

**HOUSE . . . . . No. 2914**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Kevin G. Honan***

*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:	DATE ADDED:
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>1/21/2011</i>

**HOUSE . . . . . No. 2914**

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By Mr. Honan of Boston, a petition (accompanied by bill, House, No. 2914) of Kevin G. Honan for legislation to permit the use of automated road safety camera systems. Public Safety and Homeland Security.

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Eleven**  
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**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:*

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