

# Comments and Recommendations on Draft Photo-Red Legislation

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## ***Introduction***

I have reviewed the draft legislation, and have several recommendations for improving the proposed legislation, as well as items that I suggest be further discussed by the committee.

I believe the penalty is unnecessarily weak, especially as compared with the penalty for running a red light if a ticket is issued by a police officer. At the same time, I do not believe the draft goes far enough in addressing the concerns of opponents of photo enforcement. I believe some simple and practical modifications can address a number of these concerns.

## ***Recommendations***

1. The current fine for running a red light in Virginia is \$350. The previous photo-red law included the same \$50 fine as is proposed in this legislation. However, the previous law was specifically set up as an experimental test program. I recommend that the fine be set at the same \$350 dollar value, whether issued by a police officer or through photo enforcement.
2. Opponents of photo enforcement argue that red light running is often caused by improperly timed lights, that improved timing is more effective than enforcement, and that sometimes timing is deliberately set poorly to increase the revenue gained from photo-red systems. The Insurance Institute for Highway Safety, which is in favor of photo-red, also states that proper timing is an important safety factor. While it would add to the implementation cost, I recommend adding language to the legislation that requires that prior to the installation of photo-red at an intersection, a traffic engineering analysis must be conducted to ensure that the timing is set in accordance with Virginia guidelines, including, but not limited to, the yellow clearance interval time.
3. In some localities, the contractors implementing systems receive revenue based on the number of violations issued. When this practice is followed, it results in a perception that the systems are primarily set up or operated as revenue generators, rather than primarily as safety systems. Section I of the proposed legislation partially addresses this concern, but I recommend that the section go a step further. Language should be added that states that any compensation agreement entered into with a private entity for providing or supporting such a system may not include any component that is a function of the revenue generated or the number of violations issued.

## ***Discussion Items***

1. Given the limited role that localities play in Virginia's transportation system, which is primarily operated by VDOT, this may not be practical. However, as another means of reducing criticism, it may be desirable to limit the use of revenue generated from photo-red to traffic safety applications.
2. The draft legislation states that the owner, lessee, or renter is assumed to be the operator, but that an affidavit or sworn testimony by the owner, lessee, or renter that they were not the operator would rebut this presumption. I believe some other jurisdictions do not provide for this rebuttal, holding the owner/lessee/renter liable for the fine, since no points, insurance impacts, or moving violation record is involved. Some other jurisdictions require, as part of the rebuttal, that the actual operator be named. I put these forth as items for consideration, and do not have a recommendation to make.