

Traffic Enforcement + Automated Enforcement

LivableStreets Alliance | April 2019

Background

When employed properly, automated enforcement has been shown to effectively reduce unsafe driving behavior, the number of crashes, and the severity of crash injuries. This approach also de-emphasizes officer-initiated traffic stops that cause concern about racial profiling. Automated enforcement can be a key tool in the City of Boston's Vision Zero strategy, however, as state legislation currently stands, the City of Boston is not able to employ this technology. There is interest and momentum on this issue at the community level and from elected officials in Boston. There is also active movement in the State House to pass legislation that would allow cities and towns to opt into an automated enforcement program.

In the US:

- Red light camera programs exist in 388 municipalities in the US and speed camera programs exist in 137 municipalities in the US as of February 2019 ([IIHS](#))
- Black drivers are up to five times as likely as white drivers to be stopped and searched while driving in the US, even though police find illegal items less often in black drivers' vehicles ([New York Times](#))

Locally:

- There has been a drop in the number of traffic violation citations in MA over the last few years, including in Boston -- as well as across the country (Mass EOPSS)
- There is evidence of black drivers being stopped and searched more often than white drivers under the MA State Police, and evidence of racial profiling via traffic stops in 68% of law enforcement agencies in MA ([WCVB](#))

Advantages of automated enforcement

- Photo enforcement is effective at reducing dangerous behavior, the number of crashes, and severity of injuries (Various, [MassDOT Lit Review](#))
 - Speed cameras have been found to significantly reduce speeding and the number of crashes resulting in death or serious injury
 - Red light cameras have been found to reduce crash severity (many reports attribute a decrease in right-angle crashes, which are more likely to result in death or serious injury -- but an increase in rear-end crashes, which are less severe)
- Allow for increased safety for law enforcement officers by implementing cameras in areas where traditional traffic stops are dangerous or infeasible due to roadway design
- Ability to continuously enforce the speed limit and stopping at red lights
- Can reduce traffic congestion sometimes caused by driver distraction around traffic stops
- Alternatively to law enforcement officers conducting traffic stops, cameras are not subject to implicit bias or racial profiling

Concerns around automated enforcement

- **Contract issues** -- corruption around the contract with the camera company; concern that camera programs are being implemented just to bring in revenue; lack of oversight of camera equipment and functionality
 - Ex. Bribery scandals in Chicago ([Chicago Tribune](#)) and Florida ([Tampa Bay Times](#))
- **Privacy / surveillance** -- concern that this is another way for the government to monitor citizens; concern that camera data can be subpoenaed to prove someone's location at a certain time
- **Constitutionality** -- concern about due process and how hearings are administered
 - Ex. Red light camera program was rolled back in New Miami, OH ([Dayton Daily News](#))
- **Equity**
 - Concern about where cameras will be placed i.e. that communities of color or low-income communities could be targeted
 - Ex. DC's camera placement in majority communities of color and low-income communities, though unclear if the ticketed drivers live in those communities ([DC Policy Center](#)) ([WAMU](#))
 - Note: this is an important issue because many communities of color/ low-income neighborhoods suffer from higher crash and fatality rates ([Streetsblog](#))
 - Fines
 - Fines can be an undue burden on low-income people
 - For people who have unstable housing, they may never get the notice in the mail

Best practices for automated enforcement

- We have incorporated best practices into the legislation sponsored by Senator Brownsberger (SD1461), that address many of the concerns above. To learn more about that legislation, please review our **An Act relative to automated enforcement FAQ/Summary (attached)**
 - Note: Mayor Walsh has also put forth automated enforcement legislation via Senator Nick Collins (SD1779/HD3705). We believe this bill is too incremental, as it would only allow implementation on school buses and for 'blocking the box' violations.

Best practices to prevent racial profiling in traffic enforcement

- Officers should be encouraged to focus on traffic safety violations (like speeding or failure to yield), rather than investigatory traffic stops, as moving violations are clearly defined so there is less room for subjectivity/ racial bias
- Law enforcement should engage in data driven enforcement, which targets the most dangerous driver behaviors in the locations where they are causing the most harm
- Improve data collection so that disparate impact can be identified
 - Record race at traffic stops and on traffic citations (currently, this is done in CT, OR, and other states)

Further Reading/ Resources:

- Preliminary [Literature Review](#) from MassDOT's Research Team in the Office of Transportation Planning conducted about automated speed enforcement per their Draft Statewide Pedestrian Plan Initiative 3-3. "Initiate a research project that examines the benefits and impacts of automated speed enforcement."
- FAQ/Summary of automated enforcement legislation (SD1461 Brownsberger) supported by the Massachusetts Vision Zero Coalition (PDF -- attached)
- Good overview of racial equity issues associated with Vision Zero/ traffic enforcement ([CityLab](#))
- Good overview of some 'equitable solutions' to racial inequity in traffic enforcement ([Streetsblog NYC](#))
- [The Policy of Enforcement: Red Light Cameras and Racial Profiling](#) - Study showing that although citations from the red light cameras are issued to a disproportionate number of minorities, based on the racial composition of the surrounding location the racial composition of the violator is consistent with the racial composition of the block group in which they reside. ([Chicago Tribune](#))

Automated Enforcement in MA: FAQ and Summary of Legislation ([SD1461 Brownsberger](#))

Frequently Asked Questions

1. What counts as a violation?

- Failure to stop at a red light (no violation issued if any part of the vehicle was in the intersection when the light is yellow)
- Driving at least 5 mph above posted maximum speed
- Failure to stop for a school bus (violation issued only if vehicle crosses the plane of the stop sign on bus)
- Illegal turn on red (violation issued only if entire vehicle has crossed the stop line)

2. What are the penalties?

The maximum penalty is \$25 for each violation. A written warning may be issued in lieu of enforcement for the purpose of education.

The penalty will not be counted as criminal conviction and will not be made part of the operating record of the vehicle owner. The penalty will not affect insurance premiums, add points to the owner's license, or result in license revocation. It will not increase after the first offense.

3. Who is liable?

Like a parking ticket, the owner of the vehicle is liable, not the driver. There is no way to determine who was driving at the time the violation occurred, since the photographs only capture the license plate.

4. How will the public be educated and the program rolled out?

The city/town must install a sign notifying that a camera is in use at each location (including on school buses). In addition, they must make a public announcement and conduct a public awareness campaign, beginning at least 30 days before the enforcement program is in use. The city/town may install but not activate cameras during said time period, in order to issue warnings.

5. What do the photographs capture?

Photographs shall only be captured when a violation occurs. Photographs capture the license plate of the vehicle, and do not capture a frontal view of the vehicle or driver/passenger.

6. What happens to the photographs, and who are they accessible to?

Photographs shall be destroyed within 48 hours of final disposition of a violation. No photographs will be discoverable or admissible in any judicial or administrative proceeding without a court order. Photographs and other personally identifying information collected are not public record.

7. What are the revenues used for?

Net revenues collected shall be deposited in the Massachusetts Transportation Trust Fund.

Summary of An Act relative to automated enforcement
Sponsor: Senator Brownsberger [SD1461](#)

Placement of cameras

- City/town controls where it should be placed. Can place on MassDOT or DCR roads with written permission
- Can't employ more than one fixed camera per 2,500 residents
- Can't employ more than one camera attached to a school bus
- Location must be approved by vote of municipal legislative body

Reporting

- City/town must submit report annually to MassDOT listing the location of each camera and its nexus to safety
- At most three years after the effective date of this act, MassDOT must publish a report that analyzes the public safety, and social and racial equity impacts of this act

Violations

- Red light violation - can't be issued if any part of the vehicle was in the intersection when the light is yellow, even if the light turns red while the vehicle is in the intersection
- Speed limit violation – can't be issued unless vehicle exceeds speed limit by at least five miles per hour
- Passing school bus violation – can't be issued unless the vehicle crosses the plane of the stop sign on the bus
- Right turn on red violation – can't be issued unless entire vehicle has crossed the stop line

Penalties

- Maximum penalty is \$25 for each violation
- The owner(s) of the vehicle are liable
- City/town may send a written warning in lieu of enforcement, for the purpose of education
- A law enforcement employee shall inspect photographs and produce a certificate
- Penalty imposed shall not be deemed a criminal conviction and shall not be made part of the operating record of the person upon whom such liability is imposed
 - Will not be considered a violation of a moving vehicle of the motor vehicle laws for the purpose of determining a surcharge on a motor vehicle premium
- Police department shall supervise and coordinate the administration of violations, and will have the authority to hire and designate such personnel as may be necessary

Privacy / use of photographs

- Can't take a frontal view of the vehicle (or driver/passenger)
- Photographs shall only be captured when a violation occurs
- Photographs shall be destroyed within 48 hours of final disposition of a violation
- No photographs shall be discoverable or admissible in any judicial or administrative proceeding without a court order
- A court shall order a release of a photograph only where the photograph tends to establish or undermine a finding of a moving violation and the violation is material as to a finding of civil or criminal liability.
- Photographs and other personally identifying information collected are not public record

Notifying the registered owner(s) of motor vehicle

- Notice shall contain but not be limited to: a copy of the aforementioned recorded images and other evidence showing the vehicle in the process of a camera enforceable violation; the registration number and state of issuance of the vehicle; the date, time and location of the violation; the specific violation charged; instructions for payment; instructions to contest the violation in writing and instructions to obtain a hearing.
- Notice shall be mailed within 14 days of the violation and shall be sent by first class mail
 - If the vehicle is registered in another state or country, the notice shall be mailed within 21 days

Paying / disputing the fine

- Payment shall be made by appearing before the police department's designee during normal office hours, or by mailing payment, or online
- Payment shall be made by cash, money order, credit card, or check
- An owner may contest responsibility for a violation in writing or by mail
 - The owner shall provide the police department with a signed affidavit in a form approved by the police department, stating: the reason for disputing the violation; the full legal name and address of the owner of the motor vehicle; the full legal name and address of the operator of the motor vehicle at the time the violation occurred; and optionally, signed statements from witnesses
 - Within 21 days of receipt, the police department or hearing officer shall send the decision of the hearing officer, including reasons for the outcome, by first class mail to the registered owner.
- Any owner may request a hearing to contest responsibility for a violation
 - Upon receipt of a hearing request, the police dept. shall schedule the matter before a hearing officer, and send written notice of the hearing to registered owner of the vehicle
 - Within 21 days of the hearing, the police department or hearing officer should send by first class mail the decision, including the reason for the outcome
- If the owner is found responsible for a violation after contesting in writing or through a hearing, the owner shall pay the fine in the manner described within 14 days of the issuance of the decision or request further judicial review pursuant to section 14 of Chapter 30A of the General Laws.
- If an owner fails to pay a fine, the police department shall notify the RMV who shall place the matter on record. If five or more notices, the RMV shall not issue or renew the owner's vehicle registration until all fines are paid.

These reasons will grant exception to liability:

- If necessary to allow passage of an emergency vehicle
- If violation occurred while participating in a funeral procession
- If violation occurred during a period of time when the vehicle was reported as stolen
- If the operator of the vehicle was operating under a rental or lease agreement
- If the violation was necessary to comply with any other law or regulation

Contract with camera system company

- Compensation paid to manufacturer or vendor of automated road safety camera system shall be based on value of equipment or service provided -- not based on the number of citations issued or revenue generated

Revenues

- Net revenues collected shall be deposited in the Massachusetts Transportation Trust Fund