

SENATE No. 02024
[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

Michael O. Moore

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 concerning the enforcement of moving violations in the city of Worcester.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Michael O. Moore</i>	<i>Second Worcester</i>

SENATE No. 02024

By Mr. Moore, a petition (accompanied by bill, Senate, No. 2024) of Michael O. Moore (with approval of the mayor and city council) for legislation to allow the city of Worcester to utilize video cameras to enforce certain traffic violations. Transportation. [Local Approval Received.]

The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven
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An Act concerning the enforcement of moving violations in the city of Worcester.

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. Notwithstanding any provision of general or special law to the contrary,
2 and in addition to the system of uniform traffic citations established by chapter ninety C of the
3 General Laws, the city of Worcester is hereby authorized to enact ordinances which govern the
4 operation of motor vehicles upon the public streets and private ways open to public use within
5 said city and which make the owner of any motor vehicle observed by an electronic moving
6 violation camera monitoring system as operating in violation of any such ordinances civilly
7 responsible for such violations.

8 SECTION 2. As used herein, (a) the term “owner” shall have the meaning provided in
9 section one of chapter ninety of the General Laws; (b) the term “motor vehicle” shall have the
10 meaning provided in section one of chapter ninety of the General Laws and shall include, a
11 trailer, semi-trailer and semi-trailer unit or any vehicle of a category required to be registered

12 under said section; and (c) the term “electronic moving violation camera monitoring system”
13 shall mean an automated electronic system which produces two or more wet-film photographs,
14 two or more digital photographs, two or more microphotographs, streaming video images, or any
15 other recorded imagery showing the operation of a motor vehicle in violation of a city ordinance
16 with sufficient clarity to identify the registration plate of said motor vehicle.

17 SECTION 3. Images from an electronic moving violation camera monitoring system
18 shall be reproduced into a notice of violations form which shall contain the following:

19 (a) a description of the ordinance violation and the date, time and location at which it
20 occurred;

21 (b) the name and address of the owner of the motor vehicle;

22 (c) the make, color, registration plate number of the motor vehicle and the state or
23 country issuing such registration;

24 (d) a copy of recorded imagery showing the motor vehicle in violation of a city
25 ordinance and including a depiction of the registration plate of the vehicle at or about the time of
26 the violation;

27 (e) the amount of the civil fine imposed for the violation, the locations and manner by
28 which the fine may be paid and the date by which payment is due without penalty;

29 (f) a space for the badge number and certification of the police officer who inspected
30 the notice of violation as required by section five of this act; and

31 (g) the following statement: “This notice of violation must be paid or appealed within
32 twenty-one days. An administrative hearing may be obtained upon the written request of the

33 owner. Failure to comply with this notice will result in additional penalties and the non-renewal
34 of the owner's vehicle registration and license to drive.”

35 SECTION 4. A police officer authorized to enforce moving violations in said city shall
36 inspect each notice of violation and, if such officer determines that the notice of violation
37 reasonably presents evidence of a violation of an ordinance governing the operation of motor
38 vehicles in said city and that such violation is not excused from responsibility under the
39 provisions of section five of this act, such officer shall certify such notice for issuance as
40 provided herein. Upon this certification, imagery from an electronic moving violation camera
41 monitoring system shall be prima facie evidence that the vehicle shown in such imagery was in
42 violation of the moving violations ordinances of the city.

43 SECTION 5. The owner of any motor vehicle identified in imagery produced by an
44 electronic moving violation camera monitoring system as in violation of any ordinances
45 governing the operation of motor vehicles within said city shall not be responsible for such
46 violation whenever:

47 (a) the owner of the motor vehicle has timely reported that the violating motor vehicle was
48 stolen and it remains stolen at the time of the violation;

49 (b) the operator of the motor vehicle was, at the time of the violation, complying with the
50 orders of a police officer or yielding the right of way to an immediately approaching authorized
51 emergency vehicle;

52 (c) the owner of the motor vehicle is in the business of leasing or renting motor vehicles and
53 provides a copy of the executed lease, rental or similar contract evidencing that the violating
54 motor vehicle was leased or rented at the time of the violation and further, that such owner

55 provide the police department the identity and address of the person(s) entitled to possession of
56 the motor vehicle, in which case the person(s) so identified is prima facie responsible for the
57 payment of all penalties and fines assessed in accordance with an ordinance authorized by this
58 act;

59 (d) the motor vehicle was operated as an authorized emergency vehicle under section 7B of
60 chapter eighty-nine of the General Laws "Operation of Emergency Vehicles" and the operator
61 was acting in compliance with that law;

62 (e) the violation occurred while participating in a funeral procession;

63 (f) the operator of the motor vehicle has been convicted of the underlying violation pursuant
64 to a citation issued in accordance with chapter ninety C of the General Laws; or,

65 (g) the violation was necessary to comply with any other law or regulation governing the
66 operation of a motor vehicle at the intersection.

67 SECTION 6. To supervise the administration and adjudication of violations issued under
68 authority of this act, the city manager shall designate and appoint a qualified individual as the
69 moving violations clerk, who may perform other municipal functions except police functions.
70 The moving violations clerk shall cause each certified notice of violation to be mailed by first
71 class mail, postage prepaid, or delivered by personal service, to the owner of the motor vehicle at
72 the address of said owner, according to the registry of motor vehicles, within fourteen (14) days
73 of the offense, or in the case of a motor vehicle registered under the laws of another state or
74 jurisdiction, at the address of the owner, according to the official in the state or other jurisdiction
75 having charge of the registration of the motor vehicle, within twenty one (21) days of the
76 offense, or to the lessee of the motor vehicle, as applicable. If said address is unavailable, it shall

77 be sufficient to mail a notice of violation to the official in such state or country having charge of
78 the registration of such motor vehicle. Certification of delivery of the notice of violation shall be
79 prima facie evidence of actual delivery and sufficient notice of liability and shall be admissible
80 in any judicial or administrative proceeding as to the facts contained therein.

81 SECTION 7. The base penalty for each violation enforced under authority of this act
82 shall be set from time to time by ordinance and shall not exceed the maximum penalty authorized
83 under section twenty-one of chapter forty of the General Laws for violations of city ordinances.
84 The city of Worcester may provide by ordinance that the penalty for each violation not paid
85 within twenty-one days of the date of mailing of the notice of violation shall be increased by a
86 delinquency amount not to exceed twenty-five (\$25.00) dollars. Upon the addition of any
87 delinquency amount, the moving violations clerk shall mail a delinquency notice to the owner
88 advising of the increase in the penalty. If the penalty and delinquency amount are not paid
89 within twenty-one days of the date of mailing of the delinquency notice, the moving violations
90 clerk shall report such unpaid violation to the registrar of motor vehicles and the penalty shall be
91 further increased by an additional amount established by city ordinance not to exceed fifty
92 (\$50.00) dollars. The registrar of motor vehicles shall place the matter on record and, upon
93 receipt of two or more such notices identifying the same owner, shall not renew the owner's
94 license to operate a motor vehicle or the registration of said vehicle until after notice from the
95 moving violations clerk that all fines, taxes and penalties owed by such owner, whether pursuant
96 to this act or arising out of the parking or use of such owner's motor vehicle(s), have been
97 disposed of in accordance with law. Upon such notification to the registrar, an additional
98 twenty-five (\$25.00) dollar charge, payable to the registrar of motor vehicles, shall be assessed
99 against the owner of said vehicle. It shall be the duty of the moving violations clerk to notify the

100 registrar forthwith that such case has been disposed of in accordance with law, provided
101 however, that a certified receipt of full and final payment from the moving violations clerk of the
102 city, in a form acceptable to the registrar, shall also serve as legal notice to the registrar that said
103 violation has been so disposed of. All such fine amounts collected shall be deposited with the
104 city treasurer and shall be available for appropriation for any public purpose in accordance with
105 the city charter and general laws. The imposition of a civil fine under the ordinance and this act
106 shall not be a surchargeable incident under section one hundred-thirteen B of chapter one
107 hundred seventy-five of the General Laws, or any similar law, and shall not be made part of the
108 motor vehicle operating record of the person upon whom such responsibility is imposed.

109 SECTION 8. Within twenty-one (21) calendar days after the date of the issuance of the
110 notice of violation, the owner may request a hearing to contest the imposition of the civil fine.
111 Such request shall be in writing and delivered to the moving violations clerk and must contain a
112 statement signed by the owner and setting forth the basis for the hearing, the owner's name,
113 address and the registration number of the motor vehicle involved in the violation. Upon receipt
114 of a timely request for hearing, the moving violations clerk shall forthwith schedule the matter
115 before a hearing officer, who may be the moving violations clerk or any other person designated
116 by the city manager to serve as a hearing officer for these purposes, and notify the owner, in
117 writing, by first class mail, of the date, time and location of the hearing. The hearing shall be
118 informal and the rules of evidence shall not apply. The reliability of the electronic moving
119 violation camera monitoring system may be attested to by affidavit of an employee, consultant or
120 agent of the city of Worcester. The payment of the fine stated in the notice of violation, or the
121 failure of any owner to pay the civil fine or request a hearing within twenty-one (21) days of the
122 issuance of the notice of violation, or having requested and been scheduled for a hearing, to fail

123 to appear for a hearing in accordance with said notice, shall constitute a waiver of the right to
124 contest responsibility. Within twenty-one (21) days after the hearing, the moving violations
125 clerk shall send the owner, by first class mail, a notice of decision of the hearing officer,
126 including the reasons for the outcome. If the hearing officer decides that the violation did not
127 occur as shown on the notice of violation, or that any of the defenses listed in section five of this
128 act apply, or that the owner identified on such notice is otherwise not responsible for the
129 violation, the notice of violation shall be dismissed and no further action shall be taken against
130 the owner identified on said notice. If the hearing officer decides that the owner is responsible
131 for the violation, the owner shall have twenty-one (21) days of the date of mailing of the notice
132 of decision to pay the fine or file a complaint for judicial review as provided by section fourteen
133 of chapter thirty A. If the fine is not paid or appealed within said twenty-one (21) days, the
134 amount of the fine shall increase by the amount established by ordinance under section seven of
135 this act for fines not paid within twenty-one (21) days of the issuance of the notice of violation.

136 SECTION 9. Any ordinance adopted under authority of this act, together with any
137 related regulations, operating procedures or practices, may include such additional terms and
138 provisions consistent with the purposes of this act.