record the rear of the motor vehicle, with at least
22 one of the images clearly recording the motor vehicle prior to the violation and at least one
23 image recording the motor vehicle during the violation. Additionally, at least one of the images
24 must clearly identify the registration plate of the motor vehicle; "Violation", shall mean the
25 failure of an operator of a motor vehicle to comply with the laws, codes, regulations, ordinances,
26 rules and/or other forms of legislation governing traffic laws and regulations.

27 (c) No automated road safety camera system shall be utilized in such a manner as to take a frontal
28 view photograph of the motor vehicle that is in violation of traffic laws and regulations.

29 (d) A certificate, or a facsimile thereof, based upon inspection of photographs produced by an
30 automated road safety camera system, and sworn to or affirmed by a law enforcement employee
31 authorized to issue citations for violations of traffic laws and regulations, shall be prima facie
32 evidence of the facts contained therein. No photographs taken in conformance with this act shall
33 be discoverable in any judicial or administrative proceeding other than a proceeding held

34 pursuant to this act or during the resolution of a crime; and no photograph taken in conformance
35 with this act shall be admissible in any judicial or administrative proceeding other than in a
36 proceeding to adjudicate liability for such violation of this act.

37 (e) For each violation pursuant to this act, the owner or owners of a vehicle shall be liable for the
38 penalty imposed by a local measure; provided, however, that no owner of a vehicle shall be
39 liable for a penalty imposed pursuant to this act where the operator of such vehicle has been
40 convicted of the underlying violation pursuant to a citation issued in accordance with section 2 of
41 chapter 90C of the General Laws, and provided, further, that the maximum penalty that may be
42 imposed pursuant to this act shall be One Hundred Twenty-five Dollars (\$125.00) for each
43 violation.

44 (f) A penalty imposed by a local measure may, if so provided in the local measure, be increased
45 by up to 33 1/3% if said fine remains unpaid in excess of 60 days after a notice of violation has
46 been issued consistent with the procedures established in section 20A 1/2 of chapter 90 of the
47 General Laws.

48 (g) A penalty imposed by a local measure for a violation pursuant to this act shall not be deemed
49 a criminal conviction and shall not be made part of the operating record of the person upon
50 whom such liability is imposed, nor shall such imposition of a penalty be subject to merit rating
51 for insurance purposes and no surcharge points shall be imposed in the provision of motor
52 vehicle insurance coverage.

53 SECTION 2. (a) The compensation paid to the manufacturer or vendor of the automated road
54 safety camera system deployed as a means of promoting traffic safety as authorized herein shall

55 be based on the value of the equipment or services provided and may not be based on the number
56 of traffic citations issued or the revenue generated by the systems.

57 (b) Other than for purposes of enforcement of a violation of this act or for purposes of an owner
58 defending a violation of this act, no private entity or individual may obtain photographs or
59 records taken pursuant to this act.

60 SECTION 3. (a) The parking clerk designated or appointed by the city shall supervise and
61 coordinate the administration of violations issued pursuant to Section 1. The parking clerk shall
62 have the authority to hire and designate such personnel as may be necessary or contract for such
63 services to implement the provisions of this section.

64 (b) It shall be the duty of the parking clerk of the city employing an automated road safety
65 camera system to cause the notice of violation to the registered owner or owners of any motor
66 vehicle identified in any photographs produced by such device as evidence of a violation
67 pursuant to this act. Such notice shall contain, but not be limited to, the following information: a
68 copy of the aforementioned recorded images showing the vehicle in violation of traffic laws and
69 regulations, the registration number and state of issuance of said registration number of the
70 vehicle; the date, time and location of the violation; the specific violation charged; a schedule of
71 fines for such violation as established by the city or town; instructions for the return of the
72 notice; and text as follows: "This notice may be returned personally, by mail, or by an agent
73 authorized in writing. A hearing may be obtained upon the written request of the registered
74 owner in writing. Failure to obey this notice within 60 days of issuance of this notice will result
75 in the non-renewal or suspension of the certificate of registration of the registered owner."

76 (c) In the case of a violation involving a motor vehicle registered under the laws of the
77 Commonwealth, such notice of violation shall be mailed within 14 days of the violation,
78 exclusive of Sundays and holidays, to the address of the registered owner or owners as listed in
79 the records of the registrar of motor vehicles. In the case of any motor vehicle registered under
80 the laws of another state or country, such notice of violation shall be mailed within 21 days of
81 the violation, exclusive of Sundays and holidays, to the address of the registered owner or
82 owners as listed in the records of the official in such state or country having charge of the
83 registration of such motor vehicle. If said address is unavailable, it shall be sufficient for the
84 parking clerk to mail notice of violation to the official in such state or country having charge of
85 the registration of such motor vehicle.

86 (d) Notice of violation shall be sent by first class mail in accordance with subsection (c) and shall
87 include an affidavit form approved by the parking clerk for the purpose of complying with
88 subsection (g). A manual or automatic record of mailing processed by or on behalf of the parking
89 clerk in the ordinary course of business shall be prima facie evidence thereof, and shall be
90 admitted as evidence in any judicial or administrative proceeding, as to the facts contained
91 therein.

92 (e) Any motor vehicle owner to whom notice of violation has been issued pursuant to this act
93 may admit responsibility for such violation and pay the fine provided therein. Payment shall be
94 made either personally or through a duly authorized agent, or by appearing before the parking
95 clerk during normal office hours, or by mailing both payment and notice of the violation to the
96 parking clerk. Payment by mail shall be made only by money order, credit card or check made
97 out to the parking clerk. Payment of the established fine and any applicable penalties shall
98 operate as a final disposition of the case. Payment of the fine by one motor vehicle owner shall

99 be satisfaction of the fine as to all other motor vehicle owners of the same motor vehicle for the
100 same violation.

101 (f) Any owner to whom a notice of violation has been issued may, within 60 days of the mailing
102 of said notice by the parking clerk, request a hearing to contest the liability alleged in said notice.
103 A hearing request shall be made either personally, via the internet or through a duly authorized
104 agent by appearing before the parking clerk during regular business hours or by mailing a request
105 in writing to the parking clerk. Upon receipt of a hearing request, the parking clerk shall
106 forthwith schedule the matter before a person hereafter referred to as a hearing officer, said
107 hearing officer to be the parking clerk of the city wherein the violation occurred or such other
108 person or persons as the parking clerk may designate. Written notice of the date, time and place
109 of said hearing shall be sent by first class mail to each registered owner. The decision of the
110 hearing officer shall be final subject to judicial review as outlined by section 14 of Chapter 30A
111 of the General Laws. Within twenty-one days of the hearing, the parking clerk or the hearing
112 officer should send by first class mail to the registered owner or owners the decision of the
113 hearing officer, including the reasons for the outcome.

114 (g) Any owner to whom a notice of violation has been issued shall not be liable for a violation
115 under the provisions of this act (1) if the violation was necessary to allow the passage of an
116 emergency vehicle; (2) if the violation was incurred while participating in a funeral procession;
117 (3) if the violation was incurred during a period of time in which the motor vehicle was reported
118 to the police department of any state, city or town as having been stolen and had not been
119 recovered prior to the time the violation occurred; (4) if the operator of the motor vehicle was
120 operating the motor vehicle under a rental or lease agreement and the owner of the motor vehicle
121 is a rental or leasing company and has complied with the provisions of section 20E of chapter 90

122 of the General Laws; (6) if the operator of the motor vehicle was convicted of the underlying
123 violation pursuant to a citation issued in accordance with section 2 of chapter 90C of the General
124 Laws; or (7) if the violation was necessary to comply with any other law or regulation governing
125 the operation of a motor vehicle. An owner disputing a violation under this section shall, within
126 30 days, provide the parking clerk with a signed affidavit in a form approved by the parking
127 clerk, as provided for in subsection (d), stating (1) the reason for disputing the violation; (2) the
128 full legal name and address of the owner of the motor vehicle; (3) the full legal name and address
129 of the operator of the motor vehicle at the time the violation occurred; (4) the names and
130 addresses of all witnesses supporting the owner's defense and the specifics of their knowledge;
131 and where applicable (5) the signed statements from witnesses.

132 (h) an owner to whom notice of violation has been issued either fails to pay the fine.

133 If provided for in said notice in accordance with subsection (e), or fails to receive a favorable
134 adjudication of said notice from a hearing officer in accordance with subsection (f), the parking
135 clerk shall notify the registrar of motor vehicles who shall place the matter on record. Upon
136 notification to the registrar of two or more notices under this act and/or sections 20A and 20A
137 1/2 of chapter 90 of the General Laws from the parking clerk of either city or state authorities or
138 agencies, the registrar shall not issue or renew or may suspend such owner's motor vehicle
139 registration until after notification from the parking clerk of each city, agency or authority, from
140 whom the registrar received notification, that all fines, taxes and penalties owed by such owner
141 pursuant to either this section, or arising out of the parking or usage of such owner's motor
142 vehicles, have been disposed of in accordance with law. Upon such notification to the registrar,
143 an additional charge of \$20, payable to the registrar, but collected by the city, and an additional
144 charge of \$20 payable to and collected by the city shall be assessed against the registered owner

145 of said motor vehicle. It shall be the duty of the parking clerk to notify the registrar forthwith that
146 such case has been so disposed; provided, however, that certified receipt of full and final
147 payment from the parking clerk of the city or state agency or authority issuing such violation
148 shall also serve as legal notice to the registrar that said violation has been disposed of in
149 accordance with law. The certified receipt shall be printed in such form as the registrar of motor
150 vehicles may approve.

151 (i) Upon the accumulation by an owner of two or more outstanding notices under this act and/or
152 sections 20A and 20A 1/2 of chapter 90 of the General Laws on account of violations of any
153 statute, ordinance, order, rule or regulation relating to the operation, control or parking of motor
154 vehicles in a particular city, notwithstanding any notification to the registrar, the parking clerk of
155 such city may notify the chief of police or director of traffic and parking of such city that the
156 vehicle bearing the registration to which said notices have been issued shall be removed and
157 stored or otherwise immobilized by a mechanical device at the expense of the registered owner
158 of such vehicle until such time as all fines, taxes and penalties owed by such owner pursuant to
159 either this section, or arising out of the parking or usage of such owner's motor vehicle have been
160 disposed of in accordance with law. No vehicle shall be removed, stored, or otherwise
161 immobilized until and unless the owner of such motor vehicle shall have received 10 days
162 notification by mail that such motor vehicle may be removed, stored, or immobilized without
163 further notification. It shall be sufficient for the parking clerk to mail, postage prepaid, said
164 notification to the last known address of the registered owner. It shall be sufficient for the
165 parking clerk, in the case of a motor vehicle registered in another state or country, to mail
166 notification to the official in such state or country having charge of the registration of such motor
167 vehicle.

168 (j) Photographic and other recorded evidence obtained through the use of automated road safety
169 camera systems deployed as a means of promoting traffic safety authorized herein shall be
170 destroyed within 1 year of final disposition of any recorded event, unless prohibited by law. Said
171 cities shall file notice annually with the Secretary of State that said records have been destroyed
172 in accordance with this section.

173 (k) The Massachusetts Executive Office of Public Safety and Security shall, within 180 days of
174 the effective date of this section, adopt rules and regulations for the orderly operation and
175 standardization of this section. Said rules and regulations shall establish a mechanism for
176 owners to pay fines issued pursuant to this section via the internet.

177 (l) Before an automated road safety camera system may be installed, the traffic control signal
178 installation must comply with the standards set forth in the Manual on Uniform Traffic Control
179 Devices. If it is determined that the automated road safety camera system is not in compliance
180 with these standards, it shall be the responsibility of the city or town installing the system to
181 bring it into compliance. Verification that the traffic control signal meets these standards shall
182 be made by a professional engineer registered in the commonwealth.