

SENATE No. 2553

The Commonwealth of Massachusetts

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

SENATE, February 20, 2020.

The committee on Senate Ways and Means to whom was referred the Senate Bill relative to automated enforcement (Senate, No. 1376), - reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2553).

For the committee,
Michael J. Rodrigues

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**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. Clause Twenty-sixth of section 7 of chapter 4 of the General Laws, as
2 appearing in the 2018 Official Edition, is hereby amended by adding the following subclause:-

3 (w) Photographs and other personal identifying information collected by cities and towns
4 under chapter 90J.

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

7 CHAPTER 90J.

8 AUTOMATED ROAD SAFETY ENFORCEMENT.

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

11 “Automated road safety camera system”, an automated motor vehicle sensor device that
12 produces digital photographs of a motor vehicle that commits a camera enforceable violation at
13 the location where the automated motor vehicle sensor device is installed.

14 “Camera enforceable violation”, any of the following violations of a traffic law or
15 regulation: (i) failing to stop at a steady red indication in a traffic control signal at an intersection
16 pursuant to section 9 of chapter 89; (ii) making a right turn on a steady red indication in a traffic
17 control signal where prohibited pursuant to section 8 of said chapter 89; (iii) exceeding the speed
18 limit in violation of section 17 or section 18 of chapter 90; (iv) passing a school bus when its
19 warning signals are activated in violation of section 14 of said chapter 90; (v) blocking an
20 intersection in violation of said section 9 of said chapter 89; and (vi) operating, parking or
21 causing a motor vehicle to stand in a lane designated for the exclusive use of buses unless
22 otherwise regulated or posted by an official traffic signal, sign or marking or at the direction of
23 an authorized police officer.

24 “Municipal designee”, the municipal entity designated by the city manager in a city with
25 a Plan E form of government, the mayor in all other cities or the board of selectmen in a town to
26 supervise and coordinate the administration of camera enforceable violations under this chapter.

27 “Registrar”, the registrar of motor vehicles.

28 Section 2. (a) A city or town that accepts this chapter may install an automated road
29 safety camera system as a means of promoting traffic safety. The automated road safety camera
30 system may be placed: (i) along any portion of any way within the city’s or town’s control; (ii)
31 along any portion of any way within the control of the commonwealth with written permission
32 from the Massachusetts Department of Transportation or the department of conservation and
33 recreation; or (iii) attached to a school bus; provided, however, that before equipping a school
34 bus serving a regional school district with an automated road safety camera, each city or town
35 member of the regional school district shall accept this chapter and shall approve the location of
36 the automated road safety camera system pursuant to subsection (b); provided further, that the

37 city or town may impose a penalty for a camera enforceable violation on the registered owner of
38 a motor vehicle pursuant to section 3.

39 (b) A city or town that accepts this chapter shall not employ more than 1 automated road
40 safety camera system per 2,500 residents as measured by using the most recent census data;
41 provided, however, that a city or town with less than 2,500 residents shall not employ an
42 automated road safety camera system; and provided further, that an automated road safety
43 camera system that is attached to a school bus shall not be included in the number of automated
44 road safety camera systems in the city or town. The location of an automated road safety camera
45 system shall be approved by the city manager in a city with a Plan E form of government, the
46 mayor in all other cities or the board of selectmen in a town after a public hearing on the
47 proposed location of the automated road safety camera system.

48 (c) Annually, not later than December 1, a city or town that accepts this chapter shall transmit a
49 report to the Massachusetts Department of Transportation that details each automated road safety
50 camera system located in the city or town or proposed to be located in the city or town. The
51 report shall include, but not be limited to: (i) a list of the locations of each automated road safety
52 camera system in the city or town; (ii) an analysis of the nexus between public safety and each
53 location's automated road safety camera system; and (iii) the number of fines and warnings
54 issued for camera enforceable violations pursuant to section 3. The department shall post all
55 reports received pursuant to this section on its website.

56 Section 3. (a) The maximum fine imposed under this chapter for a camera enforceable
57 violation shall be \$25 per violation. Except as provided in section 4, the registered owner of a
58 motor vehicle shall be liable for the fine; provided, however, that a registered owner of a motor
59 vehicle shall not be liable for the fine imposed under this chapter for a camera enforceable

60 violation if the operator of the motor vehicle was issued a citation for the violation in accordance
61 with section 2 of chapter 90C. A city or town that accepts this chapter may send a written
62 warning to the registered owner of a motor vehicle for the purposes of education in lieu of
63 enforcement through a fine; provided, however, that a written warning shall only be issued
64 pursuant to objective and consistent criteria in a written policy established by the municipal
65 designee; provided further, that the department of public safety may provide guidance to the city
66 or town on establishing such objective and consistent criteria.

67 (b) A certificate, or a facsimile thereof, based upon inspection of photographs and data
68 produced by an automated road safety camera system and sworn to or affirmed by the municipal
69 designee shall be prima facie evidence of the facts contained therein.

70 (c) A camera enforceable violation issued by a city or town under this chapter shall not
71 be: (i) made part of the operating record of the person upon whom such liability is imposed; or
72 (ii) a conviction of a moving violation of the motor vehicle laws for the purpose of determining a
73 surcharge on a motor vehicle premium pursuant to section 113B of chapter 175.

74 (d) The municipal designee may hire and designate personnel as necessary or contract for
75 services to implement this chapter.

76 (e) (1) The municipal designee shall provide a notice of violation to the registered owner
77 of a motor vehicle that is identified in photographs produced by an automated road safety camera
78 system as evidence of a camera enforceable violation pursuant to this chapter. The notice shall
79 include, but not be limited to: (i) a copy of the photographs produced by the automated road
80 safety camera system and any other data showing the vehicle in the process of a camera
81 enforceable violation; (ii) the registration number and state of issuance of the vehicle; (iii) the
82 date, time and location of the alleged camera enforceable violation; (iv) the specific camera

83 enforceable violation charged; (v) instructions for payment of the fine imposed pursuant to
84 subsection (a); (vi) instructions on how to appeal the camera enforceable violation in writing and
85 to obtain a hearing; and (vii) an affidavit form approved by the municipal designee for the
86 purposes of making a written appeal pursuant to subsection (h).

87 (2) In the case of a violation involving a motor vehicle registered in the commonwealth,
88 the notice of violation shall be mailed within 14 days of the violation to the address of the
89 registered owner of the motor vehicle as listed in the records of the registrar. If a motor vehicle is
90 registered under the laws of another state or country, the notice of violation shall be mailed
91 within 21 days of the violation to the address of the registered owner as listed in the records of
92 the official in the state or country that has charge of the registration of the motor vehicle. If the
93 address is unavailable, it shall be sufficient for the municipal designee to mail a notice of
94 violation to the official in the state or country that has charge of the registration of the motor
95 vehicle.

96 (3) The notice of violation shall be sent by first class mail in accordance with paragraph
97 (2). A manual or automatic record of mailing processed by or on behalf of the municipal
98 designee in the ordinary course of business shall be prima facie evidence thereof and shall be
99 admitted as evidence in any judicial or administrative proceeding as to the facts contained
100 therein.

101 (f) A registered owner of a motor vehicle shall not be liable for a camera enforceable
102 violation under this chapter if the: (i) violation was necessary to allow the passage of an
103 emergency vehicle; (ii) violation was incurred while participating in a funeral procession; (iii)
104 violation was incurred during a period of time in which the motor vehicle was reported to the
105 police department of any state, city or town as having been stolen and had not been recovered

106 before the time the violation occurred; (iv) operator of the motor vehicle was operating the motor
107 vehicle under a rental or lease agreement and the registered owner of the motor vehicle is a rental
108 or leasing company and has complied with section 4; (v) operator of the motor vehicle was
109 issued a citation for the violation in accordance with section 2 of chapter 90C; or (vi) violation
110 was necessary to comply with any other law or regulation governing the operation of a motor
111 vehicle.

112 (g) A registered owner of a motor vehicle to whom a notice of violation has been issued
113 pursuant to this chapter may admit responsibility for the violation and pay the fine provided
114 therein. Payment of the established fine shall operate as the final disposition of a camera
115 enforceable violation; provided, however, that payment by a registered owner of a motor vehicle
116 shall operate as the final disposition of the violation as to any other registered owner of the same
117 motor vehicle for the same violation.

118 (h) Not more than 60 days after a camera enforceable violation under this chapter, a
119 registered owner of a motor vehicle may contest responsibility for the violation in writing by
120 mail or online. The registered owner shall provide the municipal designee with a signed affidavit,
121 in a form approved by the municipal designee, stating the: (i) reason for disputing the violation;
122 (ii) full legal name and address of the registered owner of the motor vehicle; and (iii) full legal
123 name and address of the operator of the motor vehicle at the time the violation occurred. The
124 registered owner may include signed statements from witnesses, including the names and
125 addresses of witnesses, supporting the registered owner's defense. Not more than 21 days after
126 receipt of the signed affidavit, the municipal designee or the hearing officer shall send the
127 decision of the hearing officer, including the reasons for the outcome, by first class mail to the
128 registered owner. If the registered owner is found responsible for the violation, the registered

129 owner shall pay the fine in the manner described in subsection (g) not more than 14 days after
130 the issuance of the decision or request further judicial review pursuant to section 14 of chapter
131 30A.

132 (i) In lieu of contesting responsibility for a violation in writing or online pursuant to
133 subsection (h) and not more than 60 days after a violation under this chapter, a registered owner
134 of the motor vehicle may request a hearing to contest responsibility for a camera enforceable
135 violation. A hearing request shall be made in writing by mail or online. Upon receipt of a hearing
136 request, the municipal designee shall schedule the matter before a hearing officer. The hearing
137 officer may be an employee of the municipal designee or such other person as the municipal
138 designee may designate. Written notice of the date, time and place of the hearing shall be sent by
139 first class mail to each registered owner of the motor vehicle. The hearing shall be informal, the
140 rules of evidence shall not apply and the decision of the hearing officer shall be final subject to
141 judicial review pursuant to section 14 of chapter 30A. Not more than 21 days after the hearing,
142 the municipal designee or the hearing officer shall send the decision of the hearing officer,
143 including the reason for the outcome, by first class mail to the registered owner. If the registered
144 owner is found to be responsible for the camera enforceable violation, the registered owner shall
145 pay the fine in the manner described in subsection (g) not more than 14 days after the issuance of
146 the decision or request further judicial review pursuant to said section 14 of said chapter 30A.

147 (j) The municipal designee shall notify the registrar when a registered owner of a motor
148 vehicle to whom a notice of a camera enforceable violation has been issued: (i) fails to contest
149 the responsibility for a violation pursuant to subsection (h) or subsection (i) and fails to pay the
150 fine in the notice in accordance with subsection (g) within 60 days of the violation; or (ii) is
151 found responsible for the violation and does not pay the fine in accordance with subsection (h) or

152 subsection (i). Upon being notified by the municipal designee, the registrar shall place the matter
153 on record. Upon receipt by the registrar of 5 or more of such notices, the registrar shall not issue
154 or renew the registered owner's motor vehicle registration until after notification from the
155 municipal designee of each city or town from whom the registrar received notification that all
156 fines owed pursuant to this chapter have been paid. The municipal designee shall notify the
157 registrar immediately when a fine that is the basis for a notice to the registrar under this
158 subsection has been paid; provided, however, that certified receipt of full and final payment from
159 the municipal designee issuing a violation shall also serve as legal notice to the registrar that a
160 violation has been disposed of in accordance with this chapter. The certified receipt shall be
161 printed in such form as the registrar may approve.

162 Section 4. (a) Notwithstanding section 3, if the registered owner of a motor vehicle is a
163 person or entity engaged in the business of leasing or renting motor vehicles and the motor
164 vehicle was operated under a rental or lease agreement at the time of the camera enforceable
165 violation, this section shall be applicable and the registered owner shall not be liable for any
166 unpaid fines if the registered owner has complied with the requirements of this section.

167 (b) The municipal designee shall provide notice in writing of each camera enforceable
168 violation to the registered owner of a motor vehicle if a motor vehicle owned by the registered
169 owner is involved in a camera enforceable violation.

170 (c) Not more than 45 days after the violation, the registered owner shall furnish to the
171 municipal designee, in writing, the name and address of the lessee or rentee of the motor vehicle
172 at the time of the camera enforceable violation, the lessee's or rentee's driver's license number,
173 the state that issued the driver's license and the lessee's or rentee's date of birth.

174 (d) Upon receipt of the information required under subsection (c), the municipal designee
175 shall issue a notice of a camera enforceable violation to the lessee or rentee in the form
176 prescribed by section 3 and the lessee or rentee shall be liable for the violation.

177 (e) The municipal designee shall notify the registrar if the lessee or rentee to whom a
178 notice of violation has been issued: (i) fails to contest the responsibility for a camera enforceable
179 violation pursuant to either subsection (h) or subsection (i) of section 3 and fails to pay the fine
180 in the notice in accordance with subsection (g) of said section 3 within 90 days of the violation;
181 or (ii) is found responsible for the violation and does not pay the fine in accordance with said
182 subsection (h) or said subsection (i) of said section 3. Upon being notified by the municipal
183 designee, the registrar shall place the matter on record.

184 Upon receipt by the registrar of 5 or more of such notices under this section, the registrar
185 shall: (i) suspend and not renew the license to operate a motor vehicle of the lessee or rentee; or
186 (ii) suspend the right to operate of a lessee or rentee not licensed in the commonwealth until the
187 registrar receives notification from each applicable municipal designee that all fines owed by the
188 lessee or rentee pursuant to this chapter have been paid. The municipal designee shall notify the
189 registrar immediately when a fine that is the basis for a notice to the registrar under this
190 subsection has been paid; provided, however, that certified receipt of full and final payment from
191 the municipal designee issuing a camera enforceable violation shall also serve as notice to the
192 registrar that the camera enforceable violation has been disposed of in accordance with this
193 chapter; provided further, that the certified receipt shall be printed in such form as the registrar
194 may approve.

195 Section 5. No violation shall be issued pursuant to this chapter for: (i) a failure to stop at
196 a signal at an intersection if any part of the vehicle was over the stop line when the light was

197 yellow, regardless of whether or not the light turned red while the vehicle was over the stop line;
198 (ii) exceeding the speed limit, unless the vehicle exceeds the speed limit by not less than 5 miles
199 per hour; (iii) passing a school a bus when its warning signals are activated, unless the vehicle
200 crosses the plane of the stop sign on the bus; (iv) making a right turn on a steady red indication in
201 a traffic control signal where prohibited, unless the entire vehicle has crossed the stop line; or (v)
202 blocking an intersection, unless the entire vehicle has crossed the stop line and no portion of the
203 vehicle has exited the intersection.

204 Section 6. (a) A city or town that accepts this chapter shall install at each location of an
205 automated road safety camera system an unobstructed sign notifying the public that an
206 automated road safety camera system is in use; provided, however, that a school bus with an
207 automated road safety camera system shall have a sign on the bus notifying the public that an
208 automated road safety camera system is in use on the bus.

209 (b) A city or town that accepts this chapter shall make a public announcement and
210 conduct a public awareness campaign of its use of automated road safety camera systems
211 beginning not less than 30 days before the first such automated road safety camera system is put
212 into use; provided, however, that a city or town that accepts this chapter may install but shall not
213 activate automated road safety camera systems during the 30-day time period.

214 Section 7. (a) The compensation paid to the manufacturer or vendor of an automated road
215 safety camera system authorized in this chapter shall be based on the value of the equipment or
216 services provided and shall not be based on the number of camera enforceable violations issued
217 or the revenue generated by the automated road safety camera system.

218 (b) Not less than annually, a professional engineer registered in the commonwealth or an
219 independent laboratory shall verify that the automated road safety camera system and any
220 appurtenant traffic control signals are correctly calibrated.

221 Section 8. (a) An automated road safety camera system shall only take photographs when
222 a camera enforceable violation occurs. Photographs and other recorded evidence shall be
223 destroyed not more than 48 hours after the final disposition of a camera enforceable violation.

224 (b) A photograph or other recorded evidence taken pursuant to this chapter shall not be
225 discoverable in any judicial or administrative proceeding, other than a proceeding held pursuant
226 to this chapter, without a court order. A photograph or other recorded evidence taken pursuant to
227 this chapter shall not be admissible in any judicial or administrative proceeding, other than in a
228 proceeding to adjudicate liability for a violation of this chapter, without a court order. A court
229 shall not order a release of a photograph or other recorded evidence taken pursuant to this
230 chapter unless the photograph or other recorded evidence establishes or undermines a finding of
231 a moving violation and the camera enforceable violation is material as to a finding of civil or
232 criminal liability.

233 (c) Photographs and other personal identifying information collected by a city or town
234 pursuant to this chapter shall not be a public record under Clause Twenty-Sixth of section 7 of
235 chapter 4 or chapter 66.

236 (d) An automated road safety camera system shall not be utilized to take a frontal view
237 photograph of a motor vehicle committing a camera enforceable violation. A frontal view
238 photograph of a motor vehicle committing a camera enforceable violation taken by an automated
239 road safety camera system shall not be discoverable or admissible in any judicial or
240 administrative proceeding and shall not be used as the basis for a camera enforceable violation

241 under this chapter. To the extent practicable, additional efforts shall be made to ensure that
242 photographs produced by an automated road safety camera system do not identify the vehicle
243 operator, the passengers or the contents of the vehicle.

244 (e) A manufacturer or vendor of an automated road safety camera system may not use,
245 disclose, sell or permit access to data collected by an automated road safety camera system
246 except as necessary to process camera enforceable violations in accordance with this chapter.

247 Section 9. A city or town that accepts this chapter may only recover costs reasonably
248 related to the implementation and operation of an automated road safety camera system
249 including, but not limited to, costs associated with: (i) maintaining and operating the automated
250 road safety camera system; (ii) issuing notices of camera enforceable violations; (iii) holding
251 hearings for appeals of camera enforceable violations; (iv) notifying the registrar of a failure to
252 pay a fine under this chapter; and (v) collecting a fine; provided, however, that net revenues
253 collected by participating cities and towns pursuant to this chapter shall be deposited in the
254 Massachusetts Transportation Trust Fund established in section 4 of chapter 6C.

255 Section 10. The operation of emergency vehicles shall be subject to this chapter except as
256 otherwise provided in section 7B of chapter 89.

257 Section 11. The Massachusetts Department of Transportation shall promulgate rules and
258 regulations necessary to implement this chapter.

259 SECTION 3. Not later than 3 years after the effective date of this act, the Massachusetts
260 Department of Transportation shall submit a report to the clerks of the senate and house of
261 representatives, the senate and house committees on ways and means and the joint committee on
262 transportation that analyzes the public safety and social and racial equity impacts of this act.