

House Bill 638 (COMMITTEE SUBSTITUTE)

By: Representatives Silcox of the 53rd, Holland of the 54th, Olaleye of the 59th, Evans of the 57th, Jones of the 60th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 2 of Chapter 9 of Title 32 of the Official Code of Georgia Annotated,
2 relating to Metropolitan Atlanta Rapid Transit Authority (MARTA), so as to prohibit the
3 stopping or parking of a motor vehicle other than a transit vehicle in a designated transit
4 vehicle lane in the City of Atlanta; to provide for penalties; to authorize the use of automated
5 transit vehicle lane monitoring devices for the issuance of a civil monetary penalty to owners
6 of motor vehicles illegally stopped or parked in a designated transit vehicle lane in the City
7 of Atlanta; to provide for procedures, conditions, and limitations for the issuance of citations
8 for such civil monetary penalty; to provide for agreements between agents operating
9 automated transit vehicle lane monitoring devices; to provide for the disbursement of funds
10 collected; to provide for rules and regulations; to provide for cooperation; to provide for
11 device and records inspections; to provide for definitions; to provide for automatic repeal;
12 to provide for related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 638 (SUB)

39 (6) 'Recorded images' means still or video images captured and stored by an automated
40 transit vehicle lane monitoring device which include a clear depiction of a motor vehicle
41 license plate number and the date, time, and location the image was produced.

42 (7) 'Transit lane safety course' means an online educational video which is no longer than
43 ten minutes in length and approved by the department.

44 (8) 'Transit vehicle' means any motor vehicle that is operated within the city by or under
45 contract with the authority which provides transportation services that are open to the
46 general public or a segment of the general public.

47 (9) 'Transit vehicle lane' means a lane or series of lanes of public road within the city
48 designated for the exclusive use of transit vehicles and indicated as such by official
49 traffic-control devices.

50 (b) No person shall stop or park a motor vehicle other than a transit vehicle in a transit
51 vehicle lane unless such stopping or parking is authorized by an official traffic-control
52 device, occurs during an emergency situation, or is otherwise authorized by law.

53 (c) A violation of this Code section shall be punished as follows:

54 (1) Upon enforcement through the issuance of a uniform traffic citation by a law
55 enforcement officer at the time of the offense, as a misdemeanor, and upon conviction
56 thereof with a fine:

57 (A) Not to exceed \$50.00 for the first violation; provided, however, that such fine shall
58 be waived for any offender who completes a transit lane safety course;

59 (B) Not to exceed \$100.00 for the second offense; and

60 (C) Not to exceed \$150.00 for the third offense and such offender shall be required to
61 complete a defensive driving course approved by the commissioner of driver services
62 pursuant to Code Section 40-5-83.

63 (2)(A) Unless the operator of the motor vehicle was arrested or issued a uniform traffic
64 citation by a law enforcement officer for the same violation, upon enforcement through

65 the use of an automated transit vehicle lane monitoring device with recorded images,
66 a civil monetary penalty as follows:

67 (i) \$50.00 for the first violation; provided, however, that such fine shall be waived
68 for any offender who completes a transit lane safety course;

69 (ii) \$100.00 for the second offense; and

70 (iii) \$150.00 for the third offense and such offender shall be required to complete a
71 defensive driving course approved by the commissioner of driver services pursuant
72 to Code Section 40-5-83.

73 (B) Any fee for the processing of a civil monetary penalty issued under this Code
74 section shall be no greater than \$25.00 and any late fee assessed for failure to pay a
75 civil monetary penalty owed shall be no greater than \$5.00. No additional penalty, fee,
76 or surcharge other than those set forth in this Code section shall be authorized. A
77 violation punished with a civil monetary penalty pursuant to this paragraph shall not be
78 considered a conviction, shall not be considered a moving traffic violation for purposes
79 of points assessed pursuant to Code Section 40-5-57, shall not be made a part of the
80 motor vehicle operating record of the person upon whom such penalty is imposed, nor
81 shall it be used for any purposes in the provision of motor vehicle insurance coverage.

82 (C) The law enforcement agency or agent authorized to enforce the provisions of this
83 Code section on behalf of the governing body of the city through the use of an
84 automated transit vehicle lane monitoring device shall send by first-class mail
85 addressed to the owner of the motor vehicle no later than 60 days after the date of the
86 alleged violation:

87 (i) A citation for the alleged violation, which shall include the date, time, and location
88 of the alleged violation, the amount of the civil monetary penalty imposed, and the
89 date by which the civil monetary penalty shall be paid;

90 (ii) An image produced from the recorded images showing the motor vehicle
91 involved in the alleged violation;

92 (iii) A website address where recorded images showing the motor vehicle involved
93 in the alleged violation, the transit lane safety course, and a duplicate of the
94 information provided for in this subsection may be viewed;
95 (iv) A copy of a certificate sworn to or affirmed by a certified peace officer employed
96 by a law enforcement agency authorized to enforce the provisions of this Code section
97 stating that, based upon inspection of recorded images, the owner's motor vehicle was
98 stopped or parked in a transit vehicle in violation of this Code section;
99 (v) A statement of the inference provided by subparagraph (E) of this Code section
100 and of the means specified therein by which such inference may be rebutted;
101 (vi) Information advising the owner of the motor vehicle of the manner in which
102 liability as alleged in the citation may be contested; and
103 (vii) A warning that failure to complete the transit lane safety course, pay the civil
104 monetary penalty, or contest the violation in a timely manner may result in assessment
105 of late fees in addition to the civil monetary penalty owed.

106 (D) Proof that a motor vehicle was stopped or parked in a transit vehicle lane in
107 violation of this Code section may be evidenced by recorded images. A copy of a
108 certificate sworn to or affirmed by a certified peace officer employed by a law
109 enforcement agency authorized to enforce this Code section stating that, based upon
110 inspection of recorded images, a motor vehicle was stopped or parked in a transit
111 vehicle lane and that such stopping or parking was not otherwise authorized by law
112 shall be prima-facie evidence of the facts contained therein.

113 (E) Liability under this paragraph shall be determined based upon a preponderance of
114 the evidence. Prima-facie evidence that the motor vehicle described in the citation was
115 stopped or parked in a transit vehicle lane, together with proof that the defendant was,
116 at the time of such violation, the owner of the vehicle, shall permit the trier of fact in
117 its discretion to infer that such owner of the motor vehicle was the operator of the motor

118 vehicle at the time of the alleged violation. Such inference may be rebutted if the
119 owner of the motor vehicle:

120 (i) Testifies under oath in open court or submits to the court a sworn notarized
121 statement that he or she was not the operator of the motor vehicle at the time of the
122 alleged violation;

123 (ii) Presents evidence in court that demonstrates he or she is not the owner of the
124 motor vehicle in the recorded images nor rented the motor vehicle in the recorded
125 images; or

126 (iii) Presents to the court a certified copy of a police report showing that the motor
127 vehicle had been reported to the police as stolen prior to the time of the alleged
128 violation.

129 (F) Except in cases where an adjudication that no violation occurred has been issued
130 or there is an otherwise lawful determination that no civil monetary penalty shall be
131 imposed:

132 (i) When an owner fails to complete the transit lane safety course or pay the civil
133 monetary penalty for which citation and notice was sent to the owner pursuant to this
134 paragraph within 60 days such notice was mailed, or has failed to submit
135 documentation to the court pursuant to subparagraph (E) of this paragraph, the law
136 enforcement agency or agent thereof which sent the original citation shall send a
137 second notice. Such second notice shall include all information required of the
138 original citation and a new date by which the civil monetary penalty shall be paid
139 which shall be no less than 30 days after such mailing. If such owner notified by
140 second notice again fails to complete the transit lane safety course, pay the civil
141 monetary penalty, or submit documentation to the court pursuant to subparagraph (E)
142 of this paragraph by the new date by which the civil monetary penalty shall be paid,
143 such owner shall have waived the right to contest the violation and shall be liable for
144 the civil monetary penalty provided for under this paragraph; and

145 (ii) When a citation issued pursuant to this paragraph has not been contested, the
146 transit lane safety course has not been completed, or the civil monetary penalty has
147 not been paid, the agent or governing authority shall mail a second notice of any
148 unpaid civil monetary penalty to the owner.

149 (G) Notices mailed by first-class mail shall be adequate notification of the
150 requirements, fees, and penalties imposed by this paragraph.

151 (H) Any court having jurisdiction over violations relating to traffic laws within the city
152 shall have jurisdiction over cases arising under this paragraph and shall be authorized
153 to impose the civil monetary penalty provided by this paragraph. Except as otherwise
154 provided to the contrary, the provisions of law governing jurisdiction, procedure,
155 defenses, adjudication, appeal, and payment and distribution of penalties otherwise
156 applicable to traffic violations within the city shall apply to enforcement under this
157 article; provided, however, that any appeal from a superior or state court shall be by
158 application in the same manner as that provided by Code Section 5-6-35.

159 (I) Money collected and remitted to the city pursuant to this paragraph shall be remitted
160 to the authority to be used to fund public safety initiatives. This subparagraph shall not
161 preclude the appropriation of a greater amount than collected and remitted by the
162 authority pursuant to this paragraph for such purposes.

163 (J) Any agreement entered into between the governing body of the city or law
164 enforcement agency and an agent for the administration of this paragraph shall be
165 established upon a subscription basis and subject to approval by the department. No
166 such agreement shall authorize any agent to collect or retain a percentage of the civil
167 monetary penalties assessed. Such agreement shall require the maintenance of recorded
168 images in a system compliant with security and privacy standards set forth by the
169 Georgia Crime Information Center Council for criminal justice information systems.
170 Such agreement shall further require that recorded images shall only be used for
171 purposes set forth in this paragraph and shall be destroyed no later than 72 hours after

172 the transit lane safety course is completed, the civil monetary penalty paid, or a final
173 determination in the case has been rendered. Recorded images produced by an
174 automated transit vehicle lane monitoring device shall not be a public record for
175 purposes of Article 4 of Chapter 18 of Title 50.

176 (K) In order to enforce the provisions of this paragraph, the city and authority shall
177 erect signs warning of the use of an automated transit vehicle lane monitoring device
178 no closer than 200 feet and no farther than 500 feet prior to any signalized entrance to
179 a transit vehicle lane. Any such sign shall be at least 24 by 30 inches in size and be
180 placed in such a manner that the sign is plainly visible from every lane of traffic and
181 viewable in all traffic conditions. Any such sign shall indicate whether the automated
182 transit lane monitoring device is fixed upon the roadway or located upon the transit
183 vehicles utilizing the lane or lanes.

184 (L) Any district attorney, solicitor-general of state court, or prosecuting attorney of
185 municipal court whose jurisdiction includes the city shall be authorized to prosecute
186 civil actions to enforce any civil penalty set forth in this paragraph.

187 (3) For a period of six months after the date a transit vehicle lane is designated as such,
188 any violation of this Code section shall be punishable only by issuance of a warning.
189 After six months from the date a transit vehicle lane is designated, all provisions of this
190 Code section regarding such violations shall be in full force and effect.

191 (4) No uniform traffic citation shall be issued for a violation of Code Section 32-9-4 if
192 a uniform traffic citation for the same act has been issued under the provisions of this
193 Code section, nor shall any uniform traffic citation be issued under the provisions of this
194 Code section if a uniform traffic citation for the same act has been issued pursuant to
195 Code Section 32-9-4.

196 (d) The department, in consultation with the city, shall be authorized to promulgate
197 appropriate rules and regulations for the implementation of the provisions of this Code
198 section for any portion of a transit vehicle lane that is part of the state highway system.

199 The city and the authority in the utilization of such transit vehicle lanes shall at all times
200 cooperate fully with the department. The department shall be authorized, at any time, to
201 inspect an automated transit vehicle lane monitoring device used by the city or authority
202 or agent thereof on any such transit vehicle lane and any records pertaining to revenues
203 collected from the use of such devices in such lanes. Certified peace officers of the
204 Georgia State Patrol and the Department of Public Safety shall be nonexclusively
205 authorized to enforce the provisions of this Code section.

206 (e) No violation of the provisions of this Code section shall be punished by any term of
207 confinement or imprisonment; provided, however, that this Code section shall not affect
208 the power of a court to punish for contempt or to employ any sanction authorized by law
209 for the enforcement of an order, civil judgment, or decree.

210 (f) This Code section shall stand repealed on January 1, 2030."

211

SECTION 2.

212 All laws and parts of laws in conflict with this Act are repealed.