

HOUSE No. 3317

The Commonwealth of Massachusetts

PRESENTED BY:

Christopher N. Speranzo and Benjamin B. Downing

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 traffic control signal violation monitoring system devices as a means of promoting traffic safety in the city of Pittsfield.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Christopher N. Speranzo</i>	<i>3rd Berkshire</i>	<i>1/25/2011</i>

HOUSE No. 3317

By Mr. Speranzo of Pittsfield and Senator Downing, a joint petition (accompanied by bill, House, No. [billNo]) of Christopher N. Speranzo for legislation to permit the use of traffic control signal violation monitoring system devices as a means of promoting traffic safety in the city of Pittsfield . Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act permitting the use of traffic control signal violation monitoring system devices as a means of promoting traffic safety in the city of Pittsfield.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Notwithstanding the provisions of any general or special law to the contrary the City of
2 Pittsfield may employ a traffic control signal violation monitoring system and electronic speed
3 monitoring system may be both mobile and fixed along any portion of any ways within its
4 control and may promulgate local measures imposing a penalty on the owner of a motor vehicle
5 for failure by the operator thereof to comply with the laws, codes, regulations, ordinances, rules
6 and/or other forms of legislation governing the traffic control signals in said cities at which a
7 traffic control signal violation monitoring system is located.

8 (a) 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 Pittsfield establishing a schedule of fines imposed on the
11 owner of a motor vehicle for failure by the operator thereof to comply with the laws, codes,
12 regulations, ordinances, rules and/or other forms of legislation governing the traffic control

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

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

33 (c) A certificate or a facsimile thereof, based upon inspection of photographs produced
34 by a traffic control signal violation monitoring system, and sworn to or affirmed by a police
35 officer authorized to issue citations for violations of traffic signals at the subject intersection,

36 shall be prima facie evidence of the facts contained therein. No photographs taken in
37 conformance with this act shall be discoverable in any judicial or administrative proceeding
38 other than a proceeding held pursuant to this act; and no photograph taken in conformance with
39 this act shall be admissible in any judicial or administrative proceeding other than in a
40 proceeding to adjudicate liability for such violation of this act.

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

48 (e) A penalty imposed by a local measure may, if so provided in the local measure, be
49 increased by up to 33 1/3% if said fine remains unpaid in excess of 30 days after a notice of
50 violation has been issued consistent with the procedures established in section 20A 1/2 of chapter
51 90 of the General Laws.

52 (f) A penalty imposed by a local measure for a violation pursuant to this act shall not
53 be deemed a criminal conviction and shall not be made part of the operating record of the person
54 upon whom such liability is imposed, nor shall such imposition of a penalty be subject to merit
55 rating for insurance purposes and no surcharge points shall be imposed in the provision of motor
56 vehicle insurance coverage.

57 SECTION 2

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

64 (b) Other than for purposes of enforcement of a violation of this act or for purposes of
65 an owner defending a violation of this act, no private entity or individual may obtain photographs
66 or records taken pursuant to this act.

67 SECTION 3

68 (a) The parking clerk designated or appointed by the City of Pittsfield shall supervise
69 and coordinate the administration of violations issued pursuant to Section 1. The parking clerk
70 shall have the authority to hire and designate such personnel as may be necessary or contract for
71 such services to implement the provisions of this section.

72 (b) It shall be the duty of the parking clerk of the City of Pittsfield to cause the notice
73 of violation to the registered owner or owners of any motor vehicle identified in any photographs
74 produced by such device as evidence of a violation pursuant to this act. Such notice shall contain
75 but not be limited to the following information: a copy of the aforementioned recorded images
76 showing the vehicle in violation of the traffic signal, the registration number and state of
77 issuance of said registration number of the vehicle; the date, time and intersection location of the
78 violation; the specific violation charged; a schedule of fines for such violation as established by
79 the city or town; instructions for the return of the notice; and text as follows: "This notice may be

80 returned personally, by mail, or by an agent authorized in writing. A hearing may be obtained
81 upon the written request of the registered owner in writing. Failure to obey this notice within 30
82 days of issuance of this notice will result in the non-renewal or suspension of the license to drive
83 and the certificate of registration of the registered owner."

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

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

100 (e) Any motor vehicle owner to whom notice of violation has been issued pursuant to
101 this act may admit responsibility for such violation and pay the fine provided therein. Payment

102 shall be made either personally or through a duly authorized agent, or by appearing before the
103 parking clerk during normal office hours, or by mailing both payment and notice of the violation
104 to the parking clerk. Payment by mail shall be made only by money order, credit card or check
105 made out to the parking clerk. Payment of the established fine and any applicable penalties shall
106 operate as a final disposition of the case. Payment of the fine by one motor vehicle owner shall
107 be satisfaction of the fine as to all other motor vehicle owners of the same motor vehicle for the
108 same violation.

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

123 (g) Any owner to whom a notice of violation has been issued shall not be liable for a
124 violation under the provisions of this act (1) if the violation was necessary to allow the passage

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

142 (h) If an owner to whom notice of violation has been issued either fails to pay the fine
143 provided for in said notice in accordance with subsection (e), or fails to receive a favorable
144 adjudication of said notice from a hearing officer in accordance with

145 Subsection (f), the parking clerk shall notify the registrar of motor vehicles who shall
146 place the matter on record. Upon notification to the registrar of two or more notices under this
147 act and/or sections 20A and 20A 1/2 of chapter 90 of the General Laws from the parking clerk of

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

161 (i) Upon the accumulation by an owner of two or more outstanding notices under this
162 act and/or sections 20A and 20A 1/2 of chapter 90 of the General Laws on account of violations
163 of any statute, ordinance, order, rule or regulation relating to the operation, control or parking of
164 motor vehicles in a particular city, notwithstanding any notification to the registrar, the parking
165 clerk of such city may notify the chief of police or director of traffic and parking of such city that
166 the vehicle bearing the registration to which said notices have been issued shall be removed and
167 stored or otherwise immobilized by a mechanical device at the expense of the registered owner
168 of such vehicle until such time as all fines, taxes and penalties owed by such owner pursuant to
169 either this section, or arising out of the parking or usage of such owner's motor vehicle have been
170 disposed of in accordance with law. No vehicle shall be removed, stored, or otherwise

171 immobilized until and unless the owner of such motor vehicle shall have received 10 days
172 notification by mail that such motor vehicle may be removed, stored, or immobilized without
173 further notification. It shall be sufficient for the parking clerk to mail, postage prepaid, said
174 notification to the last known address of the registered owner. It shall be sufficient for the
175 parking clerk, in the case of a motor vehicle registered in another state or country, to mail
176 notification to the official in such state or country having charge of the registration of such motor
177 vehicle.

178 (j) Photographic and other recorded evidence obtained through the use of automated
179 enforcement devices deployed as a means of promoting traffic safety authorized herein shall be
180 destroyed within 1 year of final disposition of any recorded event. The City of Pittsfield shall file
181 notice annually with the Secretary of State that said records have been destroyed in accordance
182 with this section.

183 (k) The administrator of the traffic control signal monitoring system within the City of
184 Pittsfield shall submit a report regarding the use and operation of the traffic control signal
185 monitoring system to the Massachusetts Department of Transportation.