

SENATE No. 2574

Senate, February 27, 2020 -- Text of amendment (17) (offered by Senator Tarr) to the Senate Bill relative to automated enforcement

The Commonwealth of Massachusetts

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

1 by striking all after the enacting clause and inserting in place thereof the following:-

2 “SECTION_. Notwithstanding any general or law to the contrary, the department of
3 transportation shall develop and implement a three year pilot program for not less than three
4 municipalities and not than five cities or towns to install an automated road safety camera
5 system.

6 SECTION_. For the purposes of this act a photograph and other personal identifying
7 information collected by cities and towns participating in said pilot program established in this
8 act shall not be a considered a public record pursuant to clause twenty-sixth of section 7 of
9 chapter 4 of the general laws.

10 SECTION_. As used in this act, the following words shall have the following meanings
11 unless the context clearly requires otherwise:

12 “Automated road safety camera system”, an automated motor vehicle sensor device that
13 produces digital photographs of a motor vehicle that commits a camera enforceable violation at
14 the location where the automated motor vehicle sensor device is installed.

15 “Camera enforceable violation”, any of the following violations of a traffic law or
16 regulation: (i) failing to stop at a steady red indication in a traffic control signal at an intersection
17 pursuant to section 9 of chapter 89; (ii) making a right turn on a steady red indication in a traffic
18 control signal where prohibited pursuant to section 8 of said chapter 89; (iii) exceeding the speed
19 limit in violation of section 17 or section 18 of chapter 90; (iv) passing a school bus when its
20 warning signals are activated in violation of section 14 of said chapter 90; (v) blocking an
21 intersection in violation of said section 9 of said chapter 89; and (vi) operating, parking or
22 causing a motor vehicle to stand in a lane designated for the exclusive use of buses unless
23 otherwise regulated or posted by an official traffic signal, sign or marking or at the direction of
24 an authorized police officer.

25 “Municipal designee”, the municipal entity designated by the city manager in a city with
26 a Plan E form of government, the mayor in all other cities or the board of selectmen in a town to
27 supervise and coordinate the administration of camera enforceable violations under this chapter.

28 “Registrar”, the registrar of motor vehicles.

29 Section __. (a) A city or town that participates in the pilot program may install an
30 automated road safety camera system as a means of promoting traffic safety. The automated road
31 safety camera system may be placed: (i) along any portion of any way within the city’s or town’s
32 control; (ii) along any portion of any way within the control of the commonwealth with written
33 permission from the Massachusetts Department of Transportation or the department of
34 conservation and recreation; or (iii) attached to a school bus; provided, however, that before
35 equipping a school bus serving a regional school district with an automated road safety camera,
36 each city or town member of the regional school district shall accept this chapter and shall

37 approve the location of the automated road safety camera system pursuant to subsection (b);
38 provided further, that the city or town may impose a penalty for a camera enforceable violation
39 on the registered owner of a motor vehicle pursuant to section 3.

40 (b) A city or town that participates in the pilot program shall not employ more than 1
41 automated road safety camera system per 2,500 residents as measured by using the most recent
42 census data; provided, however, that a city or town with less than 2,500 residents shall not
43 employ an automated road safety camera system; and provided further, that an automated road
44 safety camera system that is attached to a school bus shall not be included in the number of
45 automated road safety camera systems in the city or town. The location of an automated road
46 safety camera system shall be approved by the city manager in a city with a Plan E form of
47 government, the mayor in all other cities or the board of selectmen in a town after a public
48 hearing on the proposed location of the automated road safety camera system.

49 (c) Annually, not later than December 1, a city or town that participates in the pilot
50 program shall transmit a report to the Massachusetts Department of Transportation that details
51 each automated road safety camera system located in the city or town or proposed to be located
52 in the city or town. The report shall include, but not be limited to: (i) a list of the locations of
53 each automated road safety camera system in the city or town; (ii) an analysis of the nexus
54 between public safety and each location's automated road safety camera system; and (iii) the
55 number of fines and warnings issued for camera enforceable violations pursuant to section 3. The
56 department shall post all reports received pursuant to this section on its website.

57 Section __. (a) The maximum fine imposed under this chapter for a camera enforceable
58 violation shall be \$25 per violation. Except as provided in section 4, the registered owner of a

59 motor vehicle shall be liable for the fine; provided, however, that a registered owner of a motor
60 vehicle shall not be liable for the fine imposed under this chapter for a camera enforceable
61 violation if the operator of the motor vehicle was issued a citation for the violation in accordance
62 with section 2 of chapter 90C. A city or town that participates in the pilot program may send a
63 written warning to the registered owner of a motor vehicle for the purposes of education in lieu
64 of enforcement through a fine; provided, however, that a written warning shall only be issued
65 pursuant to objective and consistent criteria in a written policy established by the municipal
66 designee; provided further, that the department of public safety may provide guidance to the city
67 or town on establishing such objective and consistent criteria.

68 (b) A certificate, or a facsimile thereof, based upon inspection of photographs and data
69 produced by an automated road safety camera system and sworn to or affirmed by the municipal
70 designee shall be prima facie evidence of the facts contained therein.

71 (c) A camera enforceable violation issued by a city or town under this pilot program shall
72 not be: (i) made part of the operating record of the person upon whom such liability is imposed;
73 or (ii) a conviction of a moving violation of the motor vehicle laws for the purpose of
74 determining a surcharge on a motor vehicle premium pursuant to section 113B of chapter 175.

75 (d) The municipal designee may hire and designate personnel as necessary or contract for
76 services to implement this chapter.

77 (e) (1) The municipal designee shall provide a notice of violation to the registered owner
78 of a motor vehicle that is identified in photographs produced by an automated road safety camera
79 system as evidence of a camera enforceable violation pursuant to this chapter. The notice shall
80 include, but not be limited to: (i) a copy of the photographs produced by the automated road

81 safety camera system and any other data showing the vehicle in the process of a camera
82 enforceable violation; (ii) the registration number and state of issuance of the vehicle; (iii) the
83 date, time and location of the alleged camera enforceable violation; (iv) the specific camera
84 enforceable violation charged; (v) instructions for payment of the fine imposed pursuant to
85 subsection (a); (vi) instructions on how to appeal the camera enforceable violation in writing and
86 to obtain a hearing; and (vii) an affidavit form approved by the municipal designee for the
87 purposes of making a written appeal pursuant to subsection (h).

88 (2) In the case of a violation involving a motor vehicle registered in the commonwealth,
89 the notice of violation shall be mailed within 14 days of the violation to the address of the
90 registered owner of the motor vehicle as listed in the records of the registrar. If a motor vehicle is
91 registered under the laws of another state or country, the notice of violation shall be mailed
92 within 21 days of the violation to the address of the registered owner as listed in the records of
93 the official in the state or country that has charge of the registration of the motor vehicle. If the
94 address is unavailable, it shall be sufficient for the municipal designee to mail a notice of
95 violation to the official in the state or country that has charge of the registration of the motor
96 vehicle.

97 (3) The notice of violation shall be sent by first class mail in accordance with paragraph
98 (2). A manual or automatic record of mailing processed by or on behalf of the municipal
99 designee in the ordinary course of business shall be prima facie evidence thereof and shall be
100 admitted as evidence in any judicial or administrative proceeding as to the facts contained
101 therein.

102 (f) A registered owner of a motor vehicle shall not be liable for a camera
103 enforceable violation under this chapter if the: (i) violation was necessary to allow the passage of
104 an emergency vehicle; (ii) violation was incurred while participating in a funeral procession; (iii)
105 violation was incurred during a period of time in which the motor vehicle was reported to the
106 police department of any state, city or town as having been stolen and had not been recovered
107 before the time the violation occurred; (iv) operator of the motor vehicle was operating the motor
108 vehicle under a rental or lease agreement and the registered owner of the motor vehicle is a rental
109 or leasing company and has complied with section 4; (v) operator of the motor vehicle was
110 issued a citation for the violation in accordance with section 2 of chapter 90C; or (vi) violation
111 was necessary to comply with any other law or regulation governing the operation of a motor
112 vehicle.

113 (g) A registered owner of a motor vehicle to whom a notice of violation has been issued
114 pursuant to this chapter may admit responsibility for the violation and pay the fine provided
115 therein. Payment of the established fine shall operate as the final disposition of a camera
116 enforceable violation; provided, however, that payment by a registered owner of a motor vehicle
117 shall operate as the final disposition of the violation as to any other registered owner of the same
118 motor vehicle for the same violation.

119 (h) Not more than 60 days after a camera enforceable violation under this chapter, a
120 registered owner of a motor vehicle may contest responsibility for the violation in writing by
121 mail or online. The registered owner shall provide the municipal designee with a signed affidavit,
122 in a form approved by the municipal designee, stating the: (i) reason for disputing the violation;
123 (ii) full legal name and address of the registered owner of the motor vehicle; and (iii) full legal
124 name and address of the operator of the motor vehicle at the time the violation occurred. The

125 registered owner may include signed statements from witnesses, including the names and
126 addresses of witnesses, supporting the registered owner's defense. Not more than 21 days after
127 receipt of the signed affidavit, the municipal designee or the hearing officer shall send the
128 decision of the hearing officer, including the reasons for the outcome, by first class mail to the
129 registered owner. If the registered owner is found responsible for the violation, the registered
130 owner shall pay the fine in the manner described in subsection (g) not more than 14 days after
131 the issuance of the decision or request further judicial review pursuant to section 14 of chapter
132 30A.

133 (i) In lieu of contesting responsibility for a violation in writing or online pursuant to
134 subsection (h) and not more than 60 days after a violation under this chapter, a registered owner
135 of the motor vehicle may request a hearing to contest responsibility for a camera enforceable
136 violation. A hearing request shall be made in writing by mail or online. Upon receipt of a hearing
137 request, the municipal designee shall schedule the matter before a hearing officer. The hearing
138 officer may be an employee of the municipal designee or such other person as the municipal
139 designee may designate. Written notice of the date, time and place of the hearing shall be sent by
140 first class mail to each registered owner of the motor vehicle. The hearing shall be informal, the
141 rules of evidence shall not apply and the decision of the hearing officer shall be final subject to
142 judicial review pursuant to section 14 of chapter 30A. Not more than 21 days after the hearing,
143 the municipal designee or the hearing officer shall send the decision of the hearing officer,
144 including the reason for the outcome, by first class mail to the registered owner. If the registered
145 owner is found to be responsible for the camera enforceable violation, the registered owner shall
146 pay the fine in the manner described in subsection (g) not more than 14 days after the issuance of
147 the decision or request further judicial review pursuant to said section 14 of said chapter 30A.

148 (j) The municipal designee shall notify the registrar when a registered owner of a motor
149 vehicle to whom a notice of a camera enforceable violation has been issued: (i) fails to contest
150 the responsibility for a violation pursuant to subsection (h) or subsection (i) and fails to pay the
151 fine in the notice in accordance with subsection (g) within 60 days of the violation; or (ii) is
152 found responsible for the violation and does not pay the fine in accordance with subsection (h) or
153 subsection (i). Upon being notified by the municipal designee, the registrar shall place the matter
154 on record. Upon receipt by the registrar of 5 or more of such notices, the registrar shall not issue
155 or renew the registered owner's motor vehicle registration until after notification from the
156 municipal designee of each city or town from whom the registrar received notification that all
157 fines owed pursuant to this chapter have been paid. The municipal designee shall notify the
158 registrar immediately when a fine that is the basis for a notice to the registrar under this
159 subsection has been paid; provided, however, that certified receipt of full and final payment from
160 the municipal designee issuing a violation shall also serve as legal notice to the registrar that a
161 violation has been disposed of in accordance with this chapter. The certified receipt shall be
162 printed in such form as the registrar may approve.

163 Section __. (a) Notwithstanding section 3, if the registered owner of a motor vehicle is a
164 person or entity engaged in the business of leasing or renting motor vehicles and the motor
165 vehicle was operated under a rental or lease agreement at the time of the camera enforceable
166 violation, this section shall be applicable and the registered owner shall not be liable for any
167 unpaid fines if the registered owner has complied with the requirements of this section.

168 (b) The municipal designee shall provide notice in writing of each camera enforceable
169 violation to the registered owner of a motor vehicle if a motor vehicle owned by the registered
170 owner is involved in a camera enforceable violation.

171 (c) Not more than 45 days after the violation, the registered owner shall furnish to the
172 municipal designee, in writing, the name and address of the lessee or rentee of the motor vehicle
173 at the time of the camera enforceable violation, the lessee's or rentee's driver's license number,
174 the state that issued the driver's license and the lessee's or rentee's date of birth.

175 (d) Upon receipt of the information required under subsection (c), the municipal designee
176 shall issue a notice of a camera enforceable violation to the lessee or rentee in the form
177 prescribed by section 3 and the lessee or rentee shall be liable for the violation.

178 (e) The municipal designee shall notify the registrar if the lessee or rentee to whom a
179 notice of violation has been issued: (i) fails to contest the responsibility for a camera enforceable
180 violation pursuant to either subsection (h) or subsection (i) of section 3 and fails to pay the fine
181 in the notice in accordance with subsection (g) of said section 3 within 90 days of the violation;
182 or (ii) is found responsible for the violation and does not pay the fine in accordance with said
183 subsection (h) or said subsection (i) of said section 3. Upon being notified by the municipal
184 designee, the registrar shall place the matter on record.

185 Upon receipt by the registrar of 5 or more of such notices under this section, the registrar
186 shall: (i) suspend and not renew the license to operate a motor vehicle of the lessee or rentee; or
187 (ii) suspend the right to operate of a lessee or rentee not licensed in the commonwealth until the
188 registrar receives notification from each applicable municipal designee that all fines owed by the
189 lessee or rentee pursuant to this chapter have been paid. The municipal designee shall notify the
190 registrar immediately when a fine that is the basis for a notice to the registrar under this
191 subsection has been paid; provided, however, that certified receipt of full and final payment from
192 the municipal designee issuing a camera enforceable violation shall also serve as notice to the

193 registrar that the camera enforceable violation has been disposed of in accordance with this
194 chapter; provided further, that the certified receipt shall be printed in such form as the registrar
195 may approve.

196 Section __. No violation shall be issued pursuant to this act for: (i) a failure to stop at a
197 signal at an intersection if any part of the vehicle was over the stop line when the light was
198 yellow, regardless of whether or not the light turned red while the vehicle was over the stop line;
199 (ii) exceeding the speed limit, unless the vehicle exceeds the speed limit by not less than 5 miles
200 per hour; (iii) passing a school a bus when its warning signals are activated, unless the vehicle
201 crosses the plane of the stop sign on the bus; (iv) making a right turn on a steady red indication in
202 a traffic control signal where prohibited, unless the entire vehicle has crossed the stop line; or (v)
203 blocking an intersection, unless the entire vehicle has crossed the stop line and no portion of the
204 vehicle has exited the intersection.

205 Section __. (a) A city or town that participates in said pilot program shall install at each
206 location of an automated road safety camera system an unobstructed sign notifying the public
207 that an automated road safety camera system is in use; provided, however, that a school bus with
208 an automated road safety camera system shall have a sign on the bus notifying the public that an
209 automated road safety camera system is in use on the bus.

210 (b) A city or town that participates in said pilot program shall make a public
211 announcement and conduct a public awareness campaign of its use of automated road safety
212 camera systems beginning not less than 30 days before the first such automated road safety
213 camera system is put into use; provided, however, that a city or town that accepts this chapter

214 may install but shall not activate automated road safety camera systems during the 30-day time
215 period.

216 Section __. (a) The compensation paid to the manufacturer or vendor of an automated road
217 safety camera system authorized in this chapter shall be based on the value of the equipment or
218 services provided and shall not be based on the number of camera enforceable violations issued
219 or the revenue generated by the automated road safety camera system.

220 (b) Not less than annually, a professional engineer registered in the commonwealth or an
221 independent laboratory shall verify that the automated road safety camera system and any
222 appurtenant traffic control signals are correctly calibrated.

223 Section __. (a) An automated road safety camera system shall only take photographs when
224 a camera enforceable violation occurs. Photographs and other recorded evidence shall be
225 destroyed not more than 48 hours after the final disposition of a camera enforceable violation.

226 (b) A photograph or other recorded evidence taken pursuant to this chapter
227 shall not be discoverable in any judicial or administrative proceeding, other than a proceeding
228 held pursuant to this chapter, without a court order. A photograph or other recorded evidence
229 taken pursuant to this chapter shall not be admissible in any judicial or administrative
230 proceeding, other than in a proceeding to adjudicate liability for a violation of this chapter,
231 without a court order. A court shall not order a release of a photograph or other recorded
232 evidence taken pursuant to this chapter unless the photograph or other recorded evidence
233 establishes or undermines a finding of a moving violation and the camera enforceable violation is
234 material as to a finding of civil or criminal liability.

235 (c) Photographs and other personal identifying information collected by a city or town
236 pursuant to this chapter shall not be a public record under Clause Twenty-Sixth of section 7 of
237 chapter 4 or chapter 66.

238 (d) An automated road safety camera system shall not be utilized to take a frontal view
239 photograph of a motor vehicle committing a camera enforceable violation. A frontal view
240 photograph of a motor vehicle committing a camera enforceable violation taken by an automated
241 road safety camera system shall not be discoverable or admissible in any judicial or
242 administrative proceeding and shall not be used as the basis for a camera enforceable violation
243 under this chapter. Photographs produced by an automated road safety camera which identify the
244 vehicle operator, the passenger or the contents of the vehicle shall be destroyed unless preserved
245 pursuant to a court order.

246 (e) A manufacturer or vendor of an automated road safety camera system may not use,
247 disclose, sell or permit access to data collected by an automated road safety camera system
248 except as necessary to process camera enforceable violations in accordance with this chapter.

249 Section __. A city or town that participates in the pilot program may only recover costs
250 reasonably related to the implementation and operation of an automated road safety camera
251 system including, but not limited to, costs associated with: (i) maintaining and operating the
252 automated road safety camera system; (ii) issuing notices of camera enforceable violations; (iii)
253 holding hearings for appeals of camera enforceable violations; (iv) notifying the registrar of a
254 failure to pay a fine under this chapter; and (v) collecting a fine; provided, however, that net
255 revenues collected by participating cities and towns pursuant to this chapter shall be deposited in
256 the Massachusetts Transportation Trust Fund established in section 4 of chapter 6C.

257 Section __. The operation of emergency vehicles shall be subject to this chapter except as
258 otherwise provided in section 7B of chapter 89.

259 Section __. The Massachusetts Department of Transportation shall promulgate rules and
260 regulations necessary to implement said pilot program established under this act.

261 SECTION __. Said pilot program shall be established not later than one year after the
262 effective date of this act.

263 SECTION __. Not later than one year after the completion of said pilot program the
264 Massachusetts Department of Transportation shall submit a report to the clerks of the senate and
265 house of representatives, the senate and house committees on ways and means and the joint
266 committee on transportation that analyzes the public safety and social and racial equity impacts
267 of said pilot program.