

HOUSE No. 3267

The Commonwealth of Massachusetts

PRESENTED BY:

Christine P. Barber

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act authorizing the City of Somerville to employ automated enforcement of speed limit violations in designated safety zones within the City of Somerville.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>1/19/2023</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>1/19/2023</i>

HOUSE No. 3267

By Representative Barber of Somerville, a petition (accompanied by bill, House, No. 3267) of Christine P. Barber and Erika Uytterhoeven (with the approval of the mayor and the city council) that the city of Somerville be authorized to employ automated enforcement of speed limit violations in designated safety zones within said city. Transportation. [Local Approval Received.]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4583 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act authorizing the City of Somerville to employ automated enforcement of speed limit violations in designated safety zones within the City of Somerville.

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.

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

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

8 “Camera Enforceable Violation” shall mean a violation of the traffic laws which may be
9 enforced by an automated road safety camera system, limited to exceeding the speed limit
10 pursuant to section 17 or section 18 of chapter 90 while travelling in a designated safety zone
11 pursuant to M.G.L. c. 90 § 18B.

12 Section 2.

13 (a) The City of Somerville may employ an automated road safety camera system as a
14 means of promoting traffic safety in a designated safety zone pursuant to M.G.L. c. 90 § 18B,
15 which may be fixed along any portion of any ways within a designated safety zone its control, or
16 within a designated safety zone in the control of the Commonwealth with written permission
17 from the department of transportation and may impose a penalty on the owner of a motor vehicle
18 for failure by the operator thereof to comply with traffic laws and regulations.

19 (b) The City may employ no more than two fixed automated road safety camera systems
20 per designated safety zone pursuant to M.G.L. c. 90 § 18B.

21 Section 3.

22 (a) The fine imposed for a violation issued pursuant to this chapter shall be no more than
23 the amount that the fine would be if a citation for the underlying violation had been issued in
24 accordance with section 2 of chapter 90C of the General Laws. For violations issued pursuant to
25 this chapter, except as provided in section 4, the owner or owners of a vehicle shall be liable for
26 the fine, however, no owner of a vehicle shall be responsible for a violation issued pursuant to
27 this chapter where the operator of the motor vehicle was issued a citation for the underlying
28 violation in accordance with section 2 of chapter 90C of the General Laws. The City may send a
29 written warning to the owner or owners in lieu of enforcement for the purpose of education.

30 (b) A certificate, or a facsimile thereof, based upon inspection of photographs and data
31 produced by an automated road safety camera system, and sworn to or affirmed by the police
32 department or designee authorized to issue citations for violations of traffic laws and regulations,
33 shall be prima facie evidence of the facts contained therein.

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

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

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

50 (f) In the case of a violation involving a motor vehicle registered under the laws of the
51 Commonwealth, a notice of violation shall be mailed within 14 days of the violation to the

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

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

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

74 2 of chapter 90C of the General Laws; or, the violation was necessary to comply with any other
75 law or regulation governing the operation of a motor vehicle.

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

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

95 (k) An owner may request a hearing to contest responsibility for a violation. A hearing
96 request shall be made in writing by mail or online. Upon receipt of a hearing request, the police
97 department shall schedule the matter before hearing officer. Said hearing officer may be an
98 employee of the police department of the City or such other person or persons as the police
99 department may designate. Written notice of the date, time and place of said hearing shall be sent
100 by first class mail to each registered owner. The hearing shall be informal, the rules of evidence
101 shall not apply, and the decision of the hearing officer shall be final subject to judicial review as
102 outlined by section 14 of Chapter 30A of the General Laws. Within 21 days of the hearing, the
103 police department or the hearing officer should send the decision of the hearing officer, including
104 the reasons for the outcome, by first class mail to the registered owner or owners. If the owner is
105 found responsible for the violation, the owner shall pay the fine in the manner described in (i)
106 within 14 days of the issuance of the decision or request further judicial review pursuant to
107 section 14 of Chapter 30A of the General Laws.

108 (l) Unless an owner or owners pay the fine or contest responsibility within 60 days of the
109 violation, the provisions shall apply. If an owner to whom a notice of violation has been issued
110 either fails to pay the fine in said notice in accordance with subsection (i), or is found responsible
111 for the violation and does not pay the fine in accordance with subsection (j) or subsection (k), the
112 police department shall notify the registrar of motor vehicles who shall place the matter on
113 record. Upon receipt of the registrar of five or more of such notices, the registrar shall not issue
114 or renew such owner's motor vehicle registration until after notification from the police
115 department that all fines owed pursuant to this chapter have been paid. It shall be the duty of the
116 police department to notify the registrar forthwith that such case has been so disposed; provided,
117 however, that certified receipt of full and final payment from the police department shall also

118 serve as legal notice to the registrar that said violation has been disposed of in accordance with
119 this chapter. The certified receipt shall be printed in such form as the registrar of motor vehicles
120 may approve.

121 Section 4.

122 (a) Notwithstanding section 3 of this chapter, if the registered owner of a motor vehicle in
123 receipt of a notice of violation is a person or entity engaged in the business of leasing or renting
124 motor vehicles, and such motor vehicle was operating under a rental or lease agreement at the
125 time of a violation, then the provisions of this section shall be applicable, and the registered
126 owner shall not be liable for any unpaid fines; provided, however, that such owner has complied
127 with the procedures of this section.

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

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

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

137 (e) If such lessee or rentee to whom a notice of violation has been issued either fails to
138 pay the fine in accordance with subsection (i) of section 3, or fails to receive a favorable

139 adjudication of said notice in accordance with subsection (j) of section 3, or subsection (k) of
140 section 3, the police department or designee shall notify the registrar of motor vehicles who shall
141 place the matter on record. Upon notification to the registrar of five or more of such notices
142 under this section, it shall be the duty of the registrar to suspend and not renew the license to
143 operate a motor vehicle of such lessee or rentee or suspend the right to operate of a lessee or
144 rentee not licensed in this Commonwealth until after notification from the Somerville police
145 department that all fines, taxes and penalties owed by such owner pursuant to either this chapter,
146 have been disposed of in accordance with this chapter. It shall be the duty of the police
147 department to notify the registrar forthwith that such case has been so disposed; provided,
148 however, that certified receipt of full and final payment from the police department shall also
149 serve as notice to the registrar that said violation has been disposed of in accordance this chapter.
150 The certified receipt shall be printed in such form as the registrar of motor vehicles may approve.

151 Section 5.

152 No speed limit violation shall be issued unless the vehicle exceeds the speed limit by at
153 least five miles per hour.

154 Section 6.

155 (a) The City shall install a sign notifying the public that an automated road safety camera
156 system is in use at each location of said camera.

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

161 Section 7.

162 (a) The compensation paid to the manufacturer or vendor of the automated road safety
163 camera system as authorized herein shall be based on the value of the equipment or services
164 provided and shall not be based on the number of traffic citations issued or the revenue generated
165 by the systems.

166 (b) Verification that the automated road safety camera system and any appurtenant traffic
167 control signals are correctly calibrated shall be made by a professional engineer registered in the
168 Commonwealth.

169 Section 8.

170 (a) Photographs and other recorded evidence shall only be captured when a camera
171 enforceable violation occurs. Photographs and other recorded evidence shall be destroyed within
172 48 hours of the final disposition of a violation.

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

181 (c) Photographs and other personally identifying information collected by the City
182 pursuant to this chapter are not public record.

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

185 Section 9.

186 This act shall take effect upon its passage.