

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1997

Legislative Document

No. 1947

S.P. 703

In Senate, December 18, 1997

An Act to Improve Traffic Safety.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 18, 1997. Referred to the Committee on Transportation and ordered printed pursuant to Joint Rule 308.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator RAND of Cumberland.
Cosponsored by Representative TRIPP of Topsham and
Representatives: LEMAIRE of Lewiston, MORGAN of South Portland, ROWE of Portland,
SAXL of Portland.

Be it enacted by the People of the State of Maine as follows:

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Sec. 1. 29-A MRSA §101, sub-§§85-A and 85-B are enacted to read:

85-A. Traffic light violation monitoring system. "Traffic light violation monitoring system" means a vehicle sensor, installed to work in conjunction with a lighted traffic control device as defined in section 2057, subsection 1 or 3 that automatically produces one or more photographs, one or more microphotographs, a videotape or other recorded images of each vehicle at the time the vehicle is operated in violation of state law.

85-B. Traffic speed violation monitoring system. "Traffic speed violation monitoring system" means a vehicle sensor, installed to work in conjunction with speed measurement instruments as defined in section 2075, subsection 4, paragraph A, B or C that automatically produces one or more photographs, one or more microphotographs, a videotape or other recorded images of each vehicle at the time the vehicle is operated in violation of state laws regulating speed.

Sec. 2. 29-A MRSA §2075, sub-§3, ¶¶C and D, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

C. Regulate speed of vehicles in public parks by erecting at all entrances to the park adequate signs giving notice of the special speed regulations; and

D. With the approval of the Department of Transportation and the Chief of the Maine State Police, increase the speed limit on through ways by erecting adequate signs giving notice of the speed limit; and

Sec. 3. 29-A MRSA §2075, sub-§3, ¶E is enacted to read:

E. Install and operate traffic light violation monitoring systems and traffic speed violation monitoring systems.

Sec. 4. 29-A MRSA §2075, sub-§4, ¶¶B and C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

B. An electronic device that measures speed by radiomicrowaves, laser or otherwise; or

C. A device that measures, in any sequence, a selected distance traversed by a motor vehicle operated by the law enforcement officer and the time required by another motor

2 vehicle to traverse that same distance, and computes
therefrom the average speed of the other vehicle; or

4 **Sec. 5. 29-A MRS §2075, sub-§4, ¶D** is enacted to read:

6 D. A traffic speed violation monitoring system. Facts
8 other than speed obtained from a traffic speed violation
10 monitoring system also must be accepted as prima facie
12 evidence as provided in section 2601-A.

14 **Sec. 6. 29-A MRS §2075, sub-§6** is enacted to read:

16 6. State and county authority. The State or a county may
18 install and operate traffic light violation monitoring systems
20 and traffic speed violation monitoring systems.

22 **Sec. 7. 29-A MRS §2601-A** is enacted to read:

24 **§2601-A. Enforcement actions using evidence from a traffic**
26 **light violation monitoring system or traffic speed**
28 **violation monitoring system**

30 The process and rules of evidence described in this section
32 apply in enforcement actions for violations of state law in which
34 evidence is obtained by the use of either a traffic light
36 violation monitoring system or a traffic speed violation
38 monitoring system.

40 1. Proof of violation. Evidence from information obtained
42 from either a traffic light violation monitoring system or a
44 traffic speed violation monitoring system is admissable to prove
46 a violation of state law. A certificate or a facsimile sworn to
48 or affirmed by a state, county or municipal person qualified to
operate a traffic light violation monitoring system or a traffic
speed violation monitoring system, based on inspection of
photographs, microphotographs, videotape or other recorded images
produced by a traffic light violation monitoring system or a
traffic speed violation monitoring system, must be accepted as
prima facie evidence of all facts contained therein or thereon.
A photograph, microphotograph, videotape or other recorded image
evidencing such a violation must be available for inspection in a
proceeding to adjudicate liability for that violation.

2. Rebuttable presumption of identity of violator. In the
prosecution of an offense established under this Title, prima
facie evidence that the vehicle described in the summons issued
pursuant to this section was operated in violation of state law,
together with proof that the defendant was at the time of that
violation the registered owner of the vehicle, constitutes a

2 rebuttable presumption that the registered owner of the vehicle
3 was the person who committed the violation. This presumption is
4 rebutted if:

5 A. A person other than the owner is convicted of illegally
6 operating the vehicle at the time of the violation. In this
7 case, the registered owner may not be found liable under
8 this section;

9 B. The registered owner is a lessor of vehicles and at the
10 time of the violation the vehicle was in the possession of a
11 lessee and the lessor provides the investigating officer
12 with a copy of the lease agreement containing the
13 information required by section 254. In this case, the
14 lessee, but not the lessor, may be charged under this
15 section;

16 C. The vehicle is operated using a dealer or transporter
17 registration plate and at the time of the violation the
18 vehicle was operated by any person other than the dealer or
19 transporter, and if the dealer or transporter provides the
20 investigating officer with the name and address of the
21 person who had control over the vehicle at the time of the
22 violation. In this case, that person, but not the dealer or
23 transporter, may be charged under this section; or

24 D. A report that the vehicle was stolen is given to a law
25 enforcement officer or agency before the violation occurred
26 or within a reasonable time after the violation occurred.
27 In this case, the registered owner may not be charged under
28 this section.

29 3. Service of Violation Summons and Complaint; notice
30 requirements. Notwithstanding any other requirements in this
31 subchapter or any other law, a Violation Summons and Complaint
32 based on evidence obtained from either a traffic light violation
33 monitoring system or a traffic speed violation monitoring system
34 may be served by mailing by first class mail a copy of the
35 Violation Summons and Complaint and the certificate on which it
36 is based to the address of the registered owner of the vehicle as
37 shown on the records of the Bureau of Motor Vehicles.

38 The mailing must also inform the alleged violator that the
39 enforcement action is based on evidence obtained from either a
40 traffic light violation monitoring system or a traffic speed
41 violation monitoring system and that the evidence may be viewed
42 at a specific time and place by calling a specified telephone
43 number to set up the viewing. A clear copy of the evidence may
44 be enclosed as a substitute for the viewing.

2 All other provisions in this subchapter apply to an enforcement
4 action based on evidence obtained from either a traffic light
6 violation monitoring system or a traffic speed violation
8 monitoring system.

6 4. Use of evidence in other legal actions. In any action
8 brought by a person or entity as a result of personal injury or
10 death or damage to property, evidence derived from a traffic
12 light violation monitoring system or a traffic speed violation
14 monitoring system is admissible in the same manner prescribed for
16 prosecution of an offense established under this section without
18 the requirements of authentication otherwise required by law and
20 has the same evidentiary effect as described in this section.

16 SUMMARY

18 Current law requires a police officer to observe a
20 violation, stop the violator, issue a summons and complaint and
often go to court.

22 This bill is based on laws in other states that permit the
24 use of evidence obtained from unmanned, automatic cameras to
prosecute and prove traffic violations. The owner of the vehicle
26 is rebuttably presumed to be the violator. Evidence from the
cameras may also be used in other legal actions.