



House of Representatives

General Assembly

File No. 225

February Session, 2012

Substitute House Bill No. 5458

House of Representatives, April 2, 2012

The Committee on Transportation reported through REP. GUERRERA of the 29th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING MUNICIPAL AUTOMATED TRAFFIC ENFORCEMENT SAFETY DEVICES AT CERTAIN INTERSECTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2012*) As used in this section
2 and sections 2 to 4, inclusive, of this act:

3 (1) "Automated traffic enforcement safety device" means a device
4 that (A) is capable of producing a photographically recorded still or
5 video image, or combination thereof, of the rear of a motor vehicle or a
6 motor vehicle being drawn by another motor vehicle, including an
7 image of the vehicle's rear license plate; and (B) indicates on one or
8 more of any such images produced, the date and time, and the location
9 of such device;

10 (2) "Owner" means a person or persons in whose name a motor
11 vehicle is registered under title 14 of the general statutes, or under the
12 laws of another state or country; and

13 (3) "Vendor" means a person who: (A) Provides services to a
14 municipality under sections 2 to 4, inclusive, of this act; (B) operates,
15 maintains, leases or licenses an automated traffic enforcement safety
16 device; or (C) is authorized to review and assemble the recorded
17 images captured by the automated traffic enforcement safety device,
18 provided none of these activities shall be construed by the state or a
19 traffic authority as providing or participating in private investigative
20 services.

21 Sec. 2. (NEW) (*Effective October 1, 2012*) (a) A municipality with a
22 population greater than forty-eight thousand may by ordinance
23 authorize the use of automated traffic enforcement safety devices to
24 enforce the provisions of section 14-299 of the general statutes, within
25 such municipality. Such authorization shall expire on September 30,
26 2018.

27 (b) Any contract between a municipality enforcing an ordinance
28 adopted under this section and a vendor shall not provide for payment
29 to the vendor on a contingency basis.

30 (c) Before enforcing an ordinance adopted under this section, the
31 municipality's police chief shall approve any proposed automated
32 traffic enforcement safety device location, provided such device shall
33 only be located at an intersection where the duration of the yellow
34 signal light is no less than the duration of the yellow signal light
35 recommended under regulations adopted by the State Traffic
36 Commission, and the municipality shall install advance warning signs
37 along all approaches of the roadways preceding the intersection at
38 which the automated traffic enforcement safety device is located. The
39 advance warning signs shall (1) notify motorists of the existence of the
40 automated traffic enforcement safety device, and (2) be located not less
41 than one hundred feet and not more than one hundred ten feet from
42 such intersection.

43 (d) Any ordinance adopted under this section shall specify that: (1)
44 The owner of a motor vehicle commits a violation of the ordinance if
45 the automated traffic enforcement safety device produces a recorded

46 image or images of a motor vehicle or a motor vehicle being drawn by
47 another motor vehicle proceeding through an intersection in violation
48 of the provisions of section 14-299 of the general statutes; (2) the owner
49 of a motor vehicle establishes a defense if the person identified as
50 having the care, custody or control of the motor vehicle, or identified
51 as the operator of the motor vehicle at the time of the violation, is not
52 the owner; (3) payment of a penalty and associated costs and fees
53 imposed for a violation of an ordinance adopted under this section
54 may be made by electronic means; and (4) a designated employee of a
55 vendor and a local police officer shall review and approve the
56 recorded image or images before the notices referred to in subsection
57 (f) of this section are mailed to the owner of the motor vehicle or the
58 motor vehicle being drawn by another motor vehicle.

59 (e) An ordinance adopted under this section: (1) Shall impose a civil
60 penalty of not more than fifty dollars; (2) may impose fees associated
61 with the electronic processing of the payment of the civil penalty
62 imposed for a violation of such ordinance, provided such fees do not
63 exceed fifteen dollars; and (3) shall provide (A) that the civil penalty
64 imposed for a violation of such ordinance may be applied to defray the
65 costs of the installation, operation and maintenance of the automated
66 traffic enforcement safety device and program, and (B) that any
67 penalty not applied pursuant to subparagraph (A) of this subdivision
68 be applied to the municipality's local transportation infrastructure
69 improvements.

70 (f) The traffic authority of the municipality or its authorized agent
71 shall mail to the owner of a motor vehicle or a motor vehicle being
72 drawn by another motor vehicle committing a violation of an
73 ordinance adopted pursuant to this section, notice of the ordinance
74 violation by first class mail postmarked not later than thirty days after
75 obtaining the name and address of the owner of the motor vehicle, but
76 not more than sixty days after the date of the alleged violation. The
77 notice shall include: (1) The name and address of the owner of the
78 motor vehicle or the motor vehicle being drawn by another motor
79 vehicle; (2) the license plate number of the motor vehicle or the motor

80 vehicle being drawn by another motor vehicle; (3) the violation
81 charged; (4) the location of the intersection and the date and time of
82 the violation; (5) a copy of or information on how to view, through
83 electronic means, the recorded image described in this section; (6) a
84 statement or electronically-generated affirmation by a designated
85 employee of a vendor and local police officer, who have reviewed the
86 recorded image described in this section and determined that the
87 motor vehicle violated the ordinance; (7) the amount of the civil
88 penalty imposed for the violation; and (8) the date by which the civil
89 penalty shall be paid if the owner of the vehicle does not choose to
90 contest the violation. The date by which the civil penalty shall be paid
91 shall be not later than thirty days after the issuance date of the
92 violation if a defense described in this section does not apply or forty-
93 five days after the issuance date of the violation if a defense described
94 in this section requires the notice to be sent to another person.

95 (g) Any challenge to the implementation of an automated traffic
96 enforcement safety device or adoption of an ordinance under this
97 section shall be brought within thirty days of passage of the ordinance.

98 (h) It is a defense in a proceeding to enforce an ordinance adopted
99 under this section if the owner provides to the traffic authority of the
100 municipality, or authorized agent for the municipality, an affidavit
101 signed under the penalties of perjury which: (1) Establishes that, at the
102 time of the alleged violation, the owner was engaged in the business of
103 renting or leasing motor vehicles under written agreements; (2)
104 establishes that, at the time of the alleged violation, the motor vehicle
105 was in the care, custody or control of a person other than the owner or
106 an employee of the owner of the motor vehicle or the vehicle being
107 drawn by another motor vehicle, under a written agreement for the
108 rental or lease of the motor vehicle or the vehicle being drawn by
109 another motor vehicle, for a period of not more than sixty days; and (3)
110 provides to the traffic authority or authorized agent for the
111 municipality the name and address of the person who was renting or
112 leasing the motor vehicle or the vehicle being drawn by another motor
113 vehicle at the time of the alleged violation.

114 (i) If the owner of a motor vehicle or a vehicle being drawn by
115 another motor vehicle meets the requirements of subsection (h) of this
116 section, the municipality's traffic authority or authorized agent shall
117 mail, or electronically transfer, a notice of the citation to the person
118 identified as having the care, custody or control of the motor vehicle or
119 the vehicle being drawn by another motor vehicle at the time of the
120 violation. The proof required under subsection (h) of this section
121 creates a rebuttable presumption that the person having the care,
122 custody or control of the motor vehicle or the vehicle being drawn by
123 another motor vehicle at the time of the violation was the operator of
124 the motor vehicle at the time of the violation. The notice required
125 under this subsection shall contain the following: (1) The information
126 described in subsection (f) of this section; (2) a statement that the
127 person receiving the notice was identified by the owner of the motor
128 vehicle or the vehicle being drawn by another motor vehicle as the
129 person having the care, custody or control of the motor vehicle at the
130 time of the violation; and (3) a statement that a person may offer a
131 defense as described in this subsection, or in subsection (h) or (j) of this
132 section.

133 (j) It is a defense to a proceeding to enforce an ordinance adopted
134 under this section if the owner provides to the traffic authority an
135 affidavit signed under penalty of perjury stating either of the
136 following: (1) That the owner was not operating the motor vehicle or
137 the motor vehicle drawing another vehicle at the time of the alleged
138 violation and provides the name and address of the person operating
139 the motor vehicle or the motor vehicle drawing a vehicle at the time of
140 the alleged violation; or (2) that either: (A) The motor vehicle, or (B) the
141 license plate of the motor vehicle or the vehicle being drawn by
142 another motor vehicle, was stolen before the alleged violation occurred
143 and was not under the control or possession of the owner at the time of
144 the alleged violation. In addition to such affidavit, the owner shall
145 submit proof that a police report was filed concerning the stolen motor
146 vehicle or stolen license plate.

147 (k) If the owner of a motor vehicle or a vehicle being drawn by

148 another motor vehicle submits the evidence required under subsection
149 (j) of this section, the municipality's traffic authority or authorized
150 agent shall mail a notice of the citation to the person identified as the
151 person operating the motor vehicle at the time of the violation. The
152 proof required under subsection (j) of this section creates a rebuttable
153 presumption that the person identified in the affidavit required under
154 subsection (j) of this section was the operator of the motor vehicle at
155 the time of the violation. The notice required under this subsection
156 shall contain the following: (1) The information described in subsection
157 (f) of this section; and (2) a statement that the person receiving the
158 notice was identified by the owner of the motor vehicle as the person
159 operating the motor vehicle at the time of the violation.

160 (l) It is a defense to a proceeding to enforce an ordinance adopted
161 under this section if any of the following apply: (1) A person operating
162 an authorized emergency vehicle may proceed past a red traffic control
163 signal or traffic control device after slowing down as necessary for safe
164 operation; (2) the traffic signal lights are not operating, and such is able
165 to be observed on the recorded image; (3) the operator was complying
166 with a lawful order or direction of a law enforcement officer, and such
167 is able to be observed on the recorded image; (4) the operator was
168 yielding right-of-way to an authorized emergency vehicle, and such is
169 able to be observed on the recorded image; (5) the vehicle was
170 participating in a funeral procession, and such is able to be observed
171 on the recorded image; or (6) a traffic citation was issued to the
172 operator of the motor vehicle for the violation by a state or local police
173 officer.

174 (m) A designated employee or local police officer is not liable for
175 any loss while acting within the scope of the employment of the
176 designated employee or local police officer under this section or an
177 ordinance adopted under this section.

178 (n) If it appears from the records of the local authority that has
179 jurisdiction to enforce an ordinance adopted under this section that a
180 person has failed to pay a violation by the applicable deadline

181 established by this section without notification of an intent to contest
182 the violation, the local authority shall send a notice to the person who
183 is the registered owner of the motor vehicle or the vehicle being drawn
184 by another motor vehicle that such person has an outstanding unpaid
185 assessment.

186 (o) The chief executive officer of a municipality shall appoint one or
187 more traffic control signal violation hearing officers, other than police
188 officers or persons who work in the police department, to conduct the
189 hearings authorized by this section.

190 (p) Any person who asserts a defense authorized by this section and
191 who requests a hearing shall be given written notice of the date, time
192 and place for the hearing. Such hearing shall be held not less than
193 fifteen days or more than thirty days after the date of the mailing of
194 notice, provided the hearing officer shall grant, upon good cause
195 shown, any reasonable request by any interested party for
196 postponement or continuance. An original or certified copy of the
197 initial notice of violation shall be filed and retained by the
198 municipality, be deemed to be a business record within the scope of
199 section 52-180 of the general statutes and be evidence of the facts
200 contained therein. A person wishing to contest such person's liability
201 shall appear at the hearing and may present evidence on such person's
202 behalf. The presence of the police officer who authorized the issuance
203 of the citation shall be required at the hearing if such person so
204 requests. A designated municipal official, other than the hearing
205 officer, may present evidence on behalf of the municipality. If the
206 person who requested the hearing fails to appear, the hearing officer
207 may enter an assessment by default against such person upon a
208 finding of proper notice and liability under the applicable ordinance or
209 statute. The hearing officer may accept from such person copies of
210 police reports, documents of the Department of Motor Vehicles and
211 other official documents by mail prior to the hearing and may
212 determine thereby that the appearance of such person is unnecessary.
213 The hearing officer shall conduct the hearing in the order and form
214 and with such methods of proof as the hearing officer deems fair and

215 appropriate. The rules regarding the admissibility of evidence shall not
216 be strictly applied, but all testimony shall be given under oath or
217 affirmation. The hearing officer shall announce the hearing officer's
218 decision at the end of the hearing. If the hearing officer determines that
219 the person is not liable, the hearing officer shall dismiss the matter and
220 enter the hearing officer's determination in writing accordingly. If the
221 hearing officer determines that the person is liable for the violation, the
222 hearing officer shall forthwith enter and assess the penalties, costs or
223 fees against such person as provided by the applicable ordinances of
224 the municipality.

225 Sec. 3. (NEW) (*Effective October 1, 2012*) Notwithstanding any
226 provision of the general statutes, a violation of section 14-299 of the
227 general statutes detected and recorded by an automated traffic control
228 signal enforcement device pursuant to section 2 of this act shall not: (1)
229 Constitute an infraction or violation; (2) be processed by the
230 Centralized Infractions Bureau; (3) be considered a moving traffic
231 violation; (4) be reported to the Department of Motor Vehicles for
232 inclusion on a person's driving record; or (5) cause the assessment of
233 points against the operator's license of the person found to have
234 violated section 14-299 of the general statutes.

235 Sec. 4. (NEW) (*Effective October 1, 2012*) Not later than the latter of
236 October 1, 2017, or twelve months following the date of
237 implementation of an automated traffic enforcement safety device
238 program by a municipality, each municipality that has installed such a
239 device and has been operating such a program shall submit a report to
240 the joint standing committee of the General Assembly having
241 cognizance of matters relating to transportation. Such report shall
242 include a comparison and analysis of: (1) The number of violations of
243 section 14-299 of the general statutes that occurred at the intersections
244 where such automated traffic control signal enforcement devices were
245 used, prior to and during the use of such enforcement devices; (2) the
246 number and type of related traffic violations and accidents that
247 occurred at such intersections prior to and during the use of such
248 devices; and (3) the number of violations of section 14-299 of the

249 general statutes and related violations and accidents that occurred at
 250 intersections where such control signal enforcement devices were used
 251 and at similar intersections where such automated traffic control signal
 252 enforcement devices were not used. The report shall also describe
 253 situations in which (A) camera results could not be used or were not
 254 used; (B) the number of leased, out-of-state or other vehicles, including
 255 trucks, where enforcement efforts were unsuccessful; (C) the amount
 256 of revenue from fines retained by the municipality; (D) the cost of such
 257 program to the municipality; and (E) such other data or comparisons
 258 deemed of interest or importance by the municipality.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	New section
Sec. 2	October 1, 2012	New section
Sec. 3	October 1, 2012	New section
Sec. 4	October 1, 2012	New section

Statement of Legislative Commissioners:

In section 1(1)(B), the "location of violation and the traffic control signal" was changed to the "location of such device" for clarity; in section 2(a), "with the authority of its chief executive officer and legislative body" was deleted for statutory consistency; in section 2(f) and section 2(h), "the municipality" was changed to "the traffic authority of the municipality" for internal consistency; in section 2(f), section 2(h) and section 2(j), references to the court were removed for internal consistency and to reflect the intent of the committee; in section 2(h), section 2(i) and section 2(k), references to "or agent" were changed to "or authorized agent" for consistency; and in section 4, "Not later than October 1" was changed to "Not later than the latter of October 1" for clarity.

TRA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: See Below

Municipal Impact:

Municipalities	Effect	FY 13 \$	FY 14 \$
Various Municipalities	Revenue Gain/Cost	See Below	See Below

Explanation

The bill authorizes any municipality having a population greater than 48,000 (there are 19 municipalities as of 2010 census¹) to implement an automated traffic enforcement safety device (red-light camera) program.

The bill: (1) sets forth duties that must be met by a municipality choosing to institute a red-light camera program; (2) establishes fines and authorizes the assessment of other fees; (3) directs fine revenues to municipal budgets; and (4) establishes a mandatory hearings process. Associated fiscal impacts are as follows:

Municipal Costs/Savings

Municipalities that establish a red-light camera program would incur the following costs:

- \$50,000-\$75,000 per camera per year for installation/maintenance, including sensors;
- \$30,000-\$40,000 per camera per year for (a) a police officer or

contracted vendor to review and approve recorded images; (b) staff time to issue violation notices, monitor fine collection, conduct hearings, and compile an annual report; and (c) other expenses, such as for postage and supplies;

- \$75-\$125 per advance warning sign, to be installed on all approaches preceding an intersection with a camera.

Additional local costs may be incurred for legal services, should challenges be brought within thirty days of passage of an ordinance establishing a red-light camera system.

Municipal Revenues

A revenue gain to participating municipalities would result, as the bill establishes a civil penalty of up to \$50. Actual revenues would depend upon the number of violation notices issued and the collection rate.

The ability to achieve a net revenue gain has had mixed results. Some large locations, such as Los Angeles and Houston discontinued their red light camera programs due to fine collection issues. Other locations, such as Philadelphia and Nassau County, are experiencing revenue gains.

Assuming a 100% collection rate, the potential annual revenue generated from 10, 20, 30 and 40 violations per camera per day would be \$182,500, \$365,000, \$547,500 and \$730,000 respectively. Based on past red-light camera programs, collection rates can be significantly less than 100%. In both Broward and Palm Beach counties, Florida as well as Los Angeles the collection rate on the initial ticket is approximately 60%.

The following table is for illustrative purposes showing potential annual revenue generated from 10, 20, 30 and 40 violations per camera

¹ Bridgeport, Bristol, Danbury, East Hartford, Fairfield, Greenwich, Hamden, Hartford, Manchester, Meriden, Milford, New Britain, New Haven, Norwalk,

per day with collection rates at 50%, 60%, and 70%.

Collection Rate:	Annual Revenue per Camera @ \$50/violation		
	50%	60%	70%
Daily Violations Per Camera			
10	\$ 91,250	\$ 109,500	\$ 127,750
20	\$ 182,500	\$ 219,000	\$ 255,500
30	\$ 273,750	\$ 328,500	\$ 383,250
40	\$ 365,000	\$ 438,000	\$ 511,000

Additional local revenues may be generated to the extent that a municipality elects to utilize the discretionary authority provided in the bill to impose fees up to \$15 associated with electronic fine payment.

State Revenue Impact

Enactment may result in a revenue loss to the state as the violations that would be enforced via the red-light camera system would displace citations currently issued by law enforcement officers.

Fines associated with violations of CGS Sec. 14-299 (failure to obey control signal) average \$124 per violation. Payments are deposited to the General Fund as unrestricted revenues². An additional \$10 surcharge per violation is collected and remitted to the municipality in which the violation occurred.

The bill specifies that the municipality may instead apply fine revenues to defray the costs of installation, operation and maintenance of the camera system.

The potential General Fund revenue loss associated with the bill would depend upon the number of devices installed. A loss in excess of \$100,000 would be expected if a large scale program is implemented.

The Out Years

Stamford, Stratford, Waterbury, West Hartford, and West Haven.

² In FY 11, a total of \$1,624,862 was collected from fines due to violations of CGS Sec. 14-299.

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and trends in traffic violations.

Sources: "5,000 Broward and Palm Beach Country Red-Light Ticket Recipients Don't Have to Pay," *Sun-Sentinel*, 2/10/12.
"A Long Island Lesson In Red-Light Cameras: Is Connecticut Next?" *The Hartford Courant* 2/18/12.
"An Analysis of a Red-Light Camera Program in the City of Milwaukee" University of Wisconsin-Madison's Workshop in Public Affairs (2006).
"Houston City Council Votes to Shut Off Red-Light Cameras" *New York Times* 8/26/11.
"LAPD Won't Pursue Red-Light Camera Tickets in Court" *Los Angeles Times* 3/29/12.
"Red Light Cameras," www.siliconimaging.com, (date unknown).
"Who knew L.A.'s red-light camera fines were 'voluntary'?" *Los Angeles Times* 7/27/11
U.S. Census Bureau (2010).

OLR Bill Analysis**sHB 5458****AN ACT CONCERNING MUNICIPAL AUTOMATED TRAFFIC ENFORCEMENT SAFETY DEVICES AT CERTAIN INTERSECTIONS.****SUMMARY:**

This bill permits, until September 30, 2018, towns with at least 48,000 people to use “automated traffic enforcement safety devices” (red light cameras) to record vehicles that illegally drive through traffic signals.

The cameras must be capable of recording a still photograph, video image, or combination, of the rear of a motor vehicle, or a vehicle being towed by another vehicle, including an image of the rear license plate. The cameras must indicate on at least one such image the date, time, and camera location.

The bill specifies how towns may operate and enforce a red light camera program, establishes legal defenses to charges based on images the cameras record, describes a hearing process, and requires that towns report data they collect to the Transportation Committee.

EFFECTIVE DATE: October 1, 2012

ORDINANCES ESTABLISHING CAMERA PROGRAMS

Under the bill, a municipality may, by ordinance, authorize the use of red light cameras to enforce the traffic control signal law (CGS § 14-299). This law governs the behavior of vehicles and pedestrians at red, yellow, green, and other traffic signals (e.g., “Walk” and “Don’t Walk” signs). Among other things, it requires vehicles to stop, and pedestrians not to cross, at red lights, and allows vehicles to make right turns on red at certain intersections.

A contract between a town and a camera system vendor (see below) cannot provide for payment on a contingency basis. This apparently means that the amount of money vendors receive cannot depend on the number of violations.

The bill requires (1) a municipality's police chief to approve the siting of any red light camera before it is installed and (2) the cameras to be installed only at intersections where the yellow signal light interval is at least as long as recommended in regulation (see BACKGROUND). Municipalities must install warning signs on all roads approaching intersections where the cameras have been placed, alerting drivers to their presence. The signs must be placed between 100 and 110 feet from the intersections.

The ordinance must specify that:

1. a motor vehicle owner (the person to whom the vehicle is registered) commits a violation if a red light camera produces a recorded image or images of a motor vehicle (apparently the owner's) or of a vehicle towing another vehicle, driving through an intersection in violation of the law;
2. the vehicle owner may claim as a defense that, at the time the violation occurred, he or she was not (a) the person having care, custody, or control of the vehicle or (b) the driver;
3. violators may pay the penalty and associated costs and fees electronically; and
4. both a local police officer and designated employee of a vendor must review and approve the recorded images taken by the camera before a notice of violation can be mailed to a vehicle owner.

Under the bill, a vendor is someone who (1) provides the program services to a municipality; (2) operates, maintains, leases,

or licenses red light camera systems; or (3) is authorized to review and assemble the recorded images the cameras take.

The bill bars the state or any traffic authority from regarding a vendor as providing or taking part in private investigative services. It is not clear what effect this provision has.

Penalties

An ordinance adopted under the bill (1) must impose a civil penalty of no more than \$50 and (2) may impose fees of up to \$15 for the electronic processing of the penalty. Under the ordinance, a municipality may use revenue from the penalty to defray the costs of installing, operating, and maintaining red light cameras. It must apply any remaining penalty funds to improving local transportation infrastructure.

Under the bill, a legal challenge to an ordinance or to implementation of a red light camera program must be filed within 30 days of the ordinance's passage. It is not clear who would have standing to challenge the ordinance or where the challenge would be filed.

NOTIFICATION AND PAYMENT PROCEDURE

The municipal traffic authority or its authorized agent must notify a vehicle owner of a violation by first class mail, postmarked no later than (1) 30 days after it obtains the vehicle owner's name and address or (2) 60 days after the date of the alleged violation. It is not clear which of these deadlines controls. The notice must include:

1. the owner's name and address;
2. the vehicle's license plate number;
3. the violation charged;
4. the date, time, and location of the violation;
5. a copy of the recorded image or information on how to view the

- recorded image electronically;
6. a statement or electronically generated affirmation by a vendor's designated employee and local police officer who have reviewed the image and determined that a violation occurred;
 7. the amount of the penalty; and
 8. the deadline for paying the penalty if the owner elects not to contest the violation.

The bill does not explicitly require the notice to inform the recipient or his or her right to request a hearing.

Under the bill, the owner must pay the penalty no later than (1) 30 days after the "issuance date of the violation," (apparently the date the notice of violation is mailed) if the owner is not raising a defense to the charge or (2) 45 days after the issuance date if his or her defense requires the notice to be sent to someone else. It is unclear why, if the owner has a valid defense (i.e., he or she did not have care, custody, or control of the vehicle, or was not driving it at the time of the violation) he or she would have to pay the penalty.

If the local authority that enforces the ordinance finds that a person has failed to pay a "violation" (apparently, the civil penalty and associated fee), within the 30 or 45 days, as applicable, without notifying the authority that he or she intends to contest the violation, the local authority must notify the vehicle owner that he or she has an outstanding unpaid bill.

DEFENSES TO AN ALLEGED VIOLATION

Operation by a Lessee

Under the bill, it is a defense to an alleged violation if the owner provides the traffic authority or authorized municipal agent an affidavit, signed under penalty of perjury, that:

1. establishes him or her as the owner of a motor vehicle renting or leasing business at the time of the alleged violation;

2. establishes that someone other than the owner or the owner's employee had custody of the vehicle under a written rental contract of 60 days or less at such time; and
3. gives the traffic authority or authorized agent the name and address of the lessee.

It is unclear whether the requirement for owners to "establish" the fact in numbers 1 and 2 above, constitutes more proof than an assertion of these facts, which is what most affidavits require.

Under the bill, the affidavit creates a rebuttable presumption that the lessee was operating the vehicle at the time the violation occurred. The municipal traffic authority or authorized agent must mail or electronically send the lessee a notice of the citation (apparently the same as a notice of violation). The notice must contain (1) the information included in the original notice sent to the vehicle owner; (2) a statement that the owner has identified the recipient as the person in control or custody of the vehicle at the time of the violation; and (3) a statement that the recipient may also claim, in his or her defense, that someone else had custody or control of the vehicle when the violation occurred.

Operation by Another Driver or Theft

The owner can also defend against the charge by giving the traffic authority an affidavit, signed under penalty of perjury, that (1) he or she was not operating the vehicle at the time of the alleged violation and providing the name and address of the driver at the time or (2) either the vehicle or its license plate was stolen before the alleged violation occurred and was not under the owner's control or possession at that time. The owner must submit proof that a police report has been filed in the case of a theft.

Under the bill, proving the above factors establishes a rebuttable presumption that the person identified in the affidavit was operating the vehicle at the time the violation occurred. The municipal traffic authority or its authorized agent must mail a notice of the citation to

that person. The notice must contain all the information included in the original notice and a statement that the owner has identified the notice's recipient as the person driving the vehicle at the time of the violation. It is not clear how this would apply in the event of a stolen vehicle or license plate where the thief's identity is unknown.

Other Defenses

The following are also defenses to allegations of violating a red light camera ordinance, provided the camera's recording verifies it:

1. the traffic signals were not working properly or
2. the driver was (a) obeying a lawful order or direction from a law enforcement officer, (b) yielding the right of way to an emergency vehicle, or (c) taking part in a funeral procession.

A driver of an authorized emergency vehicle also may claim as a defense that he or she drove through a red light after slowing down as necessary to operate safely. Finally, a driver may claim as a defense that a police officer has issued the driver a citation for the same violation for which he or she received notice under the bill.

The bill indemnifies a designated employee (presumably, of the vendor) or local police officer for any loss while acting in the scope of his or her employment with regard to the bill or any ordinance enacted under it. The bill is silent on the type of loss to which it refers, and the indemnification appears more sweeping than is generally provided in law. By law, municipalities must indemnify municipal officers and employees from financial loss, including legal fees and costs arising from claims of negligence or infringement of civil rights by the officer or employee in the discharge of his or her duties. Indemnification does not extend to employees who act maliciously, wantonly, or willfully (CGS § 7-101a).

HEARING PROCESS

The municipality's chief executive officer must appoint at least one traffic control signal violation hearing officer to conduct hearings. A

hearing officer cannot be a police officer or police department employee.

Anyone asserting a defense and requesting a hearing must receive written notice of the hearing's date, time, and place. (The bill does not specify how someone asserts a defense or requests a hearing.) A hearing must be held between 15 and 30 days after notice is mailed, but the hearing officer may continue or postpone it for good cause at the reasonable request of any interested party.

The bill deems an original or certified copy of the initial notice of violation a business record for evidentiary purposes and requires the town to file and retain it. A town official, other than the hearing officer, may present evidence on the town's behalf.

A person seeking to contest his or her liability must appear at the hearing and may present evidence on his or her behalf. The police officer who authorized issuance of the citation must attend the hearing if requested to do so. However, the bill does not require a police officer to authorize a citation. It requires a police officer and designated employee of the vendor to (1) review and approve the camera's recorded image before notice can be mailed and (2) review the image and determine that the motor vehicle violated the ordinance.

If a person who requested the hearing does not appear, the hearing officer may enter an assessment by default against him or her after finding that he or she was properly notified and committed the violation. But the bill also allows a hearing officer to accept copies of police reports, Department of Motor Vehicles (DMV) records, and other official documents by mail from the alleged violator before the hearing, and to determine that it is not necessary for the alleged violator to appear.

The hearing officer must conduct the hearing and accept offers of proof, as he or she deems appropriate and fair. Rules of evidence do not strictly apply, but all testimony must be given under oath or affirmation. The hearing officer must announce his or her decision at

the end of the hearing. If the hearing officer finds the alleged violator is not liable, he or she must dismiss the matter and enter that finding in writing. If the hearing officer finds the person liable, the hearing officer must assess the applicable penalties, costs, or fees.

Under the bill, a violation captured by a red light camera is not an infraction, moving violation, or violation. The Centralized Infraction Bureau cannot process it, nor can it be reported to DMV for inclusion on a driver's record. It also cannot be counted towards points on a person's driving record.

REPORTING REQUIREMENT

Within 12 months after implementing a red light camera program, or by October 1, 2017, whichever is later, each municipality doing so must report to the Transportation Committee. The report must include a comparison and analysis of the number:

1. of violations that occurred at intersections where red light cameras were used, before and after the cameras were installed;
2. and type of related traffic violations and accidents at these intersections, before and after the cameras were installed; and
3. of traffic violations and related violations and accidents occurring at the intersections where cameras were used and at similar intersections where they were not used.

The report must also describe:

1. situations where camera results could not be, or were not, used;
2. the number of leased, out-of-state, or other vehicles, including trucks, where enforcement efforts failed;
3. the amount of revenue from fines the municipality retained;
4. the cost of the program to the municipality; and
5. any other information the municipality deems important.

BACKGROUND***Yellow Signal Interval***

By regulation (Conn. Agencies Reg. § 14-298-267 (i)), the State Traffic Commission approves various traffic regulatory measures as defined by the federal *Manual On Uniform Traffic Control Devices* (MUTCD). Guidance provided by the 2009 edition of the MUTCD states that the yellow signal should last between three and six seconds, with the longer intervals reserved for use on approaches with higher speeds (MUTCD, § 4D.26).

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 26 Nay 11 (03/14/2012)