

**HOUSE . . . . . No. 2494**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Adrian C. Madaro*

*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 automated bus lane enforcement.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>2/19/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/26/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/26/2021</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>2/26/2021</i>
<i>Steven C. Owens</i>	<i>29th Middlesex</i>	<i>9/28/2021</i>

**HOUSE . . . . . No. 2494**

By Mr. Madaro of Boston, a petition (accompanied by bill, House, No. 2494) of Adrian C. Madaro and others relative to establishing automated bus lane enforcement. Public Safety and Homeland Security.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Second General Court  
(2021-2022)**

An Act establishing automated bus lane enforcement.

*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 have the following  
2 meanings unless the context clearly requires otherwise:

3 “Automated bus lane enforcement camera system”, an automated motor vehicle sensor  
4 device that produces digital photographs of a motor vehicle that commits a camera enforceable  
5 violation.

6 “Bus lane”, a lane designated for the exclusive use of buses, operating at all times or  
7 during restricted hours as determined by the municipality or agency with jurisdiction.

8 “Camera enforceable violation”, operating, parking or causing a motor vehicle to stand in  
9 a stop or lane designated for the exclusive use of buses unless otherwise regulated or posted by  
10 an official traffic signal, sign or marking or at the direction of an authorized police officer.

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

14           “Registrar”, the registrar of motor vehicles.

15           SECTION 2. (a) A city or town or agency that accepts this chapter may install an  
16 automated bus lane enforcement camera system as a means of ensuring efficient and safe bus  
17 operations. The automated bus lane enforcement camera system may be placed: (i) along any  
18 portion of any bus lane within the city or town; (ii) along any portion of any bus lane within the  
19 control of the commonwealth with written permission from the Massachusetts Department of  
20 Transportation or the department of conservation and recreation; or (iii) attached to a bus.

21           (b) A city or town that accepts this chapter shall not employ more than 1 automated bus  
22 enforcement camera system per 2,500 residents as measured by using the most recent census  
23 data; provided, however, that a city or town with less than 2,500 residents shall not employ an  
24 automated bus lane enforcement camera system; and provided further, that an automated bus  
25 lane enforcement camera system that is attached to a bus shall not be included in the number of  
26 automated bus lane enforcement camera systems in the city or town. The location of an  
27 automated bus lane enforcement camera system shall be approved by the city manager in a city  
28 with a Plan E form of government, the mayor in all other cities or the board of selectmen in a  
29 town after a public hearing on the proposed location of the automated bus lane enforcement  
30 camera system.

31           (c) Annually, not later than December 1, a city or town that accepts this chapter shall  
32 transmit a report to the Massachusetts Department of Transportation that details each automated

33 bus lane enforcement camera system located in the city or town or proposed to be located in the  
34 city or town. The report shall include, but not be limited to: (i) a list of the locations of each  
35 automated bus lane enforcement camera system in the city or town; (ii) the number of fines and  
36 warnings issued for camera enforceable violations pursuant to section 3. The department shall  
37 post all reports received pursuant to this section on its website.

38 SECTION 3. (a) The maximum fine imposed under this chapter for a camera enforceable  
39 violation shall be \$25 per violation. Except as provided in section 4, the registered owner of a  
40 motor vehicle shall be liable for the fine; provided, however, that a registered owner of a motor  
41 vehicle shall not be liable for the fine imposed under this chapter for a camera enforceable  
42 violation if the operator of the motor vehicle was issued a citation for the violation in accordance  
43 with section 2 of chapter 90C. A city or town or agency that accepts this chapter may send a  
44 written warning to the registered owner of a motor vehicle for the purposes of education in lieu  
45 of enforcement through a fine; provided, however, that a written warning shall only be issued  
46 pursuant to objective and consistent criteria in a written policy established by the municipal  
47 designee; provided further, that the department of public safety may provide guidance to the city  
48 or town on establishing such objective and consistent criteria.

49 (b) A certificate, or a facsimile thereof, based upon inspection of photographs and data  
50 produced by an automated bus lane enforcement camera system and sworn to or affirmed by the  
51 municipal designee shall be prima facie evidence of the facts contained therein.

52 (c) A camera enforceable violation issued by a city or town under this chapter shall not  
53 be: (i) made part of the operating record of the person upon whom such liability is imposed; or

54 (ii) a conviction of a moving violation of the motor vehicle laws for the purpose of determining a  
55 surcharge on a motor vehicle premium pursuant to section 113B of chapter 175.

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

58 (e) (1) The municipal designee shall provide a notice of violation to the registered owner  
59 of a motor vehicle that is identified in photographs produced by an automated bus lane  
60 enforcement camera system as evidence of a camera enforceable violation pursuant to this  
61 chapter. The notice shall include, but not be limited to: (i) a copy of the photographs produced by  
62 the automated bus lane enforcement camera system and any other data showing the vehicle in the  
63 process of a camera enforceable violation; (ii) the registration number and state of issuance of  
64 the vehicle; (iii) the date, time and location of the alleged camera enforceable violation; (iv) the  
65 specific camera enforceable violation charged; (v) instructions for payment of the fine imposed  
66 pursuant to subsection (a); (vi) instructions on how to appeal the camera enforceable violation in  
67 writing and to obtain a hearing; and (vii) an affidavit form approved by the municipal designee  
68 for the purposes of making a written appeal pursuant to subsection (h).

69 (2) In the case of a violation involving a motor vehicle registered in the commonwealth,  
70 the notice of violation shall be mailed within 14 days of the violation to the address of the  
71 registered owner of the motor vehicle as listed in the records of the registrar. If a motor vehicle is  
72 registered under the laws of another state or country, the notice of violation shall be mailed  
73 within 21 days of the violation to the address of the registered owner as listed in the records of  
74 the official in the state or country that has charge of the registration of the motor vehicle. If the  
75 address is unavailable, it shall be sufficient for the municipal designee to mail a notice of

76 violation to the official in the state or country that has charge of the registration of the motor  
77 vehicle.

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

83 (f) A signed affidavit, in a form approved by the municipal designee, stating the: (i)  
84 reason for disputing the violation; (ii) full legal name and address of the registered owner of the  
85 motor vehicle; and (iii) full legal name and address of the operator of the motor vehicle at the  
86 time the violation occurred. The registered owner may include signed statements from witnesses,  
87 including the names and addresses of witnesses, supporting the registered owner's defense. Not  
88 more than 21 days after receipt of the signed affidavit, the municipal designee or the hearing  
89 officer shall send the decision of the hearing officer, including the reasons for the outcome, by  
90 first class mail to the registered owner. If the registered owner is found responsible for the  
91 violation, the registered owner shall pay the fine in the manner described in subsection (g) not  
92 more than 14 days after the issuance of the decision or request further judicial review pursuant to  
93 section 14 of chapter 30A.

94 (i) In lieu of contesting responsibility for a violation in writing or online pursuant to  
95 subsection (h) and not more than 60 days after a violation under this chapter, a registered owner  
96 of the motor vehicle may request a hearing to contest responsibility for a camera enforceable  
97 violation. A hearing request shall be made in writing by mail or online. Upon receipt of a hearing

98 request, the municipal designee shall schedule the matter before a hearing officer. The hearing  
99 officer may be an employee of the municipal designee or such other person as the municipal  
100 designee may designate. Written notice of the date, time and place of the hearing shall be sent by  
101 first class mail to each registered owner of the motor vehicle. The hearing shall be informal, the  
102 rules of evidence shall not apply and the decision of the hearing officer shall be final subject to  
103 judicial review pursuant to section 14 of chapter 30A. Not more than 21 days after the hearing,  
104 the municipal designee or the hearing officer shall send the decision of the hearing officer,  
105 including the reason for the outcome, by first class mail to the registered owner. If the registered  
106 owner is found to be responsible for the camera enforceable violation, the registered owner shall  
107 pay the fine in the manner described in subsection (g) not more than 14 days after the issuance of  
108 the decision or request further judicial review pursuant to said section 14 of said chapter 30A.

109 (j) The municipal designee shall notify the registrar when a registered owner of a motor  
110 vehicle to whom a notice of a camera enforceable violation has been issued: (i) fails to contest  
111 the responsibility for a violation pursuant to subsection (h) or subsection (i) and fails to pay the  
112 fine in the notice in accordance with subsection (g) within 60 days of the violation; or (ii) is  
113 found responsible for the violation and does not pay the fine in accordance with subsection (h) or  
114 subsection (i). Upon being notified by the municipal designee, the registrar shall place the matter  
115 on record. Upon receipt by the registrar of 5 or more of such notices, the registrar shall not issue  
116 or renew the registered owner's motor vehicle registration until after notification from the  
117 municipal designee of each city or town from whom the registrar received notification that all  
118 fines owed pursuant to this chapter have been paid. The municipal designee shall notify the  
119 registrar immediately when a fine that is the basis for a notice to the registrar under this  
120 subsection has been paid; provided, however, that certified receipt of full and final payment from

121 the municipal designee issuing a violation shall also serve as legal notice to the registrar that a  
122 violation has been disposed of in accordance with this chapter. The certified receipt shall be  
123 printed in such form as the registrar may approve.

124 SECTION 4. (a) Notwithstanding section 3, if the registered owner of a motor vehicle is  
125 a person or entity engaged in the business of leasing or renting motor vehicles and the motor  
126 vehicle was operated under a rental or lease agreement at the time of the camera enforceable  
127 violation, this section shall be applicable and the registered owner shall not be liable for any  
128 unpaid fines if the registered owner has complied with the requirements of this section.

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

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

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

139 (e) The municipal designee shall notify the registrar if the lessee or rentee to whom a  
140 notice of violation has been issued: (i) fails to contest the responsibility for a camera enforceable  
141 violation pursuant to either subsection (h) or subsection (i) of section 3 and fails to pay the fine  
142 in the notice in accordance with subsection (g) of said section 3 within 90 days of the violation;

143 or (ii) is found responsible for the violation and does not pay the fine in accordance with said  
144 subsection (h) or said subsection (i) of said section 3. Upon being notified by the municipal  
145 designee, the registrar shall place the matter on record.

146 The municipal designee shall notify the registrar immediately when a fine that is the basis  
147 for a notice to the registrar under this subsection has been paid; provided, however, that certified  
148 receipt of full and final payment from the municipal designee issuing a camera enforceable  
149 violation shall also serve as notice to the registrar that the camera enforceable violation has been  
150 disposed of in accordance with this chapter; provided further, that the certified receipt shall be  
151 printed in such form as the registrar may approve.

152 SECTION 5. (a) A city or town that accepts this chapter shall install at each location of  
153 an automated bus lane enforcement camera system an unobstructed sign notifying the public that  
154 an automated bus lane enforcement camera system is in use;

155 (b) buses with onboard automated bus lane enforcement camera systems shall have a sign  
156 on the bus notifying the public that an automated bus lane enforcement camera system is in use.

157 (c) A city, town or agency that accepts this chapter shall make a public announcement  
158 and conduct a public awareness campaign of its use of automated bus lane enforcement camera  
159 systems beginning not less than 30 days before the first such automated bus lane enforcement  
160 camera system is put into use; provided, however, that a city or town that accepts this chapter  
161 may install but shall not activate automated bus lane enforcement camera systems during the 30-  
162 day time period.

163 SECTION 6. (a) The compensation paid to the manufacturer or vendor of an automated  
164 bus lane enforcement camera system authorized in this chapter shall be based on the value of the

165 equipment or services provided and shall not be based on the number of camera enforceable  
166 violations issued or the revenue generated by the automated bus lane enforcement camera  
167 system.

168 (b) Not less than annually, a professional engineer registered in the commonwealth or an  
169 independent laboratory shall verify that the automated bus lane enforcement camera system and  
170 any appurtenant traffic control signals are correctly calibrated.

171 SECTION 7. (a) An automated bus lane enforcement camera system shall only take  
172 photographs when a camera enforceable violation occurs. Photographs and other recorded  
173 evidence shall be destroyed not more than 48 hours after the final disposition of a camera  
174 enforceable violation.

175 (b) A photograph or other recorded evidence taken pursuant to this chapter shall not be  
176 discoverable in any judicial or administrative proceeding, other than a proceeding held pursuant  
177 to this chapter, without a court order. A photograph or other recorded evidence taken pursuant to  
178 this chapter shall not be admissible in any judicial or administrative proceeding, other than in a  
179 proceeding to adjudicate liability for a violation of this chapter, without a court order. A court  
180 shall not order a release of a photograph or other recorded evidence taken pursuant to this  
181 chapter unless the photograph or other recorded evidence establishes or undermines a finding of  
182 a moving violation and the camera enforceable violation is material as to a finding of civil or  
183 criminal liability.

184 (c) Photographs and other personal identifying information collected by a city, town or  
185 agency pursuant to this chapter shall not be a public record under Clause Twenty-Sixth of section  
186 7 of chapter 4 or chapter 66.

187 (d) An automated bus lane enforcement camera system shall not be utilized to take a  
188 frontal view photograph of a motor vehicle committing a camera enforceable violation. A frontal  
189 view photograph of a motor vehicle committing a camera enforceable violation taken by an  
190 automated bus lane enforcement camera system shall not be discoverable or admissible in any  
191 judicial or administrative proceeding and shall not be used as the basis for a camera enforceable  
192 violation under this chapter. To the extent practicable, additional efforts shall be made to ensure  
193 that photographs produced by an automated bus lane enforcement camera system do not identify  
194 the vehicle operator, the passengers or the contents of the vehicle.

195 (e) A manufacturer or vendor of an automated bus lane enforcement camera system may  
196 not use, disclose, sell or permit access to data collected by an automated bus lane enforcement  
197 camera system except as necessary to process camera enforceable violations in accordance with  
198 this chapter.

199 SECTION 8. A city or town that accepts this chapter may only recover costs reasonably  
200 related to the implementation and operation of an automated bus lane enforcement camera  
201 system including, but not limited to, costs associated with: (i) maintaining and operating the  
202 automated bus lane enforcement camera system; (ii) issuing notices of camera enforceable  
203 violations; (iii) holding hearings for appeals of camera enforceable violations; (iv) notifying the  
204 registrar of a failure to pay a fine under this chapter; and (v) collecting a fine; provided, however,  
205 that net revenues collected by participating cities and towns pursuant to this chapter shall be  
206 deposited in the Massachusetts Transportation Trust Fund established in section 4 of chapter 6C.

207 SECTION 9. The operation of emergency vehicles shall be subject to this chapter except  
208 as otherwise provided in section 7B of chapter 89.

209 SECTION 10. The Massachusetts Department of Transportation shall promulgate rules  
210 and regulations necessary to implement this chapter.

211 SECTION 11. The Massachusetts Department of Transportation and municipal designees  
212 shall establish and sign a memorandum of understanding that includes, but is not limited to,  
213 identifying which entity is responsible for alerting the public to the presence of automated bus  
214 lane camera enforcement systems, processing violations, and collecting, storing, and transmitting  
215 enforcement data.

216 SECTION 12. Not later than 3 years after the effective date of this act, the Massachusetts  
217 Department of Transportation shall submit a report to the clerks of the senate and house of  
218 representatives, the senate and house committees on ways and means and the joint committee on  
219 transportation that analyzes the public safety and social and racial equity impacts of this act.