



It Can Be Expensive Not Knowing Your Rights When Facing A Virginia Red-Light Camera Ticket

A Guest Editorial by the National Motorists Association

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Fifteen states prohibit the use of red-light and highway speed cameras. Virginia is not among them. But Virginians have a legal protection that only one other U.S. state (Arizona) grants, a right that Virginia municipalities do their utmost to circumvent to maximize ticket revenue. The irony is that this right is exercised by simply doing nothing after receiving a Virginia photo ticket in the mail. If you respond to the mailed citation, you end up waiving that legal right.

Let's stop here for a second. Many people are opposed to contesting a traffic ticket, figuring that they wouldn't have been charged with the violation if they didn't deserve it. So why try to avoid paying a Virginia photo ticket? It may help to understand that there are several questionable aspects of red-light camera programs, including several violations of basic due process rights. Here are a few:

- Ticket cameras cause an increase in traffic accidents
- Needed intersection safety improvements are deferred in order to maintain ticket revenue
- It is hypocritical to claim that ticket cameras are all about safety, not revenue, despite overwhelming evidence that such programs are shut down after becoming unprofitable
- Several due process rights afforded to defendants are trampled, including:
 - ↪ Ticket recipients are not promptly or verifiably notified
 - ↪ The driver of the vehicle is not positively identified
 - ↪ The vehicle owner is presumed guilty until proven innocent, regardless of who the driver was when the camera flashed
 - ↪ There is no certifiable witness to the alleged violation, someone who can be questioned and challenged in court

With that backdrop of seriously problematic issues surrounding the use of red-light cameras and of the stacked deck that faces photo ticket defendants, let's return to that additional due process right afforded defendants by Virginia law. §15.2-968.1, Use of photo-monitoring systems to enforce traffic light signals, of the Virginia State Code says the following in paragraph G about the defendant's rights after a photo citation has been mailed:

"If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in §19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons."

In other words, the recipient of the mailed photo ticket can ignore the mailing without consequence. (An important caveat: If the recipient acknowledges receipt of the ticket in any way to an officer of the court, the photo ticket is considered valid and the defendant is legally required to appear in court on the return date of the summons.)

continued on page 2

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Critical language from §19.2-76.3, Paragraph C, drives home the point that Virginia requires personal service --- the actual in-person delivery of the citation to the defendant --- for a photo ticket to be considered valid and enforceable:

“No proceedings for contempt or arrest of any person summoned under the provisions of this section shall be instituted unless such person has been personally served with a summons and has failed to appear on the return date contained therein.”

Many Virginia motorists can save the costly expense of a red-light camera citation by ignoring a photo ticket not handed to them personally. Typical approaches by municipalities to coerce a response, and therefore a waiver of the state’s personal service requirement, include mailing the ticket to the vehicle owner’s home address or tacking a copy of the summons to the owner’s door. Don’t fall for it.

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