STATE OF NEW YORK

321--B

2017-2018 Regular Sessions

IN ASSEMBLY

January 5, 2017

Introduced by M. of A. MAGNARELLI, WEPRIN, GALEF, JENNE, HOOPER, CUSICK, McDONOUGH, M. G. MILLER, ARROYO, GOTTFRIED, CRESPO, PICHARDO, RAMOS, FAHY, SKOUFIS, BRONSON, HUNTER, JEAN-PIERRE, WOERNER, PAULIN, McDONALD, DenDEKKER, THIELE, MOSLEY, ORTIZ, GLICK, BLAKE, RIVERA, D'URSO, BARRETT, STIRPE, AUBRY, TAYLOR, RYAN, WALLACE, PELLEGRINO -- Multi-Sponsored by -- M. of A. BUCHWALD, COOK, DE LA ROSA, ENGLEBRIGHT, HEVESI, HYNDMAN, JONES, LUPARDO, MAGEE, NOLAN, SIMON, SOLAGES, TITONE -- read once and referred to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law and the vehicle and traffic 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

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

Section 1. Section 1604 of the education law is amended by adding a new subdivision 43 to read as follows:

43. To pass, in the discretion of the trustees, a resolution authorizing the use of school bus cameras pursuant to section eleven hundred eighteen of the vehicle and traffic law, provided that the trustees may also enter into contracts with a third party for the installation, administration, operation, notice processing, and maintenance of such cameras, and for the sharing of revenue derived from such cameras pursuant to section eleven hundred eighteen of the vehicle and traffic law, provided that the purchase, lease, installation, operation and maintenance, or any other costs associated with such cameras shall not be

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

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considered an aidable expense pursuant to section thirty-six hundred twenty-three-a of this chapter.

§ 2. Section 1709 of the education law is amended by adding a new subdivision 43 to read as follows:

43. To pass a resolution, in the discretion of the board, authorizing the use of school bus cameras pursuant to section eleven hundred eighteen of the vehicle and traffic law, provided that the board may also enter into contracts with a third party for the installation, administration, operation, notice processing, and maintenance of such cameras, and for the sharing of revenue derived from such cameras pursuant to section eleven hundred eighteen of the vehicle and traffic law, provided that the purchase, lease, installation, operation and maintenance, or any other costs associated with such cameras shall not be considered an aidable expense pursuant to section thirty-six hundred twenty-three-a of this chapter.

§ 3. The vehicle and traffic law is amended by adding a new section 1118 to read as follows:

§ 1118. Owner liability for operator illegally overtaking or passing a school bus. (a) 1. Notwithstanding any other provision of law, each board of education or trustees of a school district is hereby authorized and empowered to adopt and amend a resolution establishing a school bus safety camera program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with section eleven hundred seventy-four of this title. Such program shall empower a board of education or school district or school bus transportation contractor that has contracted with such school district to install school bus safety cameras upon school buses operated by or contracted with such district.

2. Such program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such school bus safety cameras shall not include images that identify the driver, the passengers, or the contents of the vehicle. Provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because a photograph or photographs allow for the identification of the contents of a vehicle, provided that such school district has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any school district which has adopted a resolution pursuant to subdivision (a) of this section, the owner of a vehicle shall be liable for a penalty imposed pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, in violation of subdivision (a) of section eleven hundred seventy-four of this title, 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 title.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "school bus safety camera" shall mean an automated photo monitoring device affixed to the outside of a school bus and designated to detect and store one or more images of motor vehicles that overtake or pass school buses in violation of subdivision (a) of section eleven hundred seventy-four of this title.

(d) No school district or school bus transportation contractor that has installed cameras pursuant to this section shall 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 such 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 title. After receipt of such images a police officer shall inspect such images to determine whether a violation of subdivision (a) of section eleven hundred seventy-four of this title was committed. Upon such a finding a certificate, sworn to or affirmed by an officer of such agency, or a facsimile thereof, based upon inspection of photographs, microphotographs or other recorded images produced by a school bus safety camera, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation.

(e) An owner found liable pursuant to this section for a violation of subdivision (a) of section eleven hundred seventy-four of this title shall be liable for a monetary penalty of two hundred fifty dollars.

(e-1) Payment of the monetary penalty imposed by subdivision (e) of this section shall be payable to the municipality where the violation occurred, provided however, the school district shall be entitled to a portion of the monetary penalty that equals the cost to the school district of purchasing and maintaining the cameras. Nothing herein shall prevent the municipality from entering into a memorandum of understanding with the school district to return an additional portion of such penalty received to the school district.

(f) An imposition of liability under 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.

(g) 1. A notice of liability shall be sent by the respective law enforcement agency 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 title pursuant to this section. 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 notice of liability 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 title pursuant to this section, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgement may be entered thereon.

4. The notice of liability shall be prepared and mailed by the respective law enforcement agency having jurisdiction over the location where the violation occurred.

(h) 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, except that any city which has established or designated an administrative tribunal to hear and determine owner liability established by this article for failure to comply with traffic-control indications shall use such tribunal to adjudicate the liability imposed by this section.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle was reported to a police department as having been 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 title 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.

(j) Where the adjudication of liability imposed upon owners pursuant to this section is by an administrative tribunal, traffic violations bureau, or a court having jurisdiction, an owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of subdivision (a) of section eleven hundred seventy-four of this title, provided that he or she sends to the administrative tribunal, traffic violations bureau, or 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 bureau or court of the date and time of such violation, together with the other information contained in the original notice of liability. 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 paragraph, 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 title pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

(k) 1. If the owner liable for a violation of subdivision (a) of section eleven hundred seventy-four of this title pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

2. Notwithstanding any other provision of this section, no owner of a vehicle shall be subject to a monetary fine imposed pursuant to this section if the operator of such vehicle was operating such vehicle without the consent of the owner at the time such operator was found to have been overtaking or passing a school bus. For purposes of this subdivision there shall be a presumption that the operator of such vehicle was operating such vehicle with the consent of the owner at the time such operator was found to have been overtaking or passing a school bus.

(l) 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 title.

(m) In any school district which adopts a school bus safety camera program pursuant to subdivision (a) of this section, such school district shall submit an annual report on the results of the use of its school bus safety cameras to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand nineteen and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

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

2. the aggregate number of annual incidents of violations of subdivision (a) of section eleven hundred seventy-four of this title within the districts;

3. the number of violations recorded by school bus safety cameras in the aggregate and on a daily, weekly and monthly basis;

4. the total number of notices of liability issued for violations recorded by such systems;

5. the number of fines and total amount of fines paid after first notice of liability issued for violations recorded by such systems;

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

7. the total amount of revenue realized by such school district from such adjudications;

8. expenses incurred by such school district in connection with the program; and

9. quality of the adjudication process and its results.

(n) It shall be a defense to any prosecution for a violation of subdivision (a) of section eleven hundred seventy-four of this title that such school bus safety cameras were malfunctioning at the time of the alleged violation.

§ 4. This act shall take effect immediately.