

SENATE No. 1545

The Commonwealth of Massachusetts

PRESENTED BY:

William N. Brownsberger

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 relative to automated enforcement.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>4/1/2021</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>4/1/2021</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>4/1/2021</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>4/1/2021</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>4/1/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>4/1/2021</i>

SENATE No. 1545

By Mr. Brownsberger, a petition (accompanied by bill, Senate, No. 1545) of William N. Brownsberger, Thomas M. Stanley, Jason M. Lewis, Brendan P. Crighton and other members of the General Court for legislation relative to automated enforcement. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1376 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act relative to automated 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. Clause Twenty-sixth of section 7 of chapter 4 of the General Laws, as
2 appearing in the 2018 Official Edition, is hereby amended by adding the following subclause:-

3 (w) Photographs and other personal identifying information collected by cities and towns
4 under chapter 90J.

5 SECTION 2. The General Laws are hereby amended by inserting after chapter 90I the
6 following chapter:-

7 CHAPTER 90J.

8 “AUTOMATED ROAD SAFETY ENFORCEMENT PILOT PROGRAM

9 Section 1. As used in this chapter, the following words shall have the following meanings
10 unless the context clearly requires otherwise:

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

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

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

28 “Registrar”, the registrar of motor vehicles.

29 Section 2. (a) A city or town that accepts this chapter may install an automated road
30 safety camera system as a means of promoting traffic safety. The automated road safety camera

31 system may be placed: (i) along any portion of any way within the city's or town's control; (ii)
32 along any portion of any way within the control of the commonwealth, other than a limited
33 access highway, with written permission from the Massachusetts Department of Transportation
34 or the department of conservation and recreation; or (iii) attached to a school bus; provided,
35 however, that before equipping a school bus serving a regional school district with an automated
36 road safety camera, each city or town member of the regional school district shall accept this
37 chapter and shall approve the location of the automated road safety camera system pursuant to
38 subsection (b); provided further, that the city or town may impose a penalty for a camera
39 enforceable violation on the registered owner of a motor vehicle pursuant to section 3.

40 (b) A city or town that accepts this chapter shall not employ more than 1 automated road
41 safety camera system per 20,000 residents as measured by using the most recent census data;
42 provided, however, that a city or town with less than 2,500 residents shall not employ an
43 automated road safety camera system; and provided further, that an automated road safety
44 camera system that is attached to a school bus shall not be included in the number of automated
45 road safety camera systems in the city or town. The location of an automated road safety camera
46 system shall be approved by the city council with the approval of the mayor in a city or the board
47 of selectmen in a town after a public hearing on the proposed location of the automated road
48 safety camera system; provided, however, that the city or town shall present the past 3 years of
49 available crash data at the proposed location of an automated road safety camera system at the
50 public hearing.

51 (c) Annually, not later than December 1, a city or town that accepts this chapter shall
52 transmit a report to the Massachusetts Department of Transportation that details each automated
53 road safety camera system located in the city or town or proposed to be located in the city or

54 town. The report shall include, but not be limited to: (i) a list of the locations of each automated
55 road safety camera system in the city or town; (ii) an analysis of the nexus between public safety
56 and each location's automated road safety camera system; and (iii) the number of fines and
57 warnings issued for camera enforceable violations pursuant to section 3; (iv) records of the
58 maintenance and calibration of each location's automated road safety camera system. The
59 department shall post all reports received pursuant to this section on its website; and (v) crash
60 data at each separate location of an automated road safety camera system.

61 Section 3. (a) The maximum fine imposed under this chapter for a camera enforceable
62 violation shall be \$25 per violation. Except as provided in section 4, the registered owner of a
63 motor vehicle shall be liable for the fine; provided, however, that a registered owner of a motor
64 vehicle shall not be liable for the fine imposed under this chapter for a camera enforceable
65 violation if the operator of the motor vehicle was issued a citation for the violation in accordance
66 with section 2 of chapter 90C. A city or town that accepts this chapter may send a written
67 warning to the registered owner of a motor vehicle for the purposes of education in lieu of
68 enforcement through a fine; provided, however, that a written warning shall only be issued
69 pursuant to objective and consistent criteria in a written policy established by the municipal
70 designee; provided further, that the Massachusetts Department of Transportation may provide
71 guidance to the city or town on establishing such objective and consistent criteria.

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

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

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

81 (e) (1) The municipal designee shall provide a notice of violation to the registered owner
82 of a motor vehicle that is identified in photographs produced by an automated road safety camera
83 system as evidence of a camera enforceable violation pursuant to this chapter. The notice shall
84 include, but not be limited to: (i) a copy of the photographs produced by the automated road
85 safety camera system and any other data showing the vehicle in the process of a camera
86 enforceable violation; (ii) the registration number and state of issuance of the vehicle; (iii) the
87 date, time and location of the alleged camera enforceable violation; (iv) the specific camera
88 enforceable violation charged; (v) instructions for payment of the fine imposed pursuant to
89 subsection (a); (vi) instructions on how to appeal the camera enforceable violation in writing and
90 to obtain a hearing; and (vii) an affidavit form approved by the municipal designee for the
91 purposes of making a written appeal pursuant to subsection (h).

92 (2) In the case of a violation involving a motor vehicle registered in the commonwealth,
93 the notice of violation shall be mailed within 14 days of the violation to the address of the
94 registered owner of the motor vehicle as listed in the records of the registrar. If a motor vehicle is
95 registered under the laws of another state or country, the notice of violation shall be mailed
96 within 21 days of the violation to the address of the registered owner as listed in the records of

97 the official in the state or country that has charge of the registration of the motor vehicle. If the
98 address is unavailable, it shall be sufficient for the municipal designee to mail a notice of
99 violation to the official in the state or country that has charge of the registration of the motor
100 vehicle.

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

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

117 (g) A registered owner of a motor vehicle to whom a notice of violation has been issued
118 pursuant to this chapter may admit responsibility for the violation and pay the fine provided

119 therein. Payment of the established fine shall operate as the final disposition of a camera
120 enforceable violation; provided, however, that payment by a registered owner of a motor vehicle
121 shall operate as the final disposition of the violation as to any other registered owner of the same
122 motor vehicle for the same violation.

123 (h) Not more than 60 days after a camera enforceable violation under this chapter, a
124 registered owner of a motor vehicle may contest responsibility for the violation in writing by
125 mail or online. The registered owner shall provide the municipal designee with a signed affidavit,
126 in a form approved by the municipal designee, stating the: (i) reason for disputing the violation;
127 (ii) full legal name and address of the registered owner of the motor vehicle; and (iii) full legal
128 name and address of the operator of the motor vehicle at the time the violation occurred. The
129 registered owner may include signed statements from witnesses, including the names and
130 addresses of witnesses, supporting the registered owner's defense. Not more than 21 days after
131 receipt of the signed affidavit, the municipal designee or the hearing officer shall send the
132 decision of the hearing officer, including the reasons for the outcome, by first class mail to the
133 registered owner. If the registered owner is found responsible for the violation, the registered
134 owner shall pay the fine in the manner described in subsection (g) not more than 14 days after
135 the issuance of the decision or request further judicial review pursuant to section 14 of chapter
136 30A.

137 (i) In lieu of contesting responsibility for a violation in writing or online pursuant to
138 subsection (h) and not more than 60 days after a violation under this chapter, a registered owner
139 of the motor vehicle may request a hearing to contest responsibility for a camera enforceable
140 violation. A hearing request shall be made in writing by mail or online. Upon receipt of a hearing
141 request, the municipal designee shall schedule the matter before a hearing officer. The hearing

142 officer may be an employee of the municipal designee or such other person as the municipal
143 designee may designate. Written notice of the date, time and place of the hearing shall be sent by
144 first class mail to each registered owner of the motor vehicle. The hearing shall be informal, the
145 rules of evidence shall not apply and the decision of the hearing officer shall be final subject to
146 judicial review pursuant to section 14 of chapter 30A. Not more than 21 days after the hearing,
147 the municipal designee or the hearing officer shall send the decision of the hearing officer,
148 including the reason for the outcome, by first class mail to the registered owner. If the registered
149 owner is found to be responsible for the camera enforceable violation, the registered owner shall
150 pay the fine in the manner described in subsection (g) not more than 14 days after the issuance of
151 the decision or request further judicial review pursuant to said section 14 of said chapter 30A.

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

165 violation has been disposed of in accordance with this chapter. The certified receipt shall be
166 printed in such form as the registrar may approve.

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

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

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

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

182 (e) The municipal designee shall notify the registrar if the lessee or rentee to whom a
183 notice of violation has been issued: (i) fails to contest the responsibility for a camera enforceable
184 violation pursuant to either subsection (h) or subsection (i) of section 3 and fails to pay the fine
185 in the notice in accordance with subsection (g) of said section 3 within 90 days of the violation;
186 or (ii) is found responsible for the violation and does not pay the fine in accordance with said

187 subsection (h) or said subsection (i) of said section 3. Upon being notified by the municipal
188 designee, the registrar shall place the matter on record.

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

200 Section 5. No violation shall be issued pursuant to this chapter for: (i) a failure to stop at
201 a signal at an intersection if any part of the vehicle was over the stop line when the light was
202 yellow, regardless of whether or not the light turned red while the vehicle was over the stop line;
203 (ii) exceeding the speed limit, unless the vehicle exceeds the speed limit by not less than 10 miles
204 per hour where the posted speed limit is 45 miles per hour or greater and not less than 5 miles per
205 hour where the posted speed limit is less than 45 miles per hour; (iii) passing a school a bus
206 when its warning signals are activated, unless the vehicle crosses the plane of the stop sign on the
207 bus; (iv) making a right turn on a steady red indication in a traffic control signal where
208 prohibited, unless the entire vehicle has crossed the stop line; or (v) blocking an intersection,

209 unless the entire vehicle has crossed the stop line and no portion of the vehicle has exited the
210 intersection.

211 Section 6. (a) A city or town that accepts this chapter shall install at each location of an
212 automated road safety camera system an unobstructed sign notifying the public that an
213 automated road safety camera system is in use; provided, however, that a school bus with an
214 automated road safety camera system shall have a sign on the bus notifying the public that an
215 automated road safety camera system is in use on the bus.

216 (b) A city or town that accepts this chapter shall make a public announcement and
217 conduct a public awareness campaign of its use of automated road safety camera systems
218 beginning not less than 30 days before the first such automated road safety camera system is put
219 into use; provided, however, that a city or town that accepts this chapter may install but shall not
220 activate automated road safety camera systems during the 30-day time period.

221 Section 7. (a) The compensation paid to the manufacturer or vendor of an automated road
222 safety camera system authorized in this chapter shall be based on the value of the equipment or
223 services provided and shall not be based on the number of camera enforceable violations issued
224 or the revenue generated by the automated road safety camera system.

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

228 Section 8. (a) An automated road safety camera system shall only take photographs when
229 a camera enforceable violation occurs. Photographs and other recorded evidence shall be
230 destroyed not more than 48 hours after the final disposition of a camera enforceable violation.

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

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

243 (d) An automated road safety camera system shall not be utilized to take a frontal view
244 photograph of a motor vehicle committing a camera enforceable violation. A frontal view
245 photograph of a motor vehicle committing a camera enforceable violation taken by an automated
246 road safety camera system shall not be discoverable or admissible in any judicial or
247 administrative proceeding and shall not be used as the basis for a camera enforceable violation
248 under this chapter. To the extent practicable, additional efforts shall be made to ensure that
249 photographs produced by an automated road safety camera system do not identify the vehicle
250 operator, the passengers or the contents of the vehicle.

251 (e) A city or town or a manufacturer or vendor of an automated road safety camera
252 system may not use, disclose, sell or permit access to data collected by an automated road safety

253 camera system except as necessary to process camera enforceable violations in accordance with
254 this chapter.

255 Section 9. A city or town that accepts this chapter may only recover costs reasonably
256 related to the implementation and operation of an automated road safety camera system
257 including, but not limited to, costs associated with: (i) maintaining and operating the automated
258 road safety camera system; (ii) issuing notices of camera enforceable violations; (iii) holding
259 hearings for appeals of camera enforceable violations; (iv) notifying the registrar of a failure to
260 pay a fine under this chapter; and (v) collecting a fine; provided, however, that net revenues
261 collected by participating cities and towns pursuant to this chapter shall be deposited in the
262 Massachusetts Transportation Trust Fund established in section 4 of chapter 6C.

263 Section 10. The operation of emergency vehicles shall be subject to this chapter except as
264 otherwise provided in section 7B of chapter 89.

265 Section 10A. A city or town shall not implement this chapter unless the city or town has
266 submitted a plan for the implementation of automated road safety camera systems to the
267 Massachusetts Department of Transportation and the department has approved the plan. The
268 review of the plan by the department shall include, but shall not be limited to, consideration of
269 the social and racial equity impacts of the plan. There shall not be more than 10 approved plans
270 in effect at any given time.

271 Section 10B. Not less than once every 2 years, the Massachusetts Department of
272 Transportation shall submit a report to the clerks of the senate and house of representatives, the
273 senate and house committees on ways and means and the joint committee on transportation that
274 analyzes the public safety, traffic congestion and social and racial equity impacts of this chapter.

275 Section 11. The Massachusetts Department of Transportation shall promulgate rules and
276 regulations necessary to implement this chapter.

277 SECTION 2A. Not later than 90 days from the effective date of this act, the
278 Massachusetts Department of Transportation shall promulgate regulations to implement chapter
279 90J of the General Laws. The regulations shall include, but not be limited to: (i) establishing
280 standardized forms for notices of violations and written warnings; (ii) developing uniform
281 signage requirements for the purpose of complying with subsection (a) of section 6 of said
282 chapter 90J; and (iii) establishing standards for the calibration of automated road safety camera
283 systems under subsection (b) of section 7 of said chapter 90J.

284 "SECTION 3. The first report required under section 10B of chapter 90J of the General
285 Laws shall be submitted not less than 2 years after the first plan is approved by the
286 Massachusetts Department of Transportation under section 10A of said chapter 90J.

287 "SECTION 4. Clause Twenty-sixth of section 7 of chapter 4 of the General Laws is
288 hereby amendment by striking out subclause (w).

289 SECTION 5. Chapter 90J of the General Laws is hereby repealed.

290 SECTION 6. Section 3 is hereby repealed.

291 SECTION 7. Sections 4 to 6, inclusive, shall take effect on January 1, 2030."