

SENATE No. 1376

The Commonwealth of Massachusetts

PRESENTED BY:

William N. Brownsberger

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 adoption of the accompanying bill:

An Act relative to automated enforcement.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>1/25/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/25/2019</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>1/29/2019</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>1/29/2019</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>1/29/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/31/2019</i>
<i>Bradford Hill</i>	<i>4th Essex</i>	<i>1/31/2019</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>1/31/2019</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>1/31/2019</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>1/31/2019</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	<i>2/1/2019</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>2/1/2019</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/1/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/1/2019</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>2/1/2019</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>2/1/2019</i>

<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>2/1/2019</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>2/1/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/1/2019</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>2/1/2019</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>2/4/2019</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>2/19/2019</i>

SENATE No. 1376

By Mr. Brownsberger, a petition (accompanied by bill, Senate, No. 1376) of William N. Brownsberger, Michael F. Rush, Mike Connolly, Jonathan Hecht and other members of the General Court for legislation relative to automated enforcement . Public Safety and Homeland Security.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to automated enforcement.

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. The General Laws are hereby amended by inserting after chapter 90I the
2 following new chapter:-

3 CHAPTER 90J. AUTOMATED ENFORCEMENT

4 Section 1. As used in this chapter, the following words shall, unless the context clearly
5 requires otherwise, have the following meanings:-

6 "Automated Road Safety Camera System", shall mean an automated motor vehicle sensor
7 device installed which produces digital photographs and may record the speed of each motor
8 vehicle at the time it is operated in a manner that is in violation of traffic laws and regulations
9 where the automated road camera safety system is located.

10 "Camera Enforceable Violation", shall mean a violation of the traffic laws which may be
11 enforced by an automated road safety camera system, limited to the following violations: failure

12 to stop at a signal at an intersection pursuant to section 9 of chapter 89; making a right turn on a
13 red light where prohibited pursuant to section 8 of chapter 89; exceeding the speed limit
14 pursuant to section 17 or section 18 of chapter 90; and passing school bus when its flashers are
15 on pursuant to section 14 of chapter 90.

16 Section 2. (a) A city or town that accepts this chapter in the manner provided in section 4
17 of chapter 4, may employ an automated road safety camera system as a means of promoting
18 traffic safety, which may be fixed along any portion of any ways within its control, or within the
19 control of the commonwealth with written permission from the department of transportation or
20 the department of conservation and recreation, or attached to a school bus, and may impose a
21 penalty on the owner of a motor vehicle for failure by the operator thereof to comply with traffic
22 laws and regulations, limited to camera enforceable violations. For a school bus serving a
23 regional school district to be equipped with an automated road safety camera, every city or town
24 member of such regional school district shall accept this chapter.

25 (b) A city or town that accepts this chapter may employ no more than one fixed
26 automated road safety camera system per 2,500 residents as measured by the most recent census.
27 A city or town that accepts this chapter may employ no more than one automated road safety
28 camera system attached to a school bus. The location of all automated road safety camera
29 systems shall be approved by vote of the legislative body of the municipality. A city or town
30 that accepts this chapter shall transmit a report annually on or before December 1, to the
31 department of transportation, detailing each automated road safety camera system located in the
32 city or town or proposed to be located in the city or town. The report shall include: a list of the
33 location of each automated road safety camera system in the city or town; and an analysis of the
34 location's nexus with safety. No later than three years after the effective date of this act, the

35 department of transportation shall submit a report to the clerks of the house and senate, and the
36 joint committee on transportation that analyzes the public safety, and social and racial equity
37 impacts of this act. The department of transportation shall publish all reports received pursuant to
38 this section on a public website.

39 Section 3. (a) The maximum fine imposed for a violation issued pursuant to this chapter
40 shall be twenty five dollars per violation. For violations issued pursuant to this chapter, except as
41 provided in section 4, the owner or owners of a vehicle shall be liable for the fine, however, no
42 owner of a vehicle shall be responsible for a violation issued pursuant to this chapter where the
43 operator of the motor vehicle was issued a citation for the underlying violation in accordance
44 with section 2 of chapter 90C of the General Laws. A city or town that accepts this chapter may
45 send a written warning to the owner or owners in lieu of enforcement for the purpose of
46 education.

47 (b) A certificate, or a facsimile thereof, based upon inspection of photographs and data
48 produced by an automated road safety camera system, and sworn to or affirmed by the police
49 department or designee authorized to issue citations for violations of traffic laws and regulations,
50 shall be prima facie evidence of the facts contained therein.

51 (c) A violation issued by a city or town that accepts this chapter shall not be made part of
52 the operating record of the person upon whom such liability is imposed, nor shall such violation
53 be considered a conviction of a moving violation of the motor vehicle laws for the purpose of
54 determining a surcharge on a motor vehicle premium pursuant to section 113B of chapter 175.

55 (d) The police department of a city or town that accepts this chapter shall supervise and
56 coordinate the administration of violations issued in conformance with this chapter. The police

57 department shall have the authority to hire and designate such personnel as may be necessary or
58 contract for such services to implement the provisions of this chapter.

59 (e) It shall be the duty of the police department or designee of a city or town that accepts
60 this chapter to cause a notice of violation to the registered owner or owners of a motor vehicle
61 identified in photographs produced by such device as evidence of a violation pursuant to this
62 chapter. Such notice shall contain, but not be limited to, the following information: a copy of the
63 aforementioned recorded images and other data showing the vehicle in the process of a camera
64 enforceable violation; the registration number and state of issuance of the vehicle; the date, time
65 and location of the violation; the specific camera enforceable violation charged; instructions for
66 payment of the violation; instructions to contest the violation in writing; and instructions to
67 obtain a hearing.

68 (f) In the case of a violation involving a motor vehicle registered under the laws of the
69 Commonwealth, a notice of violation shall be mailed within 14 days of the violation to the
70 address of the registered owner or owners as listed in the records of the registrar of motor
71 vehicles. In the case of any motor vehicle registered under the laws of another state or country,
72 such notice of violation shall be mailed within 21 days of the violation to the address of the
73 registered owner or owners as listed in the records of the official in such state or country having
74 charge of the registration of such motor vehicle. If said address is unavailable, it shall be
75 sufficient for the police department or designee to mail a notice of violation to the official in
76 such state or country having charge of the registration of such motor vehicle.

77 (g) A notice of violation shall be sent by first class mail in accordance with subsection (f)
78 and shall include an affidavit form approved by the police department for the purpose of

79 complying with subsection (b). A manual or automatic record of mailing processed by or on
80 behalf of the police department in the ordinary course of business shall be prima facie evidence
81 thereof, and shall be admitted as evidence in any judicial or administrative proceeding, as to the
82 facts contained therein. Unless an owner or owners pay the fine or contest responsibility within
83 60 days of the violation, the provisions of subsection (l) will apply.

84 (h) Any owner to whom a notice of violation has been issued shall not be liable for a
85 violation under the provisions of this chapter if: the violation was necessary to allow the passage
86 of an emergency vehicle; the violation was incurred while participating in a funeral procession;
87 the violation was incurred during a period of time in which the motor vehicle was reported to the
88 police department of any state, city or town as having been stolen and had not been recovered
89 prior to the time the violation occurred; the operator of the motor vehicle was operating the
90 motor vehicle under a rental or lease agreement and the owner of the motor vehicle is a rental or
91 leasing company and has complied with the provisions of section 4 of this chapter; the operator
92 of the motor vehicle was issued a citation for the underlying violation in accordance with section
93 2 of chapter 90C of the General Laws; or, the violation was necessary to comply with any other
94 law or regulation governing the operation of a motor vehicle.

95 (i) Any motor vehicle owner to whom a notice of violation has been issued pursuant to
96 this chapter may admit responsibility for such violation and pay the fine provided therein.
97 Payment may be made personally or through a duly authorized agent, by appearing before the
98 police department's designee during normal office hours, by mailing or online. Payment by mail
99 shall be made by check, money order or credit card to the police department or city or town.
100 Payment of the established fine and any applicable penalties shall operate as the final disposition

101 of the violation. Payment by one motor vehicle owner shall operate as the final disposition of the
102 violation as to all other motor vehicle owners of the same motor vehicle for the same violation.

103 (j) An owner may contest responsibility for a violation under this chapter in writing by
104 mail or online. The owner shall provide the police department with a signed affidavit in a form
105 approved by the police department, stating: the reason for disputing the violation; the full legal
106 name and address of the owner of the motor vehicle; and the full legal name and address of the
107 operator of the motor vehicle at the time the violation occurred. An owner may include signed
108 statements from witnesses, which include the names and addresses of witnesses, supporting the
109 owner's defense. Within 21 days of receipt, the police department or the hearing officer shall
110 send the decision of the hearing officer, including the reasons for the outcome, by first class mail
111 to the registered owner or owners. If the owner is found responsible for the violation, the owner
112 shall pay the fine in the manner described in (i) within 14 days of the issuance of the decision or
113 request further judicial review pursuant to section 14 of Chapter 30A of the General Laws.

114 (k) An owner may request a hearing to contest responsibility for a violation. A hearing
115 request shall be made in writing by mail or online. Upon receipt of a hearing request, the police
116 department shall schedule the matter before hearing officer. Said hearing officer may be an
117 employee of the police department of the city or town wherein the violation occurred or such
118 other person or persons as the police department may designate. Written notice of the date, time
119 and place of said hearing shall be sent by first class mail to each registered owner. The hearing
120 shall be informal, the rules of evidence shall not apply, and the decision of the hearing officer
121 shall be final subject to judicial review as outlined by section 14 of Chapter 30A of the General
122 Laws. Within 21 days of the hearing, the police department or the hearing officer should send the
123 decision of the hearing officer, including the reasons for the outcome, by first class mail to the

124 registered owner or owners. If the owner is found responsible for the violation, the owner shall
125 pay the fine in the manner described in (i) within 14 days of the issuance of the decision or
126 request further judicial review pursuant to section 14 of Chapter 30A of the General Laws.

127 (l) If an owner to whom a notice of violation has been issued either fails to pay the fine in
128 said notice in accordance with subsection (i), or is found responsible for the violation and does
129 not pay the fine in accordance with subsection (j) or subsection (k), the police department shall
130 notify the registrar of motor vehicles who shall place the matter on record. Upon receipt of the
131 registrar of five or more of such notices, the registrar shall not issue or renew such owner's motor
132 vehicle registration until after notification from the police department of each city or town, from
133 whom the registrar received notification, that all fines owed pursuant to this chapter, have been
134 paid. It shall be the duty of the police department to notify the registrar forthwith that such case
135 has been so disposed; provided, however, that certified receipt of full and final payment from the
136 police department of the city or town issuing such violation shall also serve as legal notice to the
137 registrar that said violation has been disposed of in accordance with this chapter. The certified
138 receipt shall be printed in such form as the registrar of motor vehicles may approve.

139 Section 4. (a) Notwithstanding section 3 of this chapter, if the registered owner of a
140 motor vehicle in receipt of a notice of violation is a person or entity engaged in the business of
141 leasing or renting motor vehicles, and such motor vehicle was operating under a rental or lease
142 agreement at the time of a violation, then the provisions of this section shall be applicable, and
143 the registered owner shall not be liable for any unpaid fines; provided, however, that such owner
144 has complied with the procedures of this section.

145 (b) The police department or designee of a city or town that accepts this chapter shall
146 give to the registered owner notice in writing of each violation in which a motor vehicle owned
147 by such owner is involved, as set forth in section 3.

148 (c) Within 45 days of the violation, the registered owner shall furnish to such department
149 or designee in writing the name and address of the lessee or rentee of such motor vehicle at the
150 time of the violation; the lessee's or rentee's driver's license number, state of issuance of such
151 driver's license and the lessee's or rentee's date of birth.

152 (d) Such department or designee shall thereupon issue a notice of violation to such lessee
153 or rentee in the form prescribed by section 3 and the lessee or rentee shall be liable for the
154 violation.

155 (e) If such lessee or rentee to whom a notice of violation has been issued either fails to
156 pay the fine in accordance with subsection (i) of section 3, or fails to receive a favorable
157 adjudication of said notice in accordance with subsection (j) of section 3, or subsection (k) of
158 section 3, the police department or designee shall notify the registrar of motor vehicles who shall
159 place the matter on record. Upon notification to the registrar of five or more of such notices
160 under this section, it shall be the duty of the registrar to suspend and not renew the license to
161 operate a motor vehicle of such lessee or rentee or suspend the right to operate of a lessee or
162 rentee not licensed in this commonwealth until after notification from the police department of
163 each city or town, from whom the registrar received notification, that all fines, taxes and
164 penalties owed by such owner pursuant to either this chapter, have been disposed of in
165 accordance with this chapter. It shall be the duty of the police department to notify the registrar
166 forthwith that such case has been so disposed; provided, however, that certified receipt of full

167 and final payment from the police department of the city or town issuing such violation shall also
168 serve as notice to the registrar that said violation has been disposed of in accordance this chapter.
169 The certified receipt shall be printed in such form as the registrar of motor vehicles may approve.

170 Section 5. (a) For a failure to stop at a signal at an intersection violation, no violation
171 shall be issued if any part of the automobile was over the stop line when the light was yellow,
172 regardless of whether or not the light turned red while the automobile was over the stop line.

173 (b) For a speed limit violation, no violation shall be issued unless the vehicle exceeds the
174 speed limit by at least five miles per hour.

175 (c) For a passing a school a bus when flashers are on violation, no violation shall be
176 issued unless the vehicle crosses the plane of the stop sign on the bus.

177 (d) For a making a right turn on a red light where prohibited violation, no violation shall
178 be issued unless entire motor vehicle has crossed the stop line.

179 Section 6. (a) A city or town that accepts this chapter shall install a sign notifying the
180 public that an automated road safety camera system is in use at each location of said camera.
181 Such signage must specifically include notification of automated road safety camera system
182 enforcement of violations for right turns at that intersection if so enforced. Each school bus with
183 an automated road safety camera system shall have a sign notifying the public that said camera is
184 in use on the bus.

185 (b) A city or town that accepts this chapter shall make a public announcement and
186 conduct a public awareness campaign of use of automated road safety camera systems beginning

187 at least 30 days before the enforcement program is in use. A city or town that accepts this chapter
188 may install but not activate automated road safety camera systems during said time period.

189 Section 7. (a) The compensation paid to the manufacturer or vendor of the automated
190 road safety camera system as authorized herein shall be based on the value of the equipment or
191 services provided and shall not be based on the number of traffic citations issued or the revenue
192 generated by the systems.

193 (b) Verification that the automated road safety camera system and any appurtenant traffic
194 control signals are correctly calibrated shall be made by a professional engineer registered in the
195 commonwealth.

196 Section 8. (a) Photographs and other recorded evidence shall only be captured when a
197 camera enforceable violation occurs. Photographs and other recorded evidence shall be destroyed
198 within 48 hours of the final disposition of a violation.

199 (b) No photographs taken in conformance with this chapter shall be discoverable in any
200 judicial or administrative proceeding other than a proceeding held pursuant to this chapter
201 without a court order. No photograph taken in conformance with this chapter shall be admissible
202 in any judicial or administrative proceeding other than in a proceeding to adjudicate liability for
203 such violation of this chapter without a court order. A court shall order a release of a photograph
204 taken in conformance with this chapter only where the photograph tends to establish or
205 undermine a finding of a moving violation and the violation is material as to a finding of civil or
206 criminal liability.

207 (c) Photographs and other personally identifying information collected by cities and
208 towns pursuant to this chapter are not public record.

209 (d) No automated road safety camera system shall be utilized in such a manner as to take
210 a frontal view photograph of a motor vehicle.

211 Section 9. A city or town that accepts this chapter may only recover costs reasonably
212 related to the implementation of an automated road safety camera system. Net revenues
213 collected by participating cities and towns pursuant to this chapter shall be deposited in the
214 Massachusetts Transportation Trust Fund.

215 Section 10. The department of transportation shall promulgate rules and regulations
216 necessary to effectuate the purposes of this chapter.

217 SECTION 2. Section 7, of chapter 4, as appearing in the 2016 Official Edition, is hereby
218 amended by adding after subclause 26(u) the following new subclause:-

219 (v) Photographs and other personally identifying information collected by cities and
220 towns under chapter 90J;