

HOUSE No. 2494

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.