

HOUSE No. 3639

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act permitting the use of traffic control signal violation monitoring system devices as a means of promoting traffic safety in the cities of Boston and Cambridge..

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
2 contrary, the City of Boston and the City of Cambridge may, upon the acceptance of this act,
3 employ a traffic control signal violation monitoring system along any portion of any ways within
4 its control and may promulgate local measures imposing a penalty on the owner of a motor
5 vehicle for failure by the operator thereof to comply with the laws, codes, regulations,
6 ordinances, rules and/or other forms of legislation governing the traffic control signals in said
7 cities at which a traffic control signal violation monitoring system is located.

8 (b) As used in this act, the following words shall, unless the content clearly indicates
9 otherwise, have the following meanings: "Local measure", shall mean the ordinances, rules and
10 regulations adopted by the City of Boston or the City of Cambridge, whichever is applicable,
11 establishing a schedule of fines imposed on the owner of a motor vehicle for failure by the
12 operator thereof to comply with the laws, codes, regulations, ordinances, rules and/or other forms
13 of legislation governing the traffic control signals in said cities at which a traffic control signal

14 violation monitoring system is located; "Motor vehicle", shall have the meaning provided in
15 section 1 of chapter 90 of the General Laws; "Operator", shall have the meaning provided in
16 section 1 of chapter 90 of the General Laws; "Owner", shall have the meaning provided in
17 section 1 of chapter 90 of the General Laws; "Traffic control signal violation monitoring
18 system", shall mean an automated motor vehicle sensor device installed to work in conjunction
19 with a traffic control signal which produces two or more wet-film photographs, two or more
20 digital photographs, two or more microphotographs, streaming video images, or other recorded
21 images of each motor vehicle at the time it is used or operated in a manner that is in violation of
22 the traffic control signal at which the automated monitoring system is located. The photographs,
23 microphotographs, streaming video images, or other recorded images must, at a minimum,
24 record the rear of the motor vehicle, with at least one of the images clearly recording the motor
25 vehicle behind the stop bar immediately prior to the violation of the traffic control signal, and at
26 least one image recording the motor vehicle passing through the intersection in violation of the
27 traffic control signal. Additionally, at least one of the images must clearly identify the
28 registration plate of the motor vehicle; "Violation", shall mean the failure of an operator of a
29 motor vehicle to comply with the laws, codes, regulations, ordinances, rules and/or other forms
30 of legislation governing the traffic control signals at which a traffic control signal violation
31 monitoring system is located.

32 (c) No traffic control signal violation monitoring system shall be utilized in such a
33 manner as to take a frontal view photograph of the motor vehicle that is in violation of the traffic
34 control signal.

35 (d) A certificate, or a facsimile thereof, based upon inspection of photographs,
36 microphotograph, streaming video, or other recorded images produced by a traffic control signal

37 violation monitoring system, and sworn to or affirmed by a police officer authorized to issue
38 citations for violations of traffic signals at the subject intersection, shall be prima facie evidence
39 of the facts contained therein. No photographs, microphotographs, streaming video, or other
40 recorded images taken in conformance with this act shall be discoverable in any judicial or
41 administrative proceeding other than a proceeding held pursuant to this act; and no photographs,
42 microphotographs, streaming video, or other recorded images taken in conformance with this act
43 shall be admissible in any judicial or administrative proceeding other than in a proceeding to
44 adjudicate liability for such violation of this act.

45 (e) For each violation pursuant to this act, the owner or owners of a vehicle shall be
46 liable for the penalty imposed by a local measure; provided, however, that no owner of a vehicle
47 shall be liable for a penalty imposed pursuant to this act where the operator of such vehicle has
48 been convicted of the underlying violation pursuant to a citation issued in accordance with
49 section 2 of chapter 90C of the General Laws, and provided, further, that the maximum penalty
50 that may be imposed pursuant this act shall be One Hundred Dollars (\$100.00) for each
51 violation.

52 (f) A penalty imposed by a local measure may, if so provided in the local measure,
53 be increased by up to 33 1/3% if said fine remains unpaid in excess of 30 days after a notice of
54 violation has been issued consistent with the procedures established in section 20A 1/2 of chapter
55 90 of the General Laws.

56 (g) A penalty imposed by a local measure for a violation pursuant to this act shall not
57 be deemed a criminal conviction and shall not be made part of the operating record of the person
58 upon whom such liability is imposed, nor shall such imposition of a penalty be subject to merit

59 rating for insurance purposes and no surcharge points shall be imposed in the provision of motor
60 vehicle insurance coverage.

61 SECTION 2. (a) The compensation paid to the manufacturer or vendor of the traffic
62 control signal monitoring system deployed as a means of promoting traffic safety as authorized
63 herein shall not be based upon the number of traffic citations issued or any portion or percentage
64 of the fine generated by such citations. The compensation paid to such manufacturer or vendor of
65 the equipment shall be based upon the value of such equipment and the services provided or
66 rendered in support of the traffic control signal monitoring system.

67 (b) Other than for purposes of enforcement of a violation of this act or for purposes of an
68 owner defending a violation of this act, no private entity or individual may obtain photographs,
69 microphotographs, streaming video or other recorded images or records taken pursuant to this
70 act.

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

75 (b) It shall be the duty of the parking clerk of the city employing its traffic control signal
76 violation monitoring system to deliver the notice of violation to the registered owner or owners
77 of any motor vehicle identified in any photographs, microphotographs, streaming video or other
78 recorded images produced by such device as evidence of a violation pursuant to this act. Such
79 notice shall contain but not be limited to the following information: a copy of the aforementioned
80 recorded images showing the vehicle in violation of the traffic signal, the registration number

81 and state of issuance of said registration number of the vehicle; the date, time and intersection
82 location of the violation; the specific violation charged; a schedule of fines for such violation as
83 established by the city or town; instructions for the return of the notice; and text as follows: "This
84 notice may be returned personally, by mail, or by an agent authorized in writing. A hearing may
85 be obtained upon the written request of the registered owner in writing. Failure to obey this
86 notice within 30 days of issuance of this notice will result in the non-renewal or suspension of
87 the license to drive and the certificate of registration of the registered owner."

88 (c) In the case of a violation involving a motor vehicle registered under the laws of the
89 Commonwealth, such notice of violation shall be mailed within 14 days of the violation,
90 exclusive of Sundays and holidays, to the address of the registered owner or owners as listed in
91 the records of the registrar of motor vehicles. In the case of any motor vehicle registered under
92 the laws of another state or country, such notice of violation shall be mailed within 21 days of
93 the violation, exclusive of Sundays and holidays, to the address of the registered owner or
94 owners as listed in the records of the official in such state or country having charge of the
95 registration of such motor vehicle. If said address is unavailable, it shall be sufficient for the
96 parking clerk to mail notice of violation to the official in such state or country having charge of
97 the registration of such motor vehicle.

98 (d) Notice of violation shall be sent by first class mail in accordance with subsection (c)
99 and shall include an affidavit form approved by the parking clerk for the purpose of complying
100 with subsection (g). A manual or automatic record of mailing prepared by the parking clerk in
101 the ordinary course of business shall be prima facie evidence thereof, and shall be admitted as
102 evidence in any judicial or administrative proceeding, as to the facts contained therein.

103 (e) Any motor vehicle owner to whom notice of violation has been issued pursuant to this
104 act may admit responsibility for such violation and pay the fine provided therein. Payment shall
105 be made either personally or through a duly authorized agent, or by appearing before the parking
106 clerk during normal office hours, or by mailing both payment and notice of the violation to the
107 parking clerk. Payment by mail shall be made only by money order, credit card or check made
108 out to the parking clerk. Payment of the established fine and any applicable penalties shall
109 operate as a final disposition of the case. Payment of the fine by one motor vehicle owner shall
110 be satisfaction of the fine as to all other motor vehicle owners of the same motor vehicle for the
111 same violation.

112 (f) Any owner to whom a notice of violation has been issued may, within 30 days of the
113 mailing of said notice by the parking clerk, request a hearing to contest the liability alleged in
114 said notice. A hearing request shall be made either personally or through a duly authorized agent
115 by appearing before the parking clerk during regular business hours or by mailing a request in
116 writing to the parking clerk. Upon receipt of a hearing request, the parking clerk shall forthwith
117 schedule the matter before a person hereafter referred to as a hearing officer, said hearing officer
118 to be the parking clerk of the city wherein the violation occurred or such other person or persons
119 as the parking clerk may designate. Written notice of the date, time and place of said hearing
120 shall be sent by first class mail to each registered owner. Said hearing shall be informal, the rules
121 of evidence shall not apply, and the decision of the hearing officer shall be final subject to
122 judicial review as outlined by section 14 of Chapter 30A of the General Laws. Within twenty-
123 one days of the hearing, the parking clerk or the hearing officer should send by first class mail to
124 the registered owner or owners the decision of the hearing officer, including the reasons for the
125 outcome.

126 Any owner to whom a notice of violation has been issued shall not be liable for a
127 violation under the provisions of this act (1) if the violation was necessary to allow the passage
128 of an emergency vehicle; (2) if the violation was necessary in order to protect the property or
129 person of another; (3) if the violation was incurred while participating in a funeral procession;
130 (4) if the violation was incurred during a period of time in which the motor vehicle was reported
131 to the police department of any state, city or town as having been stolen and had not been
132 recovered prior to the time the violation occurred; (5) if the operator of the motor vehicle was
133 operating the motor vehicle under a rental or lease agreement and the owner of the motor vehicle
134 is a rental or leasing company and has complied with the provisions of section 20E of chapter 90
135 of the General Laws; (6) if the operator of the motor vehicle was convicted of the underlying
136 violation pursuant to a citation issued in accordance with section 2 of chapter 90C of the General
137 Laws; or (7) if the violation was necessary to comply with any other law or regulation governing
138 the operation of a motor vehicle at the intersection. An owner disputing a violation under this
139 section shall, within 30 days, provide the parking clerk with a signed affidavit in a form
140 approved by the parking clerk, as provided for in subsection (d), stating (1) the reason for
141 disputing the violation; (2) the full legal name and address of the owner of the motor vehicle; (3)
142 the full legal name and address of the operator of the motor vehicle at the time the violation
143 occurred; (4) the names and addresses of all witnesses supporting the owner's defense and the
144 specifics of their knowledge; and where applicable (5) the signed statements from witnesses.

145 If an owner to whom notice of violation has been issued either fails to pay the fine
146 provided for in said notice in accordance with subsection (e), or fails to receive a favorable
147 adjudication of said notice from a hearing officer in accordance with subsection (f), the parking
148 clerk shall notify the registrar of motor vehicles who shall place the matter on record. Upon

149 notification to the registrar of two or more notices under this act and/or sections 20A and 20A
150 1/2 of chapter 90 of the General Laws from the parking clerk of either city or state authorities or
151 agencies, the registrar shall not issue or renew or may suspend such owner's license to operate a
152 motor vehicle or motor vehicle registration until after notification from the parking clerk of each
153 city, agency or authority, from whom the registrar received notification, that all fines, taxes and
154 penalties owed by such owner pursuant to either this section, or arising out of the parking or
155 usage of such owner's motor vehicles, have been disposed of in accordance with law. Upon such
156 notification to the registrar, an additional charge of \$20 payable to the registrar but collected by
157 the city, and an additional charge of \$20 payable to and collected by the city, shall be assessed
158 against the registered owner of said motor vehicle. It shall be the duty of the parking clerk to
159 notify the registrar forthwith that such case has been so disposed; provided, however, that
160 certified receipt of full and final payment from the parking clerk of the city or state agency or
161 authority issuing such violation shall also serve as legal notice to the registrar that said violation
162 has been disposed of in accordance with law. The certified receipt shall be printed in such form
163 as the registrar of motor vehicles may approve.

164 Upon the accumulation by an owner of five or more outstanding notices under this act
165 and/or sections 20A and 20A 1/2 of chapter 90 of the General Laws on account of violations of
166 any statute, ordinance, order, rule or regulation relating to the operation, control or parking of
167 motor vehicles in a particular city, notwithstanding any notification to the registrar, the parking
168 clerk of such city may notify the chief of police or director of traffic and parking of such city that
169 the vehicle bearing the registration to which said notices have been issued shall be removed and
170 stored or otherwise immobilized by a mechanical device at the expense of the registered owner
171 of such vehicle until such time as all fines, taxes and penalties owed by such owner pursuant to

172 either this section, or arising out of the parking or usage of such owner's motor vehicle have been
173 disposed of in accordance with law. No vehicle shall be removed, stored, or otherwise
174 immobilized until and unless the owner of such motor vehicle shall have received 10 days
175 notification by mail that such motor vehicle may be removed, stored, or immobilized without
176 further notification. It shall be sufficient for the parking clerk to mail, postage prepaid, said
177 notification to the last known address of the registered owner. It shall be sufficient for the
178 parking clerk, in the case of a motor vehicle registered in another state or country, to mail
179 notification to the official in such state or country having charge of the registration of such motor
180 vehicle.

181 Photographic and other recorded evidence obtained through the use of automated
182 enforcement devices deployed as a means of promoting traffic safety authorized herein within
183 the Cities of Boston and Cambridge shall be destroyed within 1 year of final disposition of any
184 recorded event. Said cities shall file notice annually with the Secretary of State that said records
185 have been destroyed in accordance with this section.

186 The administrator of the traffic control signal monitoring system within the Cities of
187 Boston and Cambridge authorized herein shall submit a report regarding the use and operation of
188 the traffic control signal monitoring system. Said report shall include the results of using the
189 automated enforcement devices and the procedures for enforcement, as well as any enhancement
190 of citywide traffic safety and enforcement programs. The administrators shall submit said report,
191 including any recommended legislation, to the joint committee on public safety, the joint
192 committee on the judiciary and the senate and house committees on ways and means on or before
193 July 1, 2009.

SECTION 4. The provisions of this act shall be repealed as of July 1, 2010.