HOUSE DOCKET, NO. 1910 FILED ON: 1/20/2011

HOUSE . . . . . No. 1799

The Commonwealth of Massachusetts

PRESENTED BY:

John D. Keenan

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 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:	DISTRICT/ADDRESS:
John D. Keenan	*7th Essex*
Michael O. Moore	

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HOUSE . . . . . No. 1799

By Mr. Keenan of Salem, a petition (accompanied by bill, House, No. 1799) of John D. Keenan and Michael O. Moore relative to the use of automated road safety camera systems to promoting traffic safety in the cities of the Commonwealth. Transportation.

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:

SECTION 1. (a) Notwithstanding the provisions of any general or special law to the contrary, any city town or political subdivision may, upon the acceptance of this act, employ an automated road safety camera system which may be both mobile and fixed along any portion of any ways within its control and may promulgate local measures imposing a penalty on the owner of a motor vehicle for failure by the operator thereof to comply with the laws, codes, regulations, ordinances, rules and/or other forms of legislation governing traffic law and regulations in said cities at which an automated safety camera violation monitoring system is located.

(b)As used in this act, the following words shall, unless the content clearly indicates otherwise, have the following meanings: "Local measure", shall mean the ordinances, rules and regulations adopted by any city town or political subdivision, whichever is applicable, establishing a schedule of fines imposed on the owner of a motor vehicle for failure by the operator thereof to comply with the laws, codes, regulations, ordinances, rules and/or other forms

13 of legislation governing the traffic laws and regulations in said cities at which an automated road
14 safety camera system is located; "Motor vehicle", shall have the meaning provided in section 1
15 of 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
28 frontal 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
30 by an automated road safety camera system, and sworn to or affirmed by a law enforcement
31 employee authorized to issue citations for violations of traffic laws and regulations, shall be
32 prima facie evidence of the facts contained therein. No photographs taken in conformance with
33 this act shall be discoverable in any judicial or administrative proceeding other than a proceeding
34 held pursuant to this act or during the resolution of a crime; and no photograph taken in

35 conformance with this act shall be admissible in any judicial or administrative proceeding other
36 than in a 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
38 for the penalty imposed by a local measure; provided, however, that no owner of a vehicle shall
39 be 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
45 increased by up to 33 1/3% if said fine remains unpaid in excess of 60 days after a notice of
46 violation has been issued consistent with the procedures established in section 20A 1/2 of chapter
47 90 of the General Laws.

48 (g) A penalty imposed by a local measure for a violation pursuant to this act shall not be
49 deemed a criminal conviction and shall not be made part of the operating record of the person
50 upon whom such liability is imposed, nor shall such imposition of a penalty be subject to merit
51 rating 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
54 road safety camera system deployed as a means of promoting traffic safety as authorized herein
55 shall be based on the value of the equipment or services provided and may not be based on the
56 number 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
58 owner 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
61 and coordinate the administration of violations issued pursuant to Section 1. The parking clerk
62 shall have the authority to hire and designate such personnel as may be necessary or contract for
63 such 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
65 safety camera system to cause the notice of violation to the registered owner or owners of any
66 motor 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)
87 and shall include an affidavit form approved by the parking clerk for the purpose of complying
88 with subsection (g). A manual or automatic record of mailing processed by or on behalf of the
89 parking clerk in the ordinary course of business shall be prima facie evidence thereof, and shall
90 be 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
93 act may admit responsibility for such violation and pay the fine provided therein. Payment shall
94 be 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
102 mailing of said notice by the parking clerk, request a hearing to contest the liability alleged in
103 said notice. A hearing request shall be made either personally, via the internet or through a duly
104 authorized agent by appearing before the parking clerk during regular business hours or by
105 mailing a request in writing to the parking clerk. Upon receipt of a hearing request, the parking
106 clerk shall forthwith schedule the matter before a person hereafter referred to as a hearing officer,
107 said hearing officer to be the parking clerk of the city wherein the violation occurred or such
108 other person or persons as the parking clerk may designate. Written notice of the date, time and
109 place of said hearing shall be sent by first class mail to each registered owner. The decision of
110 the hearing officer shall be final subject to judicial review as outlined by section 14 of Chapter
111 30A of the General Laws. Within twenty-one days of the hearing, the parking clerk or the
112 hearing officer should send by first class mail to the registered owner or owners the decision of
113 the 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
115 violation under the provisions of this act (1) if the violation was necessary to allow the passage
116 of an emergency vehicle; (2) if the violation was incurred while participating in a funeral
117 procession; (3) if the violation was incurred during a period of time in which the motor vehicle
118 was reported to the police department of any state, city or town as having been stolen and had
119 not been recovered prior to the time the violation occurred; (4) if the operator of the motor
120 vehicle was operating the motor vehicle under a rental or lease agreement and the owner of the
121 motor vehicle is a rental or leasing company and has complied with the provisions of section 20E
122 of chapter 90 of the General Laws; (6) if the operator of the motor vehicle was convicted of the
123 underlying violation pursuant to a citation issued in accordance with section 2 of chapter 90C of

124 the General Laws; or (7) if the violation was necessary to comply with any other law or
125 regulation governing the operation of a motor vehicle. An owner disputing a violation under this
126 section shall, within 30 days, provide the parking clerk with a signed affidavit in a form
127 approved by the parking clerk, as provided for in subsection (d), stating (1) the reason for
128 disputing the violation; (2) the full legal name and address of the owner of the motor vehicle; (3)
129 the full legal name and address of the operator of the motor vehicle at the time the violation
130 occurred; (4) the names and addresses of all witnesses supporting the owner's defense and the
131 specifics of their knowledge; 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
134 favorable adjudication of said notice from a hearing officer in accordance with subsection (f), the
135 parking clerk shall notify the registrar of motor vehicles who shall place the matter on record.
136 Upon notification to the registrar of two or more notices under this act and/or sections 20A and
137 20A 1/2 of chapter 90 of the General Laws from the parking clerk of either city or state
138 authorities or agencies, the registrar shall not issue or renew or may suspend such owner's motor
139 vehicle registration until after notification from the parking clerk of each city, agency or
140 authority, from whom the registrar received notification, that all fines, taxes and penalties owed
141 by such owner pursuant to either this section, or arising out of the parking or usage of such
142 owner's motor vehicles, have been disposed of in accordance with law. Upon such notification to
143 the registrar, an additional charge of $20, payable to the registrar, but collected by the city, and
144 an additional charge of $20 payable to and collected by the city shall be assessed against the
145 registered owner of said motor vehicle. It shall be the duty of the parking clerk to notify the
146 registrar forthwith that such case has been so disposed; provided, however, that certified receipt

147 of full and final payment from the parking clerk of the city or state agency or authority issuing
148 such violation shall also serve as legal notice to the registrar that said violation has been disposed
149 of in accordance with law. The certified receipt shall be printed in such form as the registrar of
150 motor vehicles may approve.

151 (i) Upon the accumulation by an owner of two or more outstanding notices under this act
152 and/or sections 20A and 20A 1/2 of chapter 90 of the General Laws on account of violations of
153 any statute, ordinance, order, rule or regulation relating to the operation, control or parking of
154 motor vehicles in a particular city, notwithstanding any notification to the registrar, the parking
155 clerk of such city may notify the chief of police or director of traffic and parking of such city that
156 the 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
169 safety 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
174 days of 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
178 signal installation must comply with the standards set forth in the Manual on Uniform Traffic
179 Control Devices. If it is determined that the automated road safety camera system is not in
180 compliance with these standards, it shall be the responsibility of the city or town installing the
181 system to bring it into compliance. Verification that the traffic control signal meets these
182 standards shall be made by a professional engineer registered in the commonwealth.