

HOUSE No. 4245

The Commonwealth of Massachusetts

PRESENTED BY:

Paul F. Tucker and Joan B. Lovely

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 authorizing the city of Salem to employ automated enforcement of speed limit violations in designated school zones within the city of Salem.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul F. Tucker</i>	<i>7th Essex</i>	<i>12/4/2019</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>12/4/2019</i>

HOUSE No. 4245

By Representative Tucker of Salem and Senator Lovely, a joint petition (accompanied by bill, House, No. 4245) of Paul F. Tucker and Joan B. Lovely (with the approval of the mayor and the city council) that the city of Salem be authorized to employ automated enforcement of speed limit violations in designated school zones within said city. Transportation. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act authorizing the city of Salem to employ automated enforcement of speed limit violations in designated school zones within the city of Salem.

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. As used in this chapter, the following words shall, unless the context clearly
2 requires otherwise, have the following meanings:-

3 "Automated Road Safety Camera System" shall mean an automated motor vehicle sensor
4 device installed which produces digital photographs and may record the speed of each motor
5 vehicle at the time it is operated in a manner that is in violation of traffic laws and regulations
6 where the automated road camera safety system is located.

7 "Camera Enforceable Violation" shall mean a violation of the traffic laws which may be
8 enforced by an automated road safety camera system, limited to exceeding the speed limit
9 pursuant to section 17 or section 18 of chapter 90 while travelling in a designated school zone.

10 "City" shall mean the City of Salem, Massachusetts.

11 “Designated School Zone” shall mean within 300 feet of the real property comprising a
12 public or private accredited preschool, accredited headstart facility, elementary, vocational or
13 secondary school if the violation occurs between 5:00 a.m. and midnight, whether or not school
14 is in session.

15 Section 2. (a) The City of Salem may employ an automated road safety camera system as
16 a means of promoting traffic safety in a designated school zone, which may be fixed along any
17 portion of any ways within a designated school zone its control, or within a designated school
18 zone in the control of the commonwealth with written permission from the department of
19 transportation and may impose a penalty on the owner of a motor vehicle for failure by the
20 operator thereof to comply with traffic laws and regulations.

21 (b) The City may employ no more than two fixed automated road safety camera systems
22 per designated school zone.

23 Section 3. (a) The maximum fine imposed for a violation issued pursuant to this chapter
24 shall be twenty five dollars per violation. For violations issued pursuant to this chapter, except as
25 provided in section 4, the owner or owners of a vehicle shall be liable for the fine, however, no
26 owner of a vehicle shall be responsible for a violation issued pursuant to this chapter where the
27 operator of the motor vehicle was issued a citation for the underlying violation in accordance
28 with section 2 of chapter 90C of the General Laws. The city may send a written warning to the
29 owner or owners in lieu of enforcement for the purpose of education.

30 (b) A certificate, or a facsimile thereof, based upon inspection of photographs and data
31 produced by an automated road safety camera system, and sworn to or affirmed by the police

32 department or designee authorized to issue citations for violations of traffic laws and regulations,
33 shall be prima facie evidence of the facts contained therein.

34 (c) A violation issued by the city shall not be made part of the operating record of the
35 person upon whom such liability is imposed, nor shall such violation be considered a conviction
36 of a moving violation of the motor vehicle laws for the purpose of determining a surcharge on a
37 motor vehicle premium pursuant to section 113B of chapter 175 of the General Laws.

38 (d) The police department shall supervise and coordinate the administration of violations
39 issued in conformance with this chapter. The police department shall have the authority to hire
40 and designate such personnel as may be necessary or contract for such services to implement the
41 provisions of this chapter.

42 (e) It shall be the duty of the police department or designee of a city to cause a notice of
43 violation to the registered owner or owners of a motor vehicle identified in photographs
44 produced by such device as evidence of a violation pursuant to this chapter. Such notice shall
45 contain, but not be limited to, the following information: a copy of the aforementioned recorded
46 images and other data showing the vehicle in the process of a camera enforceable violation; the
47 registration number and state of issuance of the vehicle; the date, time and location of the
48 violation; the specific camera enforceable violation charged; instructions for payment of the
49 violation; instructions to contest the violation in writing; and instructions to obtain a hearing.

50 (f) In the case of a violation involving a motor vehicle registered under the laws of the
51 Commonwealth, a notice of violation shall be mailed within 14 days of the violation to the
52 address of the registered owner or owners as listed in the records of the registrar of motor
53 vehicles. In the case of any motor vehicle registered under the laws of another state or country,

54 such notice of violation shall be mailed within 21 days of the violation to the address of the
55 registered owner or owners as listed in the records of the official in such state or country having
56 charge of the registration of such motor vehicle. If said address is unavailable, it shall be
57 sufficient for the police department or designee to mail a notice of violation to the official in
58 such state or country having charge of the registration of such motor vehicle.

59 (g) A notice of violation shall be sent by first class mail in accordance with subsection (f)
60 and shall include an affidavit form approved by the police department for the purpose of
61 complying with subsection (b). A manual or automatic record of mailing processed by or on
62 behalf of the police department in the ordinary course of business shall be prima facie evidence
63 thereof, and shall be admitted as evidence in any judicial or administrative proceeding, as to the
64 facts contained therein. Unless an owner or owners pay the fine or contest responsibility within
65 60 days of the violation, the provisions of subsection (l) will apply.

66 (h) Any owner to whom a notice of violation has been issued shall not be liable for a
67 violation under the provisions of this chapter if: the violation was necessary to allow the passage
68 of an emergency vehicle; the violation was incurred while participating in a funeral procession;
69 the violation was incurred during a period of time in which the motor vehicle was reported to the
70 police department of any state, city or town as having been stolen and had not been recovered
71 prior to the time the violation occurred; the operator of the motor vehicle was operating the
72 motor vehicle under a rental or lease agreement and the owner of the motor vehicle is a rental or
73 leasing company and has complied with the provisions of section 4 of this chapter; the operator
74 of the motor vehicle was issued a citation for the underlying violation in accordance with section
75 2 of chapter 90C of the General Laws; or, the violation was necessary to comply with any other
76 law or regulation governing the operation of a motor vehicle.

77 (i) Any motor vehicle owner to whom a notice of violation has been issued pursuant to
78 this chapter may admit responsibility for such violation and pay the fine provided therein.
79 Payment may be made personally or through a duly authorized agent, by appearing before the
80 police department's designee during normal office hours, by mailing or online. Payment by mail
81 shall be made by check, money order or credit card to the police department or city. Payment of
82 the established fine and any applicable penalties shall operate as the final disposition of the
83 violation. Payment by one motor vehicle owner shall operate as the final disposition of the
84 violation as to all other motor vehicle owners of the same motor vehicle for the same violation.

85 (j) An owner may contest responsibility for a violation under this chapter in writing by
86 mail or online. The owner shall provide the police department with a signed affidavit in a form
87 approved by the police department, stating: the reason for disputing the violation; the full legal
88 name and address of the owner of the motor vehicle; and the full legal name and address of the
89 operator of the motor vehicle at the time the violation occurred. An owner may include signed
90 statements from witnesses, which include the names and addresses of witnesses, supporting the
91 owner's defense. Within 21 days of receipt, the police department or the hearing officer shall
92 send the decision of the hearing officer, including the reasons for the outcome, by first class mail
93 to the registered owner or owners. If the owner is found responsible for the violation, the owner
94 shall pay the fine in the manner described in (i) within 14 days of the issuance of the decision or
95 request further judicial review pursuant to section 14 of Chapter 30A of the General Laws.

96 (k) An owner may request a hearing to contest responsibility for a violation. A hearing
97 request shall be made in writing by mail or online. Upon receipt of a hearing request, the police
98 department shall schedule the matter before hearing officer. Said hearing officer may be an
99 employee of the police department of the city or such other person or persons as the police

100 department may designate. Written notice of the date, time and place of said hearing shall be sent
101 by first class mail to each registered owner. The hearing shall be informal, the rules of evidence
102 shall not apply, and the decision of the hearing officer shall be final subject to judicial review as
103 outlined by section 14 of Chapter 30A of the General Laws. Within 21 days of the hearing, the
104 police department or the hearing officer should send the decision of the hearing officer, including
105 the reasons for the outcome, by first class mail to the registered owner or owners. If the owner is
106 found responsible for the violation, the owner shall pay the fine in the manner described in (i)
107 within 14 days of the issuance of the decision or request further judicial review pursuant to
108 section 14 of Chapter 30A of the General Laws.

109 (l) If an owner to whom a notice of violation has been issued either fails to pay the fine in
110 said notice in accordance with subsection (i), or is found responsible for the violation and does
111 not pay the fine in accordance with subsection (j) or subsection (k), the police department shall
112 notify the registrar of motor vehicles who shall place the matter on record. Upon receipt of the
113 registrar of five or more of such notices, the registrar shall not issue or renew such owner's motor
114 vehicle registration until after notification from the police department that all fines owed
115 pursuant to this chapter have been paid. It shall be the duty of the police department to notify the
116 registrar forthwith that such case has been so disposed; provided, however, that certified receipt
117 of full and final payment from the police department shall also serve as legal notice to the
118 registrar that said violation has been disposed of in accordance with this chapter. The certified
119 receipt shall be printed in such form as the registrar of motor vehicles may approve.

120 Section 4. (a) Notwithstanding section 3 of this chapter, if the registered owner of a
121 motor vehicle in receipt of a notice of violation is a person or entity engaged in the business of
122 leasing or renting motor vehicles, and such motor vehicle was operating under a rental or lease

123 agreement at the time of a violation, then the provisions of this section shall be applicable, and
124 the registered owner shall not be liable for any unpaid fines; provided, however, that such owner
125 has complied with the procedures of this section.

126 (b) The police department shall give to the registered owner notice in writing of each
127 violation in which a motor vehicle owned by such owner is involved, as set forth in section 3.

128 (c) Within 45 days of the violation, the registered owner shall furnish to such department
129 or designee in writing the name and address of the lessee or rentee of such motor vehicle at the
130 time of the violation; the lessee's or rentee's driver's license number, state of issuance of such
131 driver's license and the lessee's or rentee's date of birth.

132 (d) Such department or designee shall thereupon issue a notice of violation to such lessee
133 or rentee in the form prescribed by section 3 and the lessee or rentee shall be liable for the
134 violation.

135 (e) If such lessee or rentee to whom a notice of violation has been issued either fails to
136 pay the fine in accordance with subsection (i) of section 3, or fails to receive a favorable
137 adjudication of said notice in accordance with subsection (j) of section 3, or subsection (k) of
138 section 3, the police department or designee shall notify the registrar of motor vehicles who shall
139 place the matter on record. Upon notification to the registrar of five or more of such notices
140 under this section, it shall be the duty of the registrar to suspend and not renew the license to
141 operate a motor vehicle of such lessee or rentee or suspend the right to operate of a lessee or
142 rentee not licensed in this commonwealth until after notification from the Salem police
143 department that all fines, taxes and penalties owed by such owner pursuant to either this chapter,
144 have been disposed of in accordance with this chapter. It shall be the duty of the police

145 department to notify the registrar forthwith that such case has been so disposed; provided,
146 however, that certified receipt of full and final payment from the police department shall also
147 serve as notice to the registrar that said violation has been disposed of in accordance this chapter.
148 The certified receipt shall be printed in such form as the registrar of motor vehicles may approve.

149 Section 5. No speed limit violation shall be issued unless the vehicle exceeds the speed
150 limit by at least five miles per hour.

151 Section 6. (a) The city shall install a sign notifying the public that an automated road
152 safety camera system is in use at each location of said camera.

153 (b) The city shall make a public announcement and conduct a public awareness campaign
154 of use of automated road safety camera systems beginning at least 30 days before the
155 enforcement program is in use. The city may install but not activate automated road safety
156 camera systems during said time period.

157 Section 7. (a) The compensation paid to the manufacturer or vendor of the automated
158 road safety camera system as authorized herein shall be based on the value of the equipment or
159 services provided and shall not be based on the number of traffic citations issued or the revenue
160 generated by the systems.

161 (b) Verification that the automated road safety camera system and any appurtenant traffic
162 control signals are correctly calibrated shall be made by a professional engineer registered in the
163 commonwealth.

164 Section 8. (a) Photographs and other recorded evidence shall only be captured when a
165 camera enforceable violation occurs. Photographs and other recorded evidence shall be destroyed
166 within 48 hours of the final disposition of a violation.

167 (b) No photographs taken in conformance with this chapter shall be discoverable in any
168 judicial or administrative proceeding other than a proceeding held pursuant to this chapter
169 without a court order. No photograph taken in conformance with this chapter shall be admissible
170 in any judicial or administrative proceeding other than in a proceeding to adjudicate liability for
171 such violation of this chapter without a court order. A court shall order a release of a photograph
172 taken in conformance with this chapter only where the photograph tends to establish or
173 undermine a finding of a moving violation and the violation is material as to a finding of civil or
174 criminal liability.

175 (c) Photographs and other personally identifying information collected by the city
176 pursuant to this chapter are not public record.

177 (d) No automated road safety camera system shall be utilized in such a manner as to take
178 a frontal view photograph of a motor vehicle.

179 Section 9. This act shall take effect upon its passage.