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**SENATE BILL NO. 1209**  
**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
 (Proposed by the Senate Committee on Transportation  
 on January 23, 2025)

(Patron Prior to Substitute—Senator Obenshain)

*A BILL to amend and reenact §§ 46.2-882 and 46.2-882.1 of the Code of Virginia, relating to photo speed monitoring devices; vendors; calibration; civil penalty.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-882 and 46.2-882.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-882. Determining speed with various devices; certificate as to accuracy of device; arrest without warrant.**

The speed of any motor vehicle may be determined by the use of (i) a laser speed determination device, (ii) radar, (iii) a microcomputer device that is physically connected to an odometer cable and both measures and records distance traveled and elapsed time to determine the average speed of a motor vehicle, or (iv) a microcomputer device that is located aboard an airplane or helicopter and measures and records distance traveled and elapsed time to determine the average speed of a motor vehicle being operated on highways within the Interstate System of highways as defined in § 33.2-100. The speed of motor vehicles may be determined by the use of a photo speed monitoring device as authorized in § 46.2-882.1. The results of such determinations shall be accepted as prima facie evidence of the speed of such motor vehicle in any court or legal proceeding where the speed of the motor vehicle is at issue.

In any court or legal proceeding in which any question arises about the calibration or accuracy of any laser speed determination device, radar, microcomputer device, or photo speed monitoring device as described in this section used to determine the speed of any motor vehicle, a certificate, or a true copy thereof, showing the calibration or accuracy of (a) the speedometer of any vehicle, (b) any tuning fork employed in calibrating or testing the radar or other speed determination device, or (c) any other method employed in calibrating or testing any laser speed determination device or photo speed monitoring device, and when and by whom the calibration was made, shall be admissible as evidence of the facts therein stated. No calibration or testing of any device other than a photo speed monitoring device shall be valid for longer than six months. ~~No calibration or testing of a photo speed monitoring device shall be valid for longer than 12 months.~~

The driver of any such motor vehicle may be arrested without a warrant under this section if the arresting officer is in uniform and displays his badge of authority and if the officer has observed the registration of the speed of such motor vehicle by the laser speed determination device, radar, or microcomputer device as described in this section, or has received a radio message from the officer who observed the speed of the motor vehicle registered by the laser speed determination device, radar, or microcomputer device as described in this section. However, in case of an arrest based on such a message, such radio message shall have been dispatched immediately after the speed of the motor vehicle was registered and furnished the license number or other positive identification of the vehicle and the registered speed to the arresting officer.

Neither State Police officers nor local law-enforcement officers shall use laser speed determination devices or radar, as described herein in airplanes or helicopters for the purpose of determining the speed of motor vehicles.

State Police officers may use laser speed determination devices, radar, and/or microcomputer devices as described in this section. All localities may use radar and laser speed determination devices to measure speed. State Police officers and local law-enforcement may use photo speed monitoring devices to measure speed as authorized in § 46.2-882.1. The Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William and towns within such counties may use microcomputer devices as described in this section.

The Division of Purchases and Supply, pursuant to § 2.2-1112, shall determine the proper equipment used to determine the speed of motor vehicles and shall advise the respective law-enforcement officials of the same. Police chiefs and sheriffs shall ensure that all such equipment and devices purchased on or after July 1, 1986, meet or exceed the standards established by the Division.

**§ 46.2-882.1. Use of photo speed monitoring devices in highway work zones, school crossing zones, and high-risk intersection segments; civil penalty.**

A. For the purposes of this section:

"High-risk intersection segment" means any highway or portion thereof located not more than 1,000 feet from the limits of the property of a school that is part of or adjacent to an intersection containing a marked crosswalk that is identified in the manner provided in this section as one in which a traffic fatality has occurred since January 1, 2014.

"Highway work zone" has the same meaning ascribed to it in § 46.2-878.1.

"Photo speed monitoring device" means equipment that uses radar or LIDAR-based speed detection and

60 produces one or more photographs, microphotographs, videotapes, or other recorded images of vehicles.

61 "School crossing zone" has the same meaning ascribed to it in § 46.2-873.

62 "Vehicle speed violation" means a violation of this title resulting from the operation of a vehicle in excess  
63 of the speed limit, including a violation of § 46.2-873 or 46.2-878.1.

64 B. A state or local law-enforcement agency may place and operate a photo speed monitoring device in  
65 school crossing zones for the purposes of recording violations of § 46.2-873 and in highway work zones for  
66 the purposes of recording violations of § 46.2-878.1.

67 A state or local law-enforcement agency may place and operate a photo speed monitoring device at a  
68 high-risk intersection segment located within the locality for the purpose of recording vehicle speed  
69 violations, provided that such law-enforcement agency certifies that a traffic fatality has occurred since  
70 January 1, 2014, in such segment.

71 C. The operator of a vehicle shall be liable for a monetary civil penalty imposed pursuant to this section if  
72 such vehicle is found, as evidenced by information obtained from a photo speed monitoring device, to be  
73 traveling at speeds of at least 10 miles per hour above the posted speed limit in the zone monitored by the  
74 photo speed monitoring device. Such civil penalty shall not exceed \$100, and any prosecution shall be  
75 instituted and conducted in the same manner as prosecution for traffic infractions. Civil penalties collected  
76 under this section resulting from a summons issued by a local law-enforcement officer shall be paid to the  
77 ~~locality in which such violation occurred~~ *Commonwealth Transportation Board to be used for the Virginia*  
78 *Highway Safety Improvement Program established pursuant to § 33.2-373.* Civil penalties collected under  
79 this section resulting from a summons issued by a law-enforcement officer employed by the Department of  
80 State Police shall be paid into the Literary Fund. However, all civil penalties collected under this section  
81 resulting from a summons issued based on evidence obtained from a photo speed monitoring device placed  
82 and operated at a high-risk intersection segment shall be paid to the Commonwealth Transportation Board to  
83 be used for the Virginia Highway Safety Improvement Program established pursuant to § 33.2-373.

84 D. If a photo speed monitoring device is used, proof of a vehicle speed violation shall be evidenced by  
85 information obtained from such device. A certificate, or a facsimile thereof, sworn to or affirmed by a law-  
86 enforcement officer, based upon inspection of photographs, microphotographs, videotapes, or other recorded  
87 images produced by a photo speed monitoring device, shall be prima facie evidence of the facts contained  
88 therein. Any photographs, microphotographs, videotapes, or other recorded images evidencing such a  
89 violation shall be available for inspection in any proceeding to adjudicate the liability for such vehicle speed  
90 violation.

91 E. In the prosecution for a vehicle speed violation in which a summons was issued by mail, prima facie  
92 evidence that the vehicle described in the summons issued pursuant to this section was operated in a manner  
93 constituting a vehicle speed violation, together with proof that the defendant was at the time of such violation  
94 the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such  
95 owner, lessee, or renter of the vehicle was the person who committed the violation. Such presumption shall  
96 be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by regular mail with the clerk of  
97 the general district court that he was not the operator of the vehicle at the time of the alleged violation and  
98 provides the name and address of the person who was operating the vehicle at the time of the alleged  
99 violation or (ii) testifies in open court under oath that he was not the operator of the vehicle at the time of the  
100 alleged violation and provides the name and address of the person who was operating the vehicle at the time  
101 of the alleged violation. Such presumption shall also be rebutted if a certified copy of a police report,  
102 showing that the vehicle had been reported to the police as stolen prior to the time of the alleged vehicle  
103 speed violation, is presented, prior to the return date established on the summons issued pursuant to this  
104 section, to the court adjudicating the alleged violation.

105 F. Imposition of a penalty pursuant to this section by mailing a summons shall not be deemed a conviction  
106 as an operator and shall not be made part of the operating record of the person upon whom such liability is  
107 imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.  
108 However, if a law-enforcement officer uses a photo speed monitoring device to record a vehicle speed  
109 violation and personally issues a summons at the time of the violation, the conviction that results shall be  
110 made a part of such driver's driving record and used for insurance purposes in the provision of motor vehicle  
111 insurance coverage.

112 G. A summons for a vehicle speed violation issued by mail pursuant to this section may be executed  
113 pursuant to § 19.2-76.2. Notwithstanding the provisions of § 19.2-76, a summons issued by mail pursuant to  
114 this section may be executed by mailing by first-class mail a copy thereof to the owner, lessee, or renter of  
115 the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of  
116 or accessible to the Department. In the case of a vehicle lessee or renter, the copy shall be mailed to the  
117 address contained in the records of the lessor or renter. Every such mailing shall include, in addition to the  
118 summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of  
119 the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection E  
120 and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the

121 summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section,  
 122 the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of  
 123 a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. If  
 124 the summons is issued to an owner, lessee, or renter of a vehicle with a registration outside the  
 125 Commonwealth and such person fails to appear on the date of return set out in the summons mailed pursuant  
 126 to this section, the summons will be eligible for all legal collections activities. Any summons executed for a  
 127 vehicle speed violation issued pursuant to this section shall provide to the person summoned at least 30 days  
 128 from the mailing of the summons to inspect information collected by a photo speed monitoring device in  
 129 connection with the violation, *including proof of calibration of the photo speed monitoring device used to*  
 130 *record the alleged vehicle speed violation.* If the law-enforcement agency that was operating the photo speed  
 131 monitoring device does not execute a summons for a vehicle speed violation issued pursuant to this section  
 132 within 30 days from the date of the violation, all information collected pertaining to that suspected violation  
 133 shall be purged within 60 days from the date of the violation.

134 H. A private vendor may enter into an agreement with a law-enforcement agency to be compensated for  
 135 providing a photo speed monitoring device and all related support services, including consulting, operations,  
 136 and administration. However, only a law-enforcement officer may swear to or affirm the certificate required  
 137 by this section. Any such agreement for compensation shall be based on the value of the goods and services  
 138 provided, not on the number of violations paid or monetary penalties imposed. Any private vendor  
 139 contracting with a law-enforcement agency pursuant to this section may enter into an agreement with the  
 140 Department, in accordance with the provisions of subdivision B 31 of § 46.2-208, to obtain vehicle owner  
 141 information regarding the registered owners of vehicles that committed a vehicle speed violation. Any such  
 142 information provided to such private vendor shall be protected in a database. *Any such private vendor*  
 143 *providing a photo speed monitoring device that is also compensated for the calibration of such device shall*  
 144 *calibrate such device in the same manner and to the same specifications as all other devices determining*  
 145 *speed, to the extent that such devices utilize the same method of speed detection as such photo speed*  
 146 *monitoring device, that are used by the law-enforcement agency with which such vendor has entered into an*  
 147 *agreement. Upon request of any person receiving a summons by mail for a vehicle speed violation recorded*  
 148 *by a photo speed monitoring device provided by such a private vendor, such private vendor shall within 10*  
 149 *days of such request provide to such person proof of calibration of such photo speed monitoring device for*  
 150 *the time period in which the alleged violation was recorded. Such summons shall include notice of such*  
 151 *person's right to request such proof of calibration. Any private vendor that fails to provide such proof of*  
 152 *calibration within the time specified shall be subject to a civil penalty of \$1,000. All civil penalties received*  
 153 *pursuant to this subsection shall be paid to the Commonwealth Transportation Board to be used for the*  
 154 *Virginia Highway Safety Improvement Program established pursuant to § 33.2-373. Such private vendor*  
 155 *shall, in addition to the calibration for which proof is required pursuant to this subsection, conduct a daily*  
 156 *test of the accuracy of such device. Such private vendor shall each day transmit the results of the previous*  
 157 *day's test to the law-enforcement agency with which such private vendor has entered into an agreement.*

158 I. Information collected by a photo speed monitoring device operated pursuant to this section shall be  
 159 limited exclusively to that information that is necessary for the enforcement of vehicle speed violations.  
 160 Information provided to the operator of a photo speed monitoring device shall be protected in a database and  
 161 used only for enforcement of vehicle speed violations and enforcement against individuals who violate the  
 162 provisions of this section. Notwithstanding any other provision of law, all photographs, microphotographs,  
 163 videotapes, or other recorded images collected by a photo speed monitoring device shall be used exclusively  
 164 for enforcing vehicle speed violations and shall not be (i) open to the public; (ii) sold or used for sales,  
 165 solicitation, or marketing purposes; (iii) disclosed to any other entity except as may be necessary for the  
 166 enforcement of a vehicle speed violation or to a vehicle owner or operator as part of a challenge to the  
 167 violation; or (iv) used in a court in a pending action or proceeding unless the action or proceeding relates to a  
 168 vehicle speed violation or a violation of this section, or such information is requested upon order from a court  
 169 of competent jurisdiction. Information collected under this section pertaining to a specific violation shall be  
 170 purged and not retained later than 60 days after the collection of any civil penalties. Any law-enforcement  
 171 agency using photo speed monitoring devices shall annually certify compliance with this section and make all  
 172 records pertaining to such system available for inspection and audit by the Commissioner of Highways or the  
 173 Commissioner of the Department of Motor Vehicles or his designee. Any person who discloses personal  
 174 information in violation of the provisions of this subsection shall be subject to a civil penalty of \$1,000 per  
 175 disclosure.

176 J. A conspicuous sign shall be placed within 1,000 feet of any school crossing zone, highway work zone,  
 177 or high-risk intersection segment at which a photo speed monitoring device is used, indicating the use of the  
 178 device. There shall be a rebuttable presumption that such sign was in place at the time of the commission of  
 179 the speed limit violation.

180 K. Any state or local law-enforcement agency that places and operates a photo speed monitoring device  
 181 pursuant to the provisions of this section shall report to the Department of State Police, in a format to be

182 determined by the Department of State Police, by January 15 of each year on the number of traffic violations  
183 prosecuted, the number of successful prosecutions, and the total amount of monetary civil penalties collected.  
184 The Department of State Police shall aggregate such information and report it to the General Assembly by  
185 February 15 of each year.

186 *L. Any state or local law-enforcement agency that places and operates a photo speed monitoring device*  
187 *pursuant to the provisions of this section shall conduct, in addition to the periodic calibration conducted in*  
188 *accordance with the requirements of § 46.2-822, a daily test of the accuracy of such device. Such law-*  
189 *enforcement agency shall report to the Department of State Police, in a format to be determined by the*  
190 *Department of State Police, by January 15 of each year the aggregate results of such daily tests conducted*  
191 *during the previous 12 months. Such requirement shall be satisfied if the private vendor with which such*  
192 *law-enforcement agency has entered into an agreement pursuant to subsection H completes the daily test of*  
193 *accuracy and associated reporting requirements pursuant to subsection H.*