

**SENATE . . . . . No. 1724**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*James T. Welch*

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*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 establishing a pilot program for traffic violation monitoring system.

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PETITION OF:

NAME:

*James T. Welch*

DISTRICT/ADDRESS:

*Hampden*

**SENATE . . . . . No. 1724**

By Mr. Welch, a petition (accompanied by bill, Senate, No. 1724) of James T. Welch for legislation to establish a pilot program for traffic violation monitoring system. Transportation.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act establishing a pilot program for traffic violation monitoring system.

*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. Notwithstanding any general or special law or rule or regulation to the  
2 contrary, the secretary of Massachusetts department of transportation, in consultation with the  
3 secretary of the executive office of public safety, shall promulgate regulations and recommend  
4 guidelines for a pilot program of five municipalities to employ a traffic violation monitoring  
5 system, either mobile or fixed along any portion of any ways within its control, whereupon such  
6 municipalities may promulgate local measures imposing a penalty on the owner of a motor  
7 vehicle for failure by the operator thereof to comply with the laws, codes, regulations,  
8 ordinances, rules and/or other forms of legislation governing the traffic control signals in said  
9 municipality at which a traffic violation monitoring system is located.

10 The regulations and guidelines shall, at a minimum, adhere to the following:-

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

14 (b) A certificate, electronic certificate or a facsimile thereof, based upon inspection of  
15 photographs produced by a traffic violation monitoring system, and sworn to or electronically  
16 affirmed to by a police officer authorized to issue citations for violations of traffic signals at the  
17 subject intersection or other enforcement zone, shall be prima facie evidence of the facts  
18 contained therein; provided no citation shall issue if any part of a vehicle is within the  
19 intersection during a yellow light.

20 (c) No photographs taken in conformance with this act shall be discoverable in any  
21 judicial or administrative proceeding other than a proceeding held pursuant to this act without a

22 court order; and no photograph taken in conformance with this act shall be admissible in any  
23 judicial or administrative proceeding other than in a proceeding to adjudicate liability for such  
24 violation of this act without a court order.

25 (d) For each violation pursuant to this act, the owner or owners of a vehicle shall be liable  
26 for the penalty imposed by a local measure; provided, however, that no owner of a vehicle shall  
27 be liable for a penalty imposed pursuant to this act where the operator of such vehicle has been  
28 convicted of the underlying violation pursuant to a citation issued in accordance with section 2 of  
29 chapter 90C of the General Laws, and provided, further, that the maximum penalty that may be  
30 imposed pursuant this act shall be One Hundred Dollars (\$100.00) for each violation, excluding  
31 delinquent collection fees. A penalty of up to 33 1/3%, shall be assessed if said fine remains  
32 unpaid in excess of 30 days after a notice of violation has been issued consistent with the  
33 procedures established in section 20A 1/2 of chapter 90 of the General Laws.

34 (e) A penalty imposed by a local measure for a violation pursuant to this act shall not be  
35 deemed a criminal conviction and shall not be made part of the operating record of the person  
36 upon whom such liability is imposed, nor shall such imposition of a penalty be subject to merit  
37 rating for insurance purposes, no points shall be assessed against the driver's license of the  
38 owner or driver of the vehicle, and no surcharge points shall be imposed in the provision of  
39 motor vehicle insurance coverage.

40 (f) Any motor vehicle owner to whom notice of violation has been issued pursuant to this  
41 act may admit responsibility for such violation and pay the fine provided therein. Payment shall  
42 be made either via the internet, or personally or through a duly authorized agent, or by appearing  
43 before the parking clerk during normal office hours, or by mailing both payment and notice of  
44 the violation to the address designated on the violation notice. Payment by mail shall be made  
45 only by money order, credit card or check made out to the parking clerk. Payment of the  
46 established fine and any applicable penalties shall operate as a final disposition of the case.  
47 Payment of the fine by one motor vehicle owner shall be satisfaction of the fine as to all other  
48 motor vehicle owners of the same motor vehicle for the same violation.

49 (g) Any owner to whom a notice of violation has been issued may, within 15 days of the  
50 mailing of said notice by the parking clerk, request a hearing to contest the liability alleged in  
51 said notice. Said hearing shall be informal, the rules of evidence shall not apply, and the decision  
52 of the hearing officer shall be final subject to judicial review as outlined by section 14 of Chapter  
53 30A of the General Laws.

54 (h) The compensation paid to the manufacturer or vendor of the traffic monitoring system  
55 shall not be based upon the number of traffic citations issued or a percentage of the fine  
56 generated by such citations. The compensation paid to such manufacturer or vendor of the  
57 equipment may be based upon the value of such equipment (including its maintenance and

58 installation), fees and overhead costs incurred in delivering the program, and the services  
59 provided or rendered in support of the traffic violation monitoring system.

60 (i) The administrator of the traffic control signal monitoring system within the  
61 municipality shall submit an annual report regarding the use and operation of the traffic violation  
62 monitoring system to the Massachusetts Department of Transportation.

63 (j) To be eligible for this pilot program, a municipality must have local approval from its  
64 applicable municipality council or board of selectmen unless otherwise already authorized to  
65 pursue the same through legislation filed in accordance with section 8A of chapter 3. No  
66 municipality with a population of less than 25,000 shall be eligible for this pilot program. No  
67 more than five municipalities will be selected for this pilot program. Eligible municipalities  
68 must conduct procurement under chapter 30B to provide for a vendor of the traffic monitoring  
69 system.

70 These regulations shall be promulgated and forwarded to the chairs of the senate and  
71 house committees on ways and means and the senate and house chairs of the joint committee on  
72 transportation within 90 days after the effective date of this act.

73 For purposes of this and the following section, "traffic violation monitoring system" shall  
74 mean an automated motor vehicle sensor and camera device which produces two or more digital  
75 photographs and/or videos of each motor vehicle at the time it is used or operated in a manner  
76 that is in violation of the traffic control signal at which the automated monitoring system is  
77 located. The photographs, must, at a minimum, record the rear of the motor vehicle, with at least  
78 one of the images clearly recording the motor vehicle behind the stop bar immediately prior to  
79 the violation of the traffic control signal, and at least one image recording the motor vehicle  
80 passing through the intersection in violation of the traffic control signal. Additionally, at least  
81 one of the images must clearly identify the license/registration plate of the motor vehicle,

82 SECTION 2. Notwithstanding any general or special law or rule or regulation to the  
83 contrary, the secretary of the Massachusetts department of transportation shall submit to the  
84 clerks of the senate and house of representatives, the chairs of the senate and house committees  
85 on ways and means and the senate and house chairs of the joint committee on transportation an  
86 annual report detailing the results of this pilot program. Said report shall include, but not be  
87 limited to, the cost to each municipality for implementing said traffic monitoring system, the  
88 number of infractions issued, the impact of applicable traffic monitoring violation systems on  
89 reducing accidents, the amount of fines issued and savings realized from any reduction in  
90 accidents at intersections where traffic violation monitoring systems are located. The report shall  
91 be submitted not later than December 31st of each year.