S T A T E O F N E W Y O R K

6601

2011-2012 Regular Sessions

I N A S S E M B L Y

March 23, 2011

Introduced by M. of A. CASTELLI -- read once and referred to the Committee on Transportation

AN ACT to amend the education law and the vehicle and traffic law, in relation to creating a pilot program in Westchester county for the use of live digital video school bus violation detection monitoring systems and providing for the admissibility of photographic evidence obtained therefrom in the prosecution of the offense of overtaking or passing a stopped school bus; 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. The education law is amended by adding a new section 3638 to read as follows:

S 3638. LIVE DIGITAL VIDEO SCHOOL BUS VIOLATION DETECTION MONITORING SYSTEM PILOT PROGRAM. 1. THE KATONAH-LEWISBORO SCHOOL DISTRICT IN THE COUNTY OF WESTCHESTER SHALL CONDUCT A PILOT PROGRAM DESIGNED TO EVALUATE THE USE OF LIVE DIGITAL VIDEO SCHOOL BUS VIOLATION DETECTION MONITORING SYSTEMS. SUCH SYSTEMS SHALL, AT A MINIMUM, BE SYSTEMS WHICH MONITOR AND DETECT VIOLATIONS OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED SEVENTY-FOUR OF THE VEHICLE AND TRAFFIC LAW.

2. "LIVE DIGITAL VIDEO SCHOOL BUS VIOLATION DETECTION MONITORING SYSTEM" SHALL MEAN A SYSTEM WITH ONE OR MORE CAMERA SENSORS AND COMPUTERS WHICH PRODUCE LIVE DIGITAL AND RECORDED VIDEO OF MOTOR VEHICLES BEING OPERATED IN VIOLATION OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED SEVENTY-FOUR OF THE VEHICLE AND TRAFFIC LAW. ALL SYSTEMS INSTALLED FOR USE UNDER THIS SECTION MUST, AT A MINIMUM, PRODUCE A LIVE VISUAL IMAGE VIEWABLE REMOTELY, A RECORDED IMAGE OF THE LICENSE PLATE, AND BE ABLE TO RECORD THE TIME, DATE, AND LOCATION OF THE VEHICLE, AND A SIGNED AFFIDAVIT BY A PERSON WHO WITNESSED THE VIOLATION VIA LIVE VIDEO.

3. THE PILOT PROGRAM SHALL PROVIDE THAT EACH SCHOOL BUS PROVIDING TRANSPORTATION FOR STUDENTS ATTENDING SCHOOLS OF THE KATONAH-LEWISBORO

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

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SCHOOL DISTRICT IN THE TOWN OF LEWISBORO BE INSTALLED WITH AND OPERATE A LIVE DIGITAL VIDEO SCHOOL BUS VIOLATION DETECTION MONITORING SYSTEM. THE SCHOOL DISTRICT MAY ENTER INTO AN AGREEMENT WITH A PRIVATE CORPORATION OR OTHER ENTITY TO PROVIDE LIVE DIGITAL VIDEO SCHOOL BUS VIOLATION DETECTION MONITORING SYSTEMS AND TO MAINTAIN AND OPERATE SUCH SYSTEMS. COMPENSATION TO THE PRIVATE ENTITY THAT PROVIDES SUCH A SYSTEM AND RELATED SUPPORT SERVICE SHALL NOT BE BASED ON THE REVENUE GENERATED BY THE SYSTEM. COMPENSATION TO THE VENDOR OF THE SYSTEM SHALL BE BASED ON THE EXPENSE OF THE SERVICES AND THE EQUIPMENT PROVIDED BY THE VENDOR OF THE SYSTEM. THE SCHOOL DISTRICT MAY ENTER INTO AN AGREEMENT FOR PURPOSES OF REIMBURSEMENT OF EXPENSES TO THE VENDOR FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF THE LIVE DIGITAL VIDEO SCHOOL BUS DETECTION AND MONITORING SYSTEMS WITHIN ITS MUNICIPALITY. NOTWITHSTANDING THE TERMS AND CONDITIONS CONTAINED IN ANY SUCH AGREEMENT, REIMBURSEMENT SHALL BE MADE FROM TICKET REVENUE PROCEEDS FROM PAID VIOLATIONS, AS ALLOCATED.

4. WITHIN FIVE YEARS OF THE EFFECTIVE DATE OF THIS SECTION, THE KATONAH-LEWISBORO SCHOOL DISTRICT AND THE DISTRICT ATTORNEY OF THE COUNTY OF WESTCHESTER SHALL REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY ON THE PILOT PROGRAM AND ITS RESULTS. SUCH RESULTS SHALL INCLUDE RECOMMENDATIONS AS TO THE FUTURE USE OF LIVE DIGITAL VIDEO SCHOOL BUS VIOLATION DETECTION MONITORING SYSTEMS.

S 2. The section heading and subdivision 1 of section 226 of the vehicle and traffic law, as added by chapter 1074 of the laws of 1969, are amended to read as follows:

Summons; NOTICE OF VIOLATION; answer. 1. Summons. (A) GENERAL. The commissioner shall be authorized to prescribe by regulation the form for the summons and complaint to be used for all traffic violations specified in subdivision one of section two hundred twenty-five of this chapter, and to establish procedures for proper administrative controls over the disposition thereof. Such summons may be the same as the uniform summons provided for in section two hundred seven of this chapter. The chief executive officer of each local police force which is required to use the summons and complaint provided for herein shall prepare or cause to be prepared such records and reports as may be prescribed by the commissioner.

(B) NOTICE OF VIOLATION. IN THE EVENT THAT PHOTOGRAPHIC EVIDENCE OF A VIOLATION OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED SEVENTY-FOUR OF THE VEHICLE AND TRAFFIC LAW IS OBTAINED AS A RESULT OF THE LIVE DIGITAL VIDEO SCHOOL BUS VIOLATION DETECTION MONITORING SYSTEM PILOT PROGRAM PURSUANT TO SECTION THIRTY-SIX HUNDRED THIRTY-EIGHT OF THE EDUCATION LAW, A SUMMONS MAY BE SERVED BY MAIL UPON THE OWNER OF THE VEHICLE OBSERVED IN SUCH VIOLATION AS SET FORTH IN THE RECORDS OF THE DEPARTMENT; PROVIDED, HOWEVER, THAT SUCH SUMMONS IS ACCOMPANIED BY A NOTICE OF VIOLATION REFERRING TO SUCH SUMMONS, BOTH IN FORM AS SHALL BE PRESCRIBED BY THE COMMISSIONER FOR THIS PURPOSE, SUCH VEHICLE IS IDENTIFIED IN SUCH NOTICE OF VIOLATION BOTH BY ITS REGISTRATION PLATE NUMBER AND A DESCRIPTION THEREOF, INCLUDING ITS MAKE, MODEL, BODY TYPE AND COLOR, AND SUCH NOTICE IS ACCOMPANIED BY SAID OFFICER'S CERTIFICATION OF THE EVIDENCE WHICH IS THE BASIS FOR SUCH VIOLATION AUTHORIZING THE MAILING THEREOF. WHEN SUCH SUMMONS AND NOTICE OF VIOLATION ARE SO SERVED BY MAIL PURSUANT TO THIS PARAGRAPH DUPLICATES OR FACSIMILES THEREOF SHALL BE FILED WITH AND RETAINED BY THE OFFICE OF THE DEPARTMENT SPECIFIED ON SUCH NOTICE OF VIOLATION, SHALL BE DEEMED RECORDS KEPT IN THE ORDINARY COURSE OF BUSINESS AND SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN; IN ADDITION, SUCH NOTICE OF VIOLATION AND SUMMONS SERVED BY MAIL AS HEREIN PROVIDED SHALL HAVE THE SAME FORCE AND EFFECT

AND THE RECIPIENT THEREOF SHALL BE SUBJECT TO THE SAME PENALTIES FOR DISREGARD THEREOF AS THOUGH THE SAME WERE PERSONALLY SERVED ON THE PERSON CHARGED WITH THE VIOLATION SET FORTH THEREIN, EXCEPT AS MAY OTHERWISE BE SET FORTH IN THIS ARTICLE, AND SHALL HAVE CLEARLY IMPRINTED THEREON IN EASILY VISIBLE BLOCK LETTERS: "YOUR FAILURE TO ANSWER THIS SUMMONS MAY RESULT IN THE SUSPENSION OF YOUR LICENSE OR DRIVING PRIVILEGE PURSUANT TO S 226 OF THE VEHICLE AND TRAFFIC LAW."

S 3. Section 1174 of the vehicle and traffic law is amended by adding a new subdivision (b-1) to read as follows:

(B-1) THE DRIVER AND/OR OWNER OF A VEHICLE CHARGED WITH THE VIOLATION OF SUBDIVISION (A) OF THIS SECTION, MAY BE PROSECUTED BASED UPON THE OBSERVATIONS OF THE DRIVER OF A SCHOOL BUS OR PHOTOGRAPHIC EVIDENCE OBTAINED AS A RESULT OF THE LIVE DIGITAL VIDEO SCHOOL BUS VIOLATION DETECTION MONITORING SYSTEM PILOT PROGRAM PURSUANT TO SECTION THIRTY-SIX HUNDRED THIRTY-EIGHT OF THE EDUCATION LAW.

S 4. This act shall take effect on the one hundred twentieth day after it shall have become a law and shall expire 5 years after such effective date when upon such date the provisions of this act shall be deemed repealed.