

**HOUSE . . . . . No. 4287**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Manny Cruz and Joan B. Lovely*

*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 Salem to employ automated enforcement of speed limit violations in designated school zones within the city of Salem.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Manny Cruz</i>	<i>7th Essex</i>	<i>10/2/2023</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>10/2/2023</i>

**HOUSE . . . . . No. 4287**

By Representative Cruz of Salem and Senator Lovely, a joint petition (subject to Joint Rule 12) of Manny Cruz and Joan B. Lovely (with the approval of the mayor and city council) that the city of Salem be authorized to employ automated enforcement of speed limit violations in designated school zones within said city. Transportation. [Local Approval Received.]

**The Commonwealth of Massachusetts**

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

An Act authorizing the city of Salem to employ automated enforcement of speed limit violations in designated school zones within the city of Salem.

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

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

7 "Camera Enforceable Violation" shall mean a violation of the traffic laws which may be  
8 enforced by an automated road safety camera system, limited to exceeding the speed limit  
9 pursuant to section 17 or section 18 of chapter 90 while travelling in a designated school zone.

10 "City" shall mean the City of Salem, Massachusetts.

11           “Designated School Zone” shall mean within 300 feet of the real property comprising a  
12 public or private accredited preschool, accredited Head Start facility, elementary, vocational or  
13 secondary school if the violation occurs between 5:00 a.m. and midnight, whether or not school  
14 is in session.

15           Section 2. (a) The City of Salem may employ an automated road safety camera system as  
16 a means of promoting traffic safety in a designated school zone, which may be fixed along any  
17 portion of any ways within a designated school zone its control, or within a designated school  
18 zone in the control of the commonwealth with written permission from the department of  
19 transportation and may impose a penalty on the owner of a motor vehicle for failure by the  
20 operator thereof to comply with traffic laws and regulations.

21           (b) The City may employ no more than two fixed automated road safety camera systems  
22 per designated school zone.

23           Section 3. (a) The maximum fine imposed for a violation issued pursuant to this chapter  
24 shall be twenty five dollars per violation. For violations issued pursuant to this chapter, except as  
25 provided in section 4, the owner or owners of a vehicle shall be liable for the fine, however, no  
26 owner of a vehicle shall be responsible for a violation issued pursuant to this chapter where the  
27 operator of the motor vehicle was issued a citation for the underlying violation in accordance  
28 with section 2 of chapter 90C of the General Laws. The city may send a written warning to the  
29 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 or designee of a city to cause a notice of  
43 violation to the registered owner or owners of a motor vehicle identified in photographs  
44 produced by such device as evidence of a violation pursuant to this chapter. Such notice shall  
45 contain, but not be limited to, the following information: a copy of the aforementioned recorded  
46 images and other data showing the vehicle in the process of a camera enforceable violation; the  
47 registration number and state of issuance of the vehicle; the date, time and location of the  
48 violation; the specific camera enforceable violation charged; instructions for payment of the  
49 violation; instructions to contest 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. Unless an owner or owners pay the fine or contest responsibility within  
65 60 days of the violation, the provisions of subsection (l) will apply.

66 (h) Any owner to whom a notice of violation has been issued shall not be liable for a  
67 violation under the provisions of this chapter if: the violation was necessary to allow the passage  
68 of an emergency vehicle; the violation was incurred while participating in a funeral procession;  
69 the violation was incurred during a period of time in which the motor vehicle was reported to the  
70 police department of any state, city or town as having been stolen and had not been recovered  
71 prior to the time the violation occurred; the operator of the motor vehicle was operating the  
72 motor vehicle under a rental or lease agreement and the owner of the motor vehicle is a rental or  
73 leasing company and has complied with the provisions of section 4 of this chapter; the operator  
74 of the motor vehicle was issued a citation for the underlying violation in accordance with section  
75 2 of chapter 90C of the General Laws; or, the violation was necessary to comply with any other  
76 law or regulation governing the operation of a motor vehicle.

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

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

96 (k) An owner may request a hearing to contest responsibility for a violation. A hearing  
97 request shall be made in writing by mail or online. Upon receipt of a hearing request, the police  
98 department shall schedule the matter before hearing officer. Said hearing officer may be an  
99 employee of the police department of the city or such other person or persons as the police

100 department may designate. Written notice of the date, time and place of said hearing shall be sent  
101 by first class mail to each registered owner. The hearing shall be informal, the rules of evidence  
102 shall not apply, and the decision of the hearing officer shall be final subject to judicial review as  
103 outlined by section 14 of Chapter 30A of the General Laws. Within 21 days of the hearing, the  
104 police department or the hearing officer should send the decision of the hearing officer, including  
105 the reasons for the outcome, by first class mail to the registered owner or owners. If the owner is  
106 found responsible for the violation, the owner shall pay the fine in the manner described in (i)  
107 within 14 days of the issuance of the decision or request further judicial review pursuant to  
108 section 14 of Chapter 30A of the General Laws.

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

120 Section 4. (a) Notwithstanding section 3 of this chapter, if the registered owner of a  
121 motor vehicle in receipt of a notice of violation is a person or entity engaged in the business of  
122 leasing or renting motor vehicles, and such motor vehicle was operating under a rental or lease

123 agreement at the time of a violation, then the provisions of this section shall be applicable, and  
124 the registered owner shall not be liable for any unpaid fines; provided, however, that such owner  
125 has complied with the procedures of this section.

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

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

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

135 (e) If such lessee or renter to whom a notice of violation has been issued either fails to  
136 pay the fine in accordance with subsection (i) of section 3, or fails to receive a favorable  
137 adjudication of said notice in accordance with subsection (j) of section 3, or subsection (k) of  
138 section 3, the police department or designee shall notify the registrar of motor vehicles who shall  
139 place the matter on record. Upon notification to the registrar of five or more of such notices  
140 under this section, it shall be the duty of the registrar to suspend and not renew the license to  
141 operate a motor vehicle of such lessee or renter or suspend the right to operate of a lessee or  
142 renter not licensed in this commonwealth until after notification from the Salem police  
143 department that all fines, taxes and penalties owed by such owner pursuant to either this chapter,  
144 have been disposed of in accordance with this chapter. It shall be the duty of the police

145 department to notify the registrar forthwith that such case has been so disposed; provided,  
146 however, that certified receipt of full and final payment from the police department shall also  
147 serve as notice to the registrar that said violation has been disposed of in accordance this chapter.  
148 The certified receipt shall be printed in such form as the registrar of motor vehicles may approve.

149 Section 5. No speed limit violation shall be issued unless the vehicle exceeds the speed  
150 limit by at least ten miles per hour.

151 Section 6. (a) The city shall install a sign notifying the public that an automated road  
152 safety camera system is in use at each location of said camera.

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

157 Section 7. Verification that the automated road safety camera system and any  
158 appurtenant traffic control signals are correctly calibrated shall be made by a professional  
159 engineer registered in the commonwealth.

160 Section 8. (a) Photographs and other recorded evidence shall only be captured when a  
161 camera enforceable violation occurs. Photographs and other recorded evidence shall be destroyed  
162 within 48 hours of the final disposition of a violation.

163 (b) No photographs taken in conformance with this chapter shall be discoverable in any  
164 judicial or administrative proceeding other than a proceeding held pursuant to this chapter  
165 without a court order. No photograph taken in conformance with this chapter shall be admissible

166 in any judicial or administrative proceeding other than in a proceeding to adjudicate liability for  
167 such violation of this chapter without a court order. A court shall order a release of a photograph  
168 taken in conformance with this chapter only where the photograph tends to establish or  
169 undermine a finding of a moving violation and the violation is material as to a finding of civil or  
170 criminal liability.

171 (c) Photographs and other personally identifying information collected by the city  
172 pursuant to this chapter are not public record.

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

175 Section 9. City shall establish a revolving or equivalent fund for all proceeds generated  
176 from this Act and such proceeds shall be used for traffic and safety enhancements and driver  
177 safety education.

178 Section 10. This act shall take effect as provided by law.