

HOUSE No. 3393

The Commonwealth of Massachusetts

PRESENTED BY:

Steven Owens and Manny Cruz

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:	DATE ADDED:
<i>Steven Owens</i>	<i>29th Middlesex</i>	<i>1/19/2023</i>
<i>Manny Cruz</i>	<i>7th Essex</i>	<i>1/20/2023</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>2/2/2023</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>2/14/2023</i>

HOUSE No. 3393

By Representatives Owens of Watertown and Cruz of Salem, a petition (accompanied by bill, House, No. 3393) of Steven Owens, Manny Cruz and others relative to automated motor vehicle sensor devices that produce digital photographs of motor vehicles committing camera-enforceable violations. Transportation.

The Commonwealth of Massachusetts

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

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

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

8
9 CHAPTER 90J.

10

11 “AUTOMATED ROAD SAFETY ENFORCEMENT PILOT PROGRAM

12

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

15

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

19

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

30

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

35

36 “Registrar”, the registrar of motor vehicles.

37

38 Section 2. (a) A city or town that accepts this chapter may install an automated road
39 safety camera system as a means of promoting traffic safety. The automated road safety camera
40 system may be placed: (i) along any portion of any way within the city’s or town’s control; (ii)
41 along any portion of any way within the control of the commonwealth, other than a limited
42 access highway, with written permission from the Massachusetts Department of Transportation
43 or the department of conservation and recreation; or (iii) attached to a school bus; provided,
44 however, that before equipping a school bus serving a regional school district with an automated
45 road safety camera, each city or town member of the regional school district shall accept this
46 chapter and shall approve the location of the automated road safety camera system pursuant to
47 subsection (b); provided further, that the city or town may impose a penalty for a camera
48 enforceable violation on the registered owner of a motor vehicle pursuant to section 3.

49

50 (b) A city or town that accepts this chapter shall not employ more than 1 automated road
51 safety camera system per 25,00 residents as measured by using the most recent census data;

52 provided, however, that a city or town with less than 2,500 residents shall not employ an
53 automated road safety camera system; and provided further, that an automated road safety
54 camera system that is attached to a school bus shall not be included in the number of automated
55 road safety camera systems in the city or town. The location of an automated road safety camera
56 system shall be approved by the city council with the approval of the mayor in a city or the board
57 of selectmen in a town after a public hearing on the proposed location of the automated road
58 safety camera system; provided, however, that the city or town shall present the past 3 years of
59 available crash data at the proposed location of an automated road safety camera system at the
60 public hearing.

61

62 (c) Annually, not later than December 1, a city or town that accepts this chapter shall
63 transmit a report to the Massachusetts Department of Transportation that details each automated
64 road safety camera system located in the city or town or proposed to be located in the city or
65 town. The report shall include, but not be limited to: (i) a list of the locations of each automated
66 road safety camera system in the city or town; (ii) an analysis of the nexus between public safety
67 and each location's automated road safety camera system; and (iii) the number of fines and
68 warnings issued for camera enforceable violations pursuant to section 3; (iv) records of the
69 maintenance and calibration of each location's automated road safety camera system; (v) crash
70 data at each separate location of an automated road safety camera system; (vi) an analysis of the
71 frequency of traffic stops by the municipality's police force prior to and after the implementation
72 of an automated road safety camera system . The department shall post all reports received
73 pursuant to this section on its website.

74

75 Section 3. (a) The maximum fine imposed under this chapter for a camera enforceable
76 violation shall be \$25 per violation. Except as provided in section 4, the registered owner of a
77 motor vehicle shall be liable for the fine; provided, however, that a registered owner of a motor
78 vehicle shall not be liable for the fine imposed under this chapter for a camera enforceable
79 violation if the operator of the motor vehicle was issued a citation for the violation in accordance
80 with section 2 of chapter 90C. A city or town that accepts this chapter may send a written
81 warning to the registered owner of a motor vehicle for the purposes of education in lieu of
82 enforcement through a fine; provided, however, that a written warning shall only be issued
83 pursuant to objective and consistent criteria in a written policy established by the municipal
84 designee; provided further, that the Massachusetts Department of Transportation may provide
85 guidance to the city or town on establishing such objective and consistent criteria.

86

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

90

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

95

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

98

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

110

111 (2) In the case of a violation involving a motor vehicle registered in the commonwealth,
112 the notice of violation shall be mailed within 14 days of the violation to the address of the
113 registered owner of the motor vehicle as listed in the records of the registrar. If a motor vehicle is
114 registered under the laws of another state or country, the notice of violation shall be mailed
115 within 21 days of the violation to the address of the registered owner as listed in the records of
116 the official in the state or country that has charge of the registration of the motor vehicle. If the

117 address is unavailable, it shall be sufficient for the municipal designee to mail a notice of
118 violation to the official in the state or country that has charge of the registration of the motor
119 vehicle.

120

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

126

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

138

139 (g) A registered owner of a motor vehicle to whom a notice of violation has been issued
140 pursuant to this chapter may admit responsibility for the violation and pay the fine provided
141 therein. Payment of the established fine shall operate as the final disposition of a camera
142 enforceable violation; provided, however, that payment by a registered owner of a motor vehicle
143 shall operate as the final disposition of the violation as to any other registered owner of the same
144 motor vehicle for the same violation.

145

146 (h) Not more than 60 days after a camera enforceable violation under this chapter, a
147 registered owner of a motor vehicle may contest responsibility for the violation in writing by
148 mail or online. The registered owner shall provide the municipal designee with a signed affidavit,
149 in a form approved by the municipal designee, stating the: (i) reason for disputing the violation;
150 (ii) full legal name and address of the registered owner of the motor vehicle; and (iii) full legal
151 name and address of the operator of the motor vehicle at the time the violation occurred. The
152 registered owner may include signed statements from witnesses, including the names and
153 addresses of witnesses, supporting the registered owner's defense. Not more than 21 days after
154 receipt of the signed affidavit, the municipal designee or the hearing officer shall send the
155 decision of the hearing officer, including the reasons for the outcome, by first class mail to the
156 registered owner. If the registered owner is found responsible for the violation, the registered
157 owner shall pay the fine in the manner described in subsection (g) not more than 14 days after
158 the issuance of the decision or request further judicial review pursuant to section 14 of chapter
159 30A.

160

161 (i) In lieu of contesting responsibility for a violation in writing or online pursuant to
162 subsection (h) and not more than 60 days after a violation under this chapter, a registered owner
163 of the motor vehicle may request a hearing to contest responsibility for a camera enforceable
164 violation. A hearing request shall be made in writing by mail or online. Upon receipt of a hearing
165 request, the municipal designee shall schedule the matter before a hearing officer. The hearing
166 officer may be an employee of the municipal designee or such other person as the municipal
167 designee may designate. Written notice of the date, time and place of the hearing shall be sent by
168 first class mail to each registered owner of the motor vehicle. The hearing shall be informal, the
169 rules of evidence shall not apply and the decision of the hearing officer shall be final subject to
170 judicial review pursuant to section 14 of chapter 30A. Not more than 21 days after the hearing,
171 the municipal designee or the hearing officer shall send the decision of the hearing officer,
172 including the reason for the outcome, by first class mail to the registered owner. If the registered
173 owner is found to be responsible for the camera enforceable violation, the registered owner shall
174 pay the fine in the manner described in subsection (g) not more than 14 days after the issuance of
175 the decision or request further judicial review pursuant to said section 14 of said chapter 30A.

176

177 (j) The municipal designee shall notify the registrar when a registered owner of a motor
178 vehicle to whom a notice of a camera enforceable violation has been issued: (i) fails to contest
179 the responsibility for a violation pursuant to subsection (h) or subsection (i) and fails to pay the
180 fine in the notice in accordance with subsection (g) within 60 days of the violation; or (ii) is
181 found responsible for the violation and does not pay the fine in accordance with subsection (h) or
182 subsection (i). Upon being notified by the municipal designee, the registrar shall place the matter
183 on record. The municipal designee shall notify the registrar immediately when a fine that is the

184 basis for a notice to the registrar under this subsection has been paid; provided, however, that
185 certified receipt of full and final payment from the municipal designee issuing a violation shall
186 also serve as legal notice to the registrar that a violation has been disposed of in accordance with
187 this chapter. The certified receipt shall be printed in such form as the registrar may approve.

188

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

194

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

198

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

203

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

207

208 (e) The municipal designee shall notify the registrar if the lessee or rentee to whom a
209 notice of violation has been issued: (i) fails to contest the responsibility for a camera enforceable
210 violation pursuant to either subsection (h) or subsection (i) of section 3 and fails to pay the fine
211 in the notice in accordance with subsection (g) of said section 3 within 90 days of the violation;
212 or (ii) is found responsible for the violation and does not pay the fine in accordance with said
213 subsection (h) or said subsection (i) of said section 3. Upon being notified by the municipal
214 designee, the registrar shall place the matter on record.

215

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

222

223 Section 5. No violation shall be issued pursuant to this chapter for: (i) a failure to stop at
224 a signal at an intersection if any part of the vehicle was over the stop line when the light was

225 yellow, regardless of whether or not the light turned red while the vehicle was over the stop line;
226 (ii) exceeding the speed limit, unless the vehicle exceeds the speed limit by not less than 10 miles
227 per hour where the posted speed limit is 45 miles per hour or greater and not less than 5 miles per
228 hour where the posted speed limit is less than 45 miles per hour; (iii) passing a school a bus
229 when its warning signals are activated, unless the vehicle crosses the plane of the stop sign on the
230 bus; (iv) making a right turn on a steady red indication in a traffic control signal where
231 prohibited, unless the entire vehicle has crossed the stop line; or (v) blocking an intersection,
232 unless the entire vehicle has crossed the stop line and no portion of the vehicle has exited the
233 intersection.

234

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

240

241 (b) A city or town that accepts this chapter shall make a public announcement and
242 conduct a public awareness campaign of its use of automated road safety camera systems
243 beginning not less than 60 days before the first such automated road safety camera system is put
244 into use; provided, however, that a city or town that accepts this chapter may install but shall not
245 activate automated road safety camera systems during the 60-day time period.

246

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

251

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

255

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

259

260 (b) A photograph or other recorded evidence taken pursuant to this chapter shall not be
261 discoverable in any judicial or administrative proceeding, other than a proceeding held pursuant
262 to this chapter, without a court order. A photograph or other recorded evidence taken pursuant to
263 this chapter shall not be admissible in any judicial or administrative proceeding, other than in a
264 proceeding to adjudicate liability for a violation of this chapter, without a court order. A court
265 shall not order a release of a photograph or other recorded evidence taken pursuant to this
266 chapter unless the photograph or other recorded evidence establishes or undermines a finding of

267 a moving violation and the camera enforceable violation is material as to a finding of civil or
268 criminal liability.

269

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

273

274 (d) An automated road safety camera system shall not be utilized to take a frontal view
275 photograph of a motor vehicle committing a camera enforceable violation. A frontal view
276 photograph of a motor vehicle committing a camera enforceable violation taken by an automated
277 road safety camera system shall not be discoverable or admissible in any judicial or
278 administrative proceeding and shall not be used as the basis for a camera enforceable violation
279 under this chapter. To the extent practicable, additional efforts shall be made to ensure that
280 photographs produced by an automated road safety camera system do not identify the vehicle
281 operator, the passengers or the contents of the vehicle.

282

283 (e) A city or town or a manufacturer or vendor of an automated road safety camera
284 system may not use, disclose, sell or permit access to data collected by an automated road safety
285 camera system except as necessary to process camera enforceable violations in accordance with
286 this chapter.

287

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

296

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

299

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

306

307 Section 10B. Not less than annually, the Massachusetts Department of Transportation
308 shall submit a report to the clerks of the senate and house of representatives, the senate and house

309 committees on ways and means and the joint committee on transportation that analyzes the
310 public safety, traffic congestion, and social and racial equity impacts of this chapter. The
311 Massachusetts Department of Transportation shall also publish the report on its website

312

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

315

316 SECTION 2A. Not later than 90 days from the effective date of this act, the
317 Massachusetts Department of Transportation shall promulgate regulations to implement chapter
318 90J of the General Laws. The regulations shall include, but not be limited to: (i) establishing
319 standardized forms for notices of violations and written warnings; (ii) developing uniform
320 signage requirements for the purpose of complying with subsection (a) of section 6 of said
321 chapter 90J; and (iii) establishing standards for the calibration of automated road safety camera
322 systems under subsection (b) of section 7 of said chapter 90J.

323

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