STATE OF NEW YORK

518

2017-2018 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2017

Introduced by Sens. YOUNG, ADDABBO, AKSHAR, AVELLA, BONACIC, FUNKE, LATIMER, MARCHIONE, MURPHY, O'MARA, PERALTA, RITCHIE, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the education law, in relation to authorizing the installation and use of safety cameras on school buses for the purpose of monitoring overtaking and passing of school bus violations; to amend the vehicle and traffic law and the public officers law, in relation to owner liability for an operator illegally overtaking or passing a school bus; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "school bus camera safety act".

§ 2. Legislative intent. In the state of New York, 2.5 million children ride school buses and public transportation to and from school each day. The legislature recognizes that the safe transportation of children to and from school is a shared responsibility of each school district and the driving public. It is the intent of this legislature to authorize school districts to utilize school bus safety camera technology, which will identify drivers who violate the law by passing a stopped school bus with its red flashing signal lamps illuminated and stop arm engaged.

§ 3. Section 375 of the vehicle and traffic law is amended by adding a new subdivision 21-j to read as follows:

21-j. School buses owned or contracted for by a school district which has adopted a resolution providing for the installation of school bus safety cameras, as defined in section eleven hundred seventy-four-a of this chapter, may be equipped with and operate such cameras. School

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD00638-01-7

districts that, at the time of adoption of such a resolution, have entered into a contract for transportation services, may, notwithstanding any other provision of state law, rule or regulation, renegotiate the terms of their current transportation contract for the purposes of allowing the installation of school bus safety cameras. School districts shall not be required to take school buses out of service if such buses are not equipped with automated school bus safety cameras or functional automated safety cameras.

School districts and school bus transportation contractors shall be held harmless from and not liable for any criminal or civil liability arising from the operation of school bus safety cameras. The commissioner shall promulgate rules and regulations for the installation of school bus safety cameras. A designated vendor or employee of such vendor, police officer, or designated governing body employee shall not be liable for any loss that occurs while acting within the scope of their employment or contractual engagement to implement or enforce a violation of section eleven hundred seventy-four-a of this chapter.

§ 4. The vehicle and traffic law is amended by adding a new section 1174-a to read as follows:

§ 1174-a. Owner liability for operator illegally overtaking or passing a school bus. (a) For the purposes of this section:

1. "School bus safety camera" means an automated photo monitoring device affixed to the outside of a school bus and designed to detect and store videotape and one or more images of motor vehicles which overtake or pass school buses in violation of subdivision (a) of section eleven hundred seventy-four of this article.

2. "Owner" shall have the same meaning provided in article two-B of this chapter.

(b) 1. Notwithstanding any other provision of law, the board of education or of trustees of a school district is hereby authorized and empowered to adopt a resolution providing for the installation and operation of school bus safety cameras upon school buses operated by or contracted with such district. School districts shall not access the images from such cameras but shall provide, pursuant to an agreement with the appropriate law enforcement agency or agencies for the proper handling and custody of such images, for the forwarding of images from such cameras to a law enforcement agency having jurisdiction in the area in which the violation occurred, for the purpose of imposing monetary liability on the owner of a motor vehicle for illegally overtaking or passing a school bus in violation of subdivision (a) of section eleven hundred seventy-four of this article.

2. In such school districts that have adopted a resolution authorizing the installation of such school bus safety cameras, the board of education or of trustees of the school district or a school bus transportation contractor may, furthermore, enter into an agreement with a private vendor for the installation, operation, notice processing and administration, and maintenance of school bus safety cameras on buses within such district's fleet. School bus transportation contractors are empowered to purchase or lease, through a private vendor, school bus safety cameras; provided, that any agreement between a school bus transportation contractor and a private camera vendor shall stipulate that a school bus transportation contractor shall only be allowed to recoup expenses incurred through the installation and operation of a school bus arm camera and shall not allow the school bus transportation contractor to charge the camera vendor a fee for the installation, operation or maintenance of such cameras, nor receive any portion of the fine for a

violation of section eleven hundred seventy-four of this article. A private camera vendor shall have the right to retain any school bus safety cameras installed on a school bus after the expiration of the agreement with the school bus transportation contractor, unless the equipment was purchased from the vendor. Provided, further, that any agreement between a school bus transportation contractor and a private camera vendor shall stipulate the number of cameras to be installed shall not exceed the total amount requested by the school district.

3. Such school bus safety cameras shall only take photographs and videotape of motor vehicles and their license plates thereon, while such vehicle is operated in violation of subdivision (a) of section eleven hundred seventy-four of this article. No such photograph or video shall reveal any occupant of a motor vehicle. Provided, however, that no simplified traffic information issued pursuant to this section shall be dismissed solely because a photograph or photographs allow for the identification of the occupants and/or contents of a motor vehicle.

4. Upon adoption of a resolution by a school district as required in subdivision twenty-one-j of section three hundred seventy-five of this chapter, such school district may enter into a memorandum of understanding with a local governing authority to enable the implementation of the provisions of this section. Such traffic violations bureau or court shall make available to such school district the adjudication data required by paragraph seven of subdivision (l) of this section as to allow such school district to complete the report required by subdivision (l) of this section in a timely manner. Any intergovernmental agreement pursuant to this paragraph shall inform such traffic violations bureau or court of the requirements of this subdivision and shall make provisions regarding the transmittal of such required information. School districts that elect to purchase such cameras shall be reimbursed for the cost of such cameras out of the net proceeds, after the expenses of administration. Reimbursement for the cost of such cameras shall not be considered generating income.

(c) In any school district in which school bus safety cameras are installed and operated pursuant to subdivision (b) of this section, the owner of a motor vehicle, upon issuance of a simplified traffic information by a police officer, shall be liable for a civil penalty of two hundred fifty dollars if such vehicle was used or operated with the permission of the owner, express or implied, in violation of subdivision (a) of such section, and such violation is evidenced by information obtained from a school bus safety camera; provided, however, that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle has been convicted of the underlying violation of subdivision (a) of section eleven hundred seventy-four of this article. Provided, further, that the net proceeds of any penalty, after the expenses of administration and operating costs of the cameras, collected by a traffic violations bureau or court pursuant to this section shall be expended for programs related to improving traffic safety and/or school district safety in the municipality in which the violation occurred. School districts are authorized to accept grants from municipalities for the implementation of this section. School districts may allow for a warning period of up to twenty-one days from the time the first school bus safety cameras are installed in the district before monetary penalties are imposed on violations occurring from such cameras.

(d) A school district or school bus camera vendor shall forward or cause to be forwarded, the images and videotape from its school bus

safety cameras to a law enforcement agency having jurisdiction in the area where the violation occurred. A school bus contractor may not process a violation of section eleven hundred seventy-four of this article. After receipt of such images, a police officer shall inspect such videotape and images to determine whether a violation of subdivision (a) of section eleven hundred seventy-four of this article was committed, provided that such videotape and one or more images must display a red visual signal as specified in subdivision twenty of section three hundred seventy-five of this chapter. If such police officer finds that such a violation occurred, he or she shall issue a simplified traffic information alleging the violation, and such information with a copy of the photographic image of the violation shall be mailed to the owner of the motor vehicle by first class mail within thirty days of the alleged violation. The videotape and images produced by a school bus safety camera shall be prima facie evidence of the facts contained therein. All photographic images of motor vehicles which do not depict or result in liability for violation of subdivision (a) of section eleven hundred seventy-four of this article shall be destroyed by the appropriate school district and law enforcement agency within two days.

(e) An imposition of liability pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

(f) 1. A simplified traffic information and the photographic image of the alleged violation shall be sent by first class mail to each person alleged to be liable as an owner for a violation of subdivision (a) of section eleven hundred seventy-four of this article pursuant to this section within thirty days if such owner is a resident of this state and within forty-five business days if such owner is a non-resident, provided that a warning notice and not a simplified traffic information shall be sent if such violation is evidenced by information obtained from a school bus safety camera that has been operational but inactive for a period determined by the school district. Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein.

2. A simplified traffic information shall contain the name and address of the person alleged to be liable as an owner for a violation of subdivision (a) of section eleven hundred seventy-four of this article pursuant to this section, the registration number of the vehicle involved in such violation, the location where such violation took place including global positioning system coordinates, the date and time of such violation and the identification number of the school bus safety camera which recorded the violation or other document locator number.

3. The simplified traffic information shall contain information advising the person charged of the manner, the time, the place and the court or administrative body in which he or she may contest the liability alleged in the simplified traffic information. Such simplified traffic information shall also contain a warning to advise the persons charged that failure to answer in the manner and time provided shall be deemed an admission of liability and that he or she shall be liable for failure to respond to a summons.

(g) Adjudication of the liability imposed upon owners by this section shall be by a traffic violations bureau established pursuant to section

three hundred seventy of the general municipal law or, if there be none, by the court having jurisdiction over traffic infractions.

(h) If an owner receives a simplified traffic information pursuant to this section for any time period during which the vehicle was stolen, it shall be a valid defense to an allegation of liability for a violation of subdivision (a) of section eleven hundred seventy-four of this article pursuant to this section that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the traffic violations bureau, court having jurisdiction or parking violations bureau.

(i) An owner who is a lessor of a vehicle to which a simplified traffic information was issued pursuant to this section shall not be liable for the violation of subdivision (a) of section eleven hundred seventy-four of this article, provided that he or she sends to the court having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty-seven days after receiving notice from the court of the date and time of such violation, together with the other information contained in the original simplified traffic information. Failure to send such information within such thirty-seven day time period shall render the owner liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this subdivision, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for the violation of subdivision (a) of section eleven hundred seventy-four of this article pursuant to this section and shall be sent a simplified traffic information pursuant to this section.

(j) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of subdivision (a) of section eleven hundred seventy-four of this article.

(k) The school bus safety cameras installed and operated pursuant to this section shall be used solely for the purposes of carrying out photo-monitoring and videotaping of violations of subdivision (a) of section eleven hundred seventy-four of this article.

(l) In any such school district which adopts a resolution pursuant to subdivision (b) of this section, such school district shall, to the extent that such information is available to it, submit an annual report on the results of the use of a school bus safety camera program to the governor, the temporary president of the senate and the speaker of the assembly on or before September first, two thousand eighteen and on or before such date in each succeeding year in which the program is operable through September two thousand twenty-three. Such report shall include, but not be limited to:

1. a description of the routes where school bus safety cameras were used;

2. the aggregate number, type and severity of accidents caused by passing a school bus in violation of section eleven hundred seventy-four of this article provided, however, the school district maintains such information;

3. the number of violations recorded for each school bus safety camera and in the aggregate on a monthly basis;

4. the total number of notices of liability issued for violations of this section;

5. the number of fines and total amount of fines paid after the first notice of liability;

6. the number of violations adjudicated and results of such adjudications including breakdowns of disposition made for violations recorded by such systems;

7. the total amount of revenue realized from adjudications;

8. expenses incurred in connection with this program by such school district or private bus contractor providing transportation services for the school district;

9. the quality of the adjudication process and its results; and

10. a description of public education activities conducted to warn motorists of the dangers of passing a school bus.

(m) No owner or operator of a motor vehicle, who has been charged with a violation of subdivision (a) of section eleven hundred seventy-four of this article in a simplified traffic information, shall be deemed to have any liability for such violation pursuant to this section.

§ 5. Section 3621 of the education law is amended by adding a new subdivision 16 to read as follows:

16. "School bus safety camera" shall mean an automated photo monitoring device authorized to be installed and operated on the outside of a school bus pursuant to section eleven hundred seventy-four-a of the vehicle and traffic law.

§ 6. Paragraph c of subdivision 2 of section 3623-a of the education law, as amended by chapter 453 of the laws of 2005, is amended to read as follows:

c. The purchase of equipment deemed a proper school district expense, including: (i) the purchase of two-way radios to be used on old and new school buses, (ii) the purchase of stop-arms, to be used on old and new school buses, (iii) the purchase and installation of seat safety belts on school buses in accordance with the provisions of section thirty-six hundred thirty-five-a of this article, (iv) the purchase of school bus back up beepers, (v) the purchase of school bus front crossing arms, (vi) the purchase of school bus safety sensor devices, (vii) the purchase and installation of exterior reflective marking on school buses, (viii) the purchase of automatic engine fire extinguishing systems for school buses used to transport students who use wheelchairs or other assistive mobility devices, (ix) the purchase of school bus safety cameras, and [~~(ix)~~] (x) the purchase of other equipment as prescribed in the regulations of the commissioner; and

§ 7. Subdivision 3 and paragraph a of subdivision 4 of section 227 of the vehicle and traffic law, subdivision 3 as amended by chapter 337 of the laws of 1970 and renumbered by chapter 288 of the laws of 1989 and paragraph a of subdivision 4 as amended by section 7 of part J of chapter 62 of the laws of 2003, are amended to read as follows:

3. After due consideration of the evidence and arguments offered in a contested case, the hearing officer shall determine whether the charges have been established. In the case of an owner charged as such pursuant to article twenty-nine of this chapter, it shall be a complete defense to such charge that a vehicle alleged to be in violation was operated without the permission of such owner or his or her agent and the establishment of lack of permission shall result in an order dismissing such charge against such owner. Where the charges have not been established, an order dismissing the charges shall be entered. Where a determination is made that a charge has been established, either in a contested case

or in an uncontested case where there is an appearance before a hearing officer, or if an answer admitting the charge otherwise has been received, an appropriate order shall be entered in the department's records.

a. An order entered upon the failure to answer or appear or after the receipt of an answer admitting the charge or where a determination is made that the charge has been established shall be civil in nature, but shall be treated as a conviction for the purposes of this chapter. The commissioner or his **or her** designee may include in such order an imposition of any penalty authorized by any provision of this chapter for a conviction of such violation, except that no penalty [~~therefore~~] **therefor** shall include imprisonment, nor, if monetary, exceed the amount of the fine which could have been imposed had the charge been heard by a court. The driver's license or privileges, or, if the charge involves a violation of section three hundred eighty-five or section four hundred one of this chapter by a registrant who was not the operator of the vehicle, the registration of such vehicle or privilege of operation of any motor vehicle owned by such registrant may be suspended pending the payment of any penalty so imposed**; however, in the case of an owner charged as such pursuant to this article, his or her driver's license or privilege shall not be affected by such order or determination other than as suspension thereof for failure to appear or pay as set forth in this article, nor shall a conviction hereunder of such owner as such result in departmental administrative sanctions affecting his or her driver's license or privilege**. Any suspension issued pursuant to this paragraph shall be subject to the provisions of paragraph (j-1) of subdivision two of section five hundred three of this chapter.

§ 8. Subdivision 2 of section 87 of the public officers law is amended by adding a new paragraph (p) to read as follows:

(p) are photographs, microphotographs, videotape or other recorded images prepared under the authority of section eleven hundred seventy-four-a of the vehicle and traffic law. Any school district that adopts a resolution providing for the installation and operation of school bus safety cameras upon school buses operated by or contracted with such district pursuant to section eleven hundred seventy-four-a of the vehicle and traffic law shall notify its residents through adopted procedures about such installation and operation before any simplified traffic information issued based on evidence obtained by such school bus safety cameras.

§ 9. This act shall take effect on the first of November next succeeding the date on which it shall have become a law; except that sections four and five of this act shall take effect on the first of April next succeeding the effective date of this act. The provisions of this act shall expire and be deemed repealed September 1, 2023.