

**HOUSE . . . . . No. 3408**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*David Biele*

*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 blocking the box traffic violations.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David Biele</i>	<i>4th Suffolk</i>	<i>2/18/2021</i>
<i>Mayor Martin J. Walsh</i>	<i>1 City Hall Square, Boston, MA 02201</i>	<i>2/18/2021</i>

**HOUSE . . . . . No. 3408**

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By Mr. Biele of Boston, a petition (accompanied by bill, House, No. 3408) of David Biele and Mayor Martin J. Walsh relative to blocking the box traffic violations. Transportation.

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**The Commonwealth of Massachusetts**

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

An Act relative to blocking the box traffic violations.

*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. Chapter 90 of the General Laws is hereby amended by inserting after  
2 section 14B the following section:-

3 Section 14C. (a) As used in this section, the following words shall have the following  
4 meanings:

5 “Automated Traffic Law Enforcement System”, a device with one or more camera  
6 sensors working in conjunction with:

7 (1) A red light signal to produce recorded images of a motor vehicle that enters an  
8 intersection, which it is unable to proceed through without stopping, and thereby blocks vehicles  
9 from travelling in a free direction in violation of section 9 of Chapter 89; or

10 (2) A school bus stop arm traffic control sign to produce recorded images of a motor  
11 vehicle that fails to come to a complete stop when approaching a vehicle which displays a sign  
12 bearing the words “SCHOOL BUS” in violation of section 14 of this chapter.

13 “School Bus Stop Arm Traffic Control Sign”, a stop sign mounted on a mechanical arm  
14 installed on a school bus which is deployed when a school bus is stopped to allow pupils to alight  
15 from or board the same and notify motorists when they are required to stop and when they can  
16 proceed.

17 (b) (1) Notwithstanding any general or special law to the contrary, a city or town may  
18 install and operate Automated Traffic Law Enforcement Systems for the purposes of enforcing  
19 violations against the registered owner of a motor vehicle whose vehicle commits a violation  
20 pursuant to this section. Such systems shall be limited to monitoring and detecting violations of  
21 motorists who fail to come to a complete stop where instructed to do so by a school bus stop arm  
22 traffic control sign pursuant to section 14, and violations of motorists that block an intersection  
23 in violation of section 9 of chapter 89.

24 (2) The city or town shall install a sign notifying the public that an Automated Traffic  
25 Law Enforcement System is in use at each location of such a system. Each school bus with a stop  
26 arm traffic control signal shall have a sign notifying the public that a camera is in use on the bus.

27 (3) The city or town shall make a public announcement and conduct a public awareness  
28 campaign of the use of an Automated Traffic Law Enforcement System beginning at least 30  
29 days before the system is in use. The public awareness campaign shall continue throughout the  
30 period of time that the system is in use.

31 (4) For a period of at least 60 days after the implementation of an Automated Traffic Law  
32 Enforcement System, a city or town may issue only warnings to owners of motor vehicles  
33 operated in violation of this section and said city or town shall not collect fines for a violation of  
34 this section.

35 (5) All systems installed for use under this section shall produce an evidence file that  
36 includes a live digital video image viewable remotely, a recorded image of the license plate and  
37 shall be able to record the date, time and location of the vehicle committing the violation.

38 (6) Recorded video images and still photographic images shall record the rear or front of  
39 the motor vehicle, with at least 1 photographic image and 1 recorded video image clearly  
40 recording the motor vehicle immediately before the violation and at least 1 photographic image  
41 and 1 recorded video image recording the motor vehicle committing the violation. At least 1  
42 photographic image and 1 recorded video image shall clearly identify the license plate of the  
43 motor vehicle.

44 (7) To the extent practicable, an Automated Traffic Law Enforcement System shall use  
45 necessary technologies to ensure that photographs or recorded video images produced by the  
46 Automated Traffic Law Enforcement System shall not include a frontal view photograph or  
47 video image that identifies the operator, the passengers, or the contents of the vehicle; provided,  
48 however, no notice of liability issued under this section shall be dismissed solely because a  
49 photograph or recorded video image allow for the identification of the operator, passengers, or  
50 contents of a vehicle as long as a reasonable effort has been made to comply with this paragraph.

51 (8) A penalty imposed for a violation of this section shall not be considered a criminal  
52 conviction and shall not be considered a surchargeable offense pursuant to section 113B of  
53 chapter 175;

54 (9) The fines contained in this section shall be applied whether the violation is detected  
55 through the use of a Automated Traffic Law Enforcement System or by a police officer on scene  
56 who issues a written citation to the operator of the motor vehicle. Pursuant to the provisions of

57 section 2 of chapter 280, all fines imposed for a violation that is detected by a Automated Traffic  
58 Law Enforcement System or by a police officer who cites the operator in hand shall be paid over  
59 to the treasury of the city or town where the offense was committed.

60 (10) A city or town may enter into an agreement with a private vendor or manufacturer,  
61 pursuant to the provisions of chapter 30B, to provide an Automated Traffic Law Enforcement  
62 System and evidence file processing services, up to and including the installation, operation,  
63 monitoring, evidence file preparation and maintenance of such systems. An agreement pursuant  
64 to this section shall take effect upon its acceptance by a municipality or district; such acceptance  
65 shall be in a municipality, by a vote of the legislative body, subject to the charge of the  
66 municipality, or, in a district, by a vote of the district at a district meeting. Compensation paid to  
67 the manufacturer or vendor of the Automated Traffic Law Enforcement System shall not be  
68 based upon the revenue generated by the use of such systems. The compensation paid to the  
69 manufacturer or vendor of the equipment shall be based upon the value of the equipment  
70 installed and the recurring services provided in support of the Automated Traffic Law  
71 Enforcement Systems including processing of evidence files, cost of the technology provided  
72 and maintenance of such technology.

73 (11) A city or town shall provide reimbursement of expenses to the private vendor or  
74 manufacturer for the installation, operation and maintenance of the Automated Traffic Law  
75 Enforcement Systems in operation and acknowledged by an agreement between the private  
76 vendor and the city or town. Unless modified by an agreement with a city or town,  
77 reimbursement shall be made from ticket revenue proceeds incurred under this section only if  
78 received as currently allocated under the laws of the Commonwealth for said citations so as to  
79 eliminate any cost to the city or town for installation, operation and maintenance of the

80 Automated Traffic Law Enforcement Systems in its municipality. Such reimbursement shall be  
81 made to the private vendor or manufacturer within 45 days following the submittal of request for  
82 cost reimbursement.

83 (c) (1) An evidence file of the alleged violation shall be forwarded to the chief of police  
84 of the municipality, or a designee of the chief, who is trained to observe and detect a violation of  
85 this section. The officer shall issue a citation if satisfied that a violation was committed and the  
86 vehicle committing such violation can be identified from its registration plate. A certificate, or a  
87 facsimile thereof, sworn to or affirmed by a police officer or other law enforcement officer  
88 authorized to issue motor vehicle citations, stating that based upon inspection of the evidence file  
89 produced by an Automated Traffic Law Enforcement System, the vehicle was in violation of this  
90 section, shall be prima facie evidence of the facts contained therein. The recorded video images  
91 or still photographic images produced by an Automated Traffic Law Enforcement System  
92 evidencing the violation shall be available for inspection in any proceeding to adjudicate the  
93 liability for a violation pursuant to this section.

94 (2) In all proceedings of violations pursuant to this section, the registered owner of the  
95 motor vehicle shall be primarily responsible, except as otherwise provided in this section. In the  
96 event the registered owner of the vehicle operated in violation of this section was not the  
97 operator of the vehicle at the time of the violation, the registered owner of the vehicle shall  
98 assume liability for the violation by paying the fine or defend the violation pursuant to the  
99 procedures established for violations pursuant to this section. In the case where a vehicle owned  
100 by or leased to a corporation is identified by an Automated Traffic Law Enforcement System, the  
101 corporation shall be primarily responsible for a violation pursuant to this section even if a person

102 who normally operates the vehicle for the corporation denies operating the vehicle at the time of  
103 the violation; provided, however, no entry shall be made on the person's driving record.

104 (3) A penalty imposed may, if so provided in writing, be increased by up to 33 1/3% if  
105 the penalty remains unpaid in excess of 45 days after a citation has been issued consistent with  
106 the procedures established in this section and there has been no request for a hearing under  
107 paragraph (3) of subsection (d).

108 (d) (1) Upon the determination of a violation through the use of an Automated Traffic  
109 Law Enforcement System, the chief of police of the city or town, or a designee of the chief, shall  
110 issue to the registered owner of the vehicle a citation. The citation shall include, but not be  
111 limited to, the following information: (i) the name and address of the the registered owner of the  
112 motor vehicle; the registration number and state of issuance of the registration number of the  
113 vehicle involved in the violation; the date, time and location of the violation; the specific  
114 violation charged; the amount of the penalty for the violation; and the date by which the penalty  
115 shall be paid; (ii) a copy of 2 or more still photographs or microphotographs showing the vehicle  
116 committing the violation; (iii) a copy of the certificate or affidavit of the police officer under  
117 paragraph (1) of subsection (c); (iv) a statement that recorded video images and photographic  
118 images are evidence of a violation of section 14 or a violation of section 9 of Chapter 89; (v)  
119 instructions for the return of the citation notice including, but not limited to the following text:-  
120 "This notice and the required payment may be returned in person, by mail, or by a duly  
121 authorized agent. A hearing to contest liability may be obtained upon the written request of the  
122 registered owner. Failure to pay the penalty or to contest liability within 30 days of issuance of  
123 this notice is an admission of liability and may result in a default judgment being entered against  
124 the owner to whom the violation has been issued and non-renewal or suspension of the license to

125 drive and the certificate of registration of the registered owner.”; (vii) a statement explaining the  
126 procedure to adjudicate the violation by mail under paragraph (6); and (viii) a statement  
127 explaining the procedure for the violator to access and view the digital video or other recorded  
128 images showing the vehicle in violation. The citation shall require the registered owner to pay  
129 the fine amount issued pursuant to this section or appear before the parking clerk not later than  
130 30 days after the date the citation was mailed to the registered owner. Citations shall be mailed  
131 by first class mail, postmarked no later than 14 days after the date of the alleged violation,  
132 inclusive of Sundays and legal holidays. The citation shall be mailed to the address of the  
133 registered owner on record with the registry of motor vehicles, or, in the case of a motor vehicle  
134 registered under the laws of another state or jurisdiction, at the address of the registered owner  
135 on record with the official in the state or other jurisdiction having charge of the registration of  
136 the vehicle. If the address is unavailable in the case of a motor vehicle registered under the laws  
137 of another state or jurisdiction, the chief of police, or a designee, shall mail the citation to the  
138 official in the state or other jurisdiction having charge of the registration of the vehicle. The  
139 citation shall be considered sufficient notice, and a certificate of the chief of police, or a  
140 designee, mailing the citation stating that it has been mailed in accordance with this section shall  
141 be deemed prima facie evidence thereof and shall be admissible in any judicial or administrative  
142 proceeding as to the facts contained therein.

143         The chief of police, or designee, shall retain and safely preserve a copy of the citation and  
144 shall at a time no later than the beginning of the next business day after mailing to the registered  
145 owner, deliver a copy of the citation to the parking clerk. The parking clerk shall maintain a  
146 docket of all issued citations. The date of issuance shall be the date of mailing. The police officer  
147 issuing the citation shall certify that the evidence obtained from the Automated Traffic Law



148 Enforcement System was sufficient to demonstrate a violation of this section. Such certification  
149 shall be sufficient in all proceedings pursuant to this section to justify the entry of a default  
150 judgment in all cases where the citation is not answered within the time period permitted under  
151 this section.

152 (2) A person issued a citation may pay the fine by appearing before the parking clerk, or  
153 his designee, and admit to the violation, either personally, through a duly authorized agent, or by  
154 mailing to the parking clerk the fine. Payment of the penalty established shall operate as a final  
155 disposition of the case.

156 (3) If the person requests a hearing to contest liability of the citation, the parking clerk  
157 shall forthwith schedule the matter before a hearing officer. The hearing officer shall be the  
158 parking clerk, or a designee, of the city or town in which the violation occurred. Written notice  
159 of the date, time and place of the hearing shall be sent by first-class mail to the registered owner.  
160 The hearing shall be informal, the rules of evidence shall not apply and the decision of the  
161 hearing officer shall be final subject to judicial review as provided by section 14 of chapter 30A.  
162 Within 21 days of the hearing, the hearing officer shall send by first class mail to the registered  
163 owner the decision of the hearing officer, including the reasons for the outcome.

164 (4) A person issued a citation may, without waiving his right to a hearing before the  
165 parking clerk or hearing officer, and also without waiving judicial review under section 14 of  
166 chapter 30A, challenge the validity of the citation and receive a review and disposition of the  
167 violation from the parking clerk or a hearing officer by mail. The registered owner may, upon  
168 receipt of the citation, send a signed statement explaining his objections to the violation notice as  
169 well as signed statements from witnesses, police officers, government officials and any other

170 relevant parties. Photographs, diagrams, maps and other documents may also be sent with the  
171 statements. Any statements or materials sent to the parking clerk for review shall include the  
172 name and address of the person as well as the citation number and the date of the violation. The  
173 parking clerk or hearing officer shall, within 21 days of receipt of this material, review the  
174 material and dismiss or uphold the violation and notify, by mail, the registered owner of the  
175 disposition of the written review. If the outcome of the written review is adverse to the registered  
176 owner, the parking clerk or hearing officer shall include the reasons for the outcome on the  
177 notice. The review and disposition handled by mail shall be informal, the rules of evidence shall  
178 not apply, and the decision of the parking clerk or hearing officer based upon the written  
179 materials shall be final, unless the owner invokes the hearing provisions under this section or  
180 judicial review under section 14 of chapter 30A.

181 (5) A person who violates this section by failing to stop for a school bus traffic control  
182 arm signal shall be punished by a fine of not less than \$250; and for a second offense by a fine of  
183 not less than \$500 nor more than \$1,000; and for a third or subsequent offense by a fine of not  
184 less than \$1,000 nor more than \$2,000. All other violations under this section shall be punished  
185 by a fine of not less than \$150.

186 (6) If a person fails to pay the fine or fails to receive a favorable adjudication of the  
187 hearing from a hearing officer and fails to pay the fine within 30 days of the date that the hearing  
188 officer has mailed notice of the decision of the hearing officer, the parking clerk shall notify the  
189 registrar of motor vehicles, who shall place the matter on record. Upon notification to the  
190 registrar of 2 or more citations under this section from the parking clerk of the city or town, the  
191 registrar shall not issue or renew or may suspend the license to operate a motor vehicle of the  
192 registered owner or motor vehicle registration of the registered owner until after notification

193 from the parking clerk of each city or town, from whom the registrar received notification, that  
194 all fines, taxes and penalties owed by the owner under this section have been disposed of in  
195 accordance with law. Upon such notification to the registrar, an additional charge of \$20 payable  
196 to the registrar but collected by the city or town, and an additional charge of \$20 payable to and  
197 collected by the city or town, shall be assessed against the registered owner of the motor vehicle.  
198 It shall be the duty of the parking clerk to notify the registrar forthwith that the case has been so  
199 disposed; provided, however, certified receipt of full and final payment from the parking clerk of  
200 the city or town issuing the violation shall also serve as legal notice to the registrar that the  
201 violation has been disposed of in accordance with law. The certified receipt shall be printed in a  
202 form approved by the registrar of motor vehicles.

203 (7) Upon the accumulation by a registered owner of 2 or more outstanding citations under  
204 this section on account of violation of this section, the parking clerk of the city or town may  
205 notify the chief of police or director of traffic and parking of the city or town that the vehicle  
206 bearing the registration to which the notices have been issued shall be removed and stored or  
207 otherwise immobilized by a mechanical device at the expense of the registered owner of the  
208 vehicle until all fines, taxes and penalties owed by the owner either under this section, or  
209 otherwise arising out of the parking or usage of the owner's motor vehicle, have been disposed  
210 of in accordance with law. No vehicle shall be removed, stored, or otherwise immobilized unless  
211 the registered owner of the motor vehicle shall have received 10 days prior notification by mail  
212 that the motor vehicle may be removed, stored, or immobilized without further notification. It  
213 shall be sufficient for the parking clerk to mail, postage prepaid, the notification to the last  
214 known address of the registered owner. It shall be sufficient for the parking clerk, in the case of a

215 motor vehicle registered in another state or jurisdiction, to mail notification to the official in the  
216 state or jurisdiction having charge of the registration of the motor vehicle.

217 (8) Except as expressly provided, all proceedings based on evidence produced by an  
218 Automated Traffic Law Enforcement System shall follow the procedures of this section.

219 Notwithstanding the installation and use of an Automated Traffic Law Enforcement System, a  
220 trained police officer, in whose presence a motorist commits a violation under any general or  
221 special law, may issue a citation at the scene to the operator of such vehicle for such violation.

222 An owner of a vehicle shall not be liable for a citation as a result of an Automated Traffic Law  
223 Enforcement System if the operator of the vehicle was cited directly by a police officer at the  
224 scene of the violation

225 (9) An owner to whom a citation has been issued shall not be liable for a violation of this  
226 section (a) if the violation was necessary to allow the passage of an emergency vehicle; (b) if the  
227 violation was necessary in order to protect the property or person of another; (c) if the violation  
228 was incurred while participating in a funeral procession; (d) if the violation was incurred during  
229 a period of time in which the motor vehicle was reported to the police department of any state,  
230 city or town as having been stolen and had not been recovered before the time the violation  
231 occurred; (e) if the operator of the motor vehicle was convicted of the underlying violation under  
232 a citation issued in accordance with section 2 of chapter 90C; (f) if the violation was necessary to  
233 comply with an order of a law enforcement officer or a flagger directing traffic flow; or (g) if the  
234 vehicle was subject to the exceptions granted to an authorized emergency vehicle under section  
235 7B of chapter 89. An owner disputing a violation under this subsection shall, within 30 days of  
236 issuance of the notice, provide the parking clerk with an affidavit signed under the pains and  
237 penalties of perjury in a form approved by the parking clerk, as provided for in clause (vii) of

238 paragraph (1) of this subsection, stating the following: (1) the reason for disputing the violation;  
239 (2) the full legal name and address of the registered owner of the motor vehicle; (3) the names  
240 and addresses of all witnesses supporting the registered owner's defense and the specifics of their  
241 knowledge; and (4) where applicable, the signed statements from witnesses. The affidavit shall  
242 be filed with the request for a hearing.

243 (e)(1) Other than for purposes of enforcement of a violation of this section or for  
244 purposes of a registered owner defending a violation of this section, recorded video images and  
245 photographs taken or created under this section may only be obtained under an order by a court  
246 of competent jurisdiction.

247 (2) All recorded video images and other photographic information obtained through the  
248 use of Automated Traffic Law Enforcement Systems authorized in this section that do not  
249 identify a violation shall be destroyed by a city, town, school department or vendor within 30  
250 days of the date the image was recorded, unless otherwise ordered by a court of competent  
251 jurisdiction. All photographic and other recorded information that identifies a violation shall be  
252 destroyed within 1 year of final disposition of proceedings related to the enforcement or defense  
253 of a violation, unless otherwise ordered by a court of competent jurisdiction. All recorded video,  
254 audio and other photographic information, however stored or retained, which is obtained through  
255 an Automated Traffic Law Enforcement System are the property of the municipality under  
256 agreement with a vendor and shall not be used by a vendor for any other purposes. Upon the  
257 expiration of an agreement authorized under this section, all of such video, audio, and other  
258 photographic information shall be delivered within 30 days to the particular municipality, unless  
259 otherwise ordered by a court of competent jurisdiction.