

# STATE OF NEW YORK

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## IN SENATE

(Prefiled)

January 4, 2017

Introduced by Sens. YOUNG, ADDABBO, AKSHAR, AVELLA, BONACIC, BOYLE, FUNKE, HELMING, MARCHIONE, MURPHY, O'MARA, PERALTA, RITCHIE, SAVINO, TEDISCO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

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

3 43. To pass, in the discretion of the trustees, a resolution authoriz-  
4 ing the use of school bus cameras pursuant to section eleven hundred  
5 eighteen of the vehicle and traffic law, provided that the trustees may  
6 also enter into contracts with a third party for the installation,  
7 administration, operation, notice processing, and maintenance of such  
8 cameras, and for the sharing of revenue derived from such cameras pursu-  
9 ant to section eleven hundred eighteen of the vehicle and traffic law,  
10 provided that the purchase, lease, installation, operation and mainte-  
11 nance, or any other costs associated with such cameras shall not be  
12 considered an aidable expense pursuant to section thirty-six hundred  
13 twenty-three-a of this chapter.

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

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

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

14 § 3. The vehicle and traffic law is amended by adding a new section  
15 1118 to read as follows:

16 § 1118. Owner liability for operator illegally overtaking or passing a  
17 school bus. (a) 1. Notwithstanding any other provision of law, each  
18 board of education or trustees of a school district is hereby authorized  
19 and empowered to adopt and amend a resolution establishing a school bus  
20 safety camera program imposing monetary liability on the owner of a  
21 vehicle for failure of an operator thereof to comply with section eleven  
22 hundred seventy-four of this title. Such program shall empower a board  
23 of education or school district or school bus transportation contractor  
24 that has contracted with such school district to install school bus  
25 safety cameras upon school buses operated by or contracted with such  
26 district.

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

35 (b) In any school district which has adopted a resolution pursuant to  
36 subdivision (a) of this section, the owner of a vehicle shall be liable  
37 for a penalty imposed pursuant to this section if such vehicle was used  
38 or operated with the permission of the owner, express or implied, in  
39 violation of subdivision (a) of section eleven hundred seventy-four of  
40 this title, and such violation is evidenced by information obtained from  
41 a school bus safety camera; provided however that no owner of a vehicle  
42 shall be liable for a penalty imposed pursuant to this section where the  
43 operator of such vehicle has been convicted of the underlying violation  
44 of subdivision (a) of section eleven hundred seventy-four of this title.

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

52 (d) No school district or school bus transportation contractor that  
53 has installed cameras pursuant to this section shall access the images  
54 from such cameras but shall provide, pursuant to an agreement with the  
55 appropriate law enforcement agency or agencies, for the proper handling  
56 and custody of such images for the forwarding of such images from such

1 cameras to a law enforcement agency having jurisdiction in the area in  
2 which the violation occurred for the purpose of imposing monetary  
3 liability on the owner of a motor vehicle for illegally overtaking or  
4 passing a school bus in violation of subdivision (a) of section eleven  
5 hundred seventy-four of this title. After receipt of such images a  
6 police officer shall inspect such images to determine whether a  
7 violation of subdivision (a) of section eleven hundred seventy-four of  
8 this title was committed. Upon such a finding a certificate, sworn to or  
9 affirmed by an officer of such agency, or a facsimile thereof, based  
10 upon inspection of photographs, microphotographs or other recorded  
11 images produced by a school bus safety camera, shall be prima facie  
12 evidence of the facts contained therein. Any photographs, microphoto-  
13 graphs or other recorded images evidencing such a violation shall be  
14 available for inspection in any proceeding to adjudicate the liability  
15 for such violation.

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

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

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

32 (g) 1. A notice of liability shall be sent by the respective law  
33 enforcement agency by first class mail to each person alleged to be  
34 liable as an owner for a violation of subdivision (a) of section eleven  
35 hundred seventy-four of this title pursuant to this section. Personal  
36 delivery on the owner shall not be required. A manual or automatic  
37 record of mailing prepared in the ordinary course of business shall be  
38 prima facie evidence of the facts contained therein.

39 2. A notice of liability shall contain the name and address of the  
40 person alleged to be liable as an owner for a violation of subdivision  
41 (a) of section eleven hundred seventy-four of this title pursuant to  
42 this section, the registration number of the vehicle involved in such  
43 violation, the location where such violation took place, the date and  
44 time of such violation and the identification number of the camera which  
45 recorded the violation or other document locator number.

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

52 4. The notice of liability shall be prepared and mailed by the respec-  
53 tive law enforcement agency having jurisdiction over the location where  
54 the violation occurred.

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

1 three hundred seventy of the general municipal law or, if there be none,  
2 by the court having jurisdiction over traffic infractions, except that  
3 any city which has established or designated an administrative tribunal  
4 to hear and determine owner liability established by this article for  
5 failure to comply with traffic-control indications shall use such tribu-  
6 nal to adjudicate the liability imposed by this section.

7 (i) If an owner receives a notice of liability pursuant to this  
8 section for any time period during which the vehicle was reported to a  
9 police department as having been stolen, it shall be a valid defense to  
10 an allegation of liability for a violation of subdivision (a) of section  
11 eleven hundred seventy-four of this title pursuant to this section that  
12 the vehicle had been reported to the police as stolen prior to the time  
13 the violation occurred and had not been recovered by such time. For  
14 purposes of asserting the defense provided by this subdivision it shall  
15 be sufficient that a certified copy of the police report on the stolen  
16 vehicle be sent by first class mail to the traffic violations bureau,  
17 court having jurisdiction or parking violations bureau.

18 (j) Where the adjudication of liability imposed upon owners pursuant  
19 to this section is by an administrative tribunal, traffic violations  
20 bureau, or a court having jurisdiction, an owner who is a lessor of a  
21 vehicle to which a notice of liability was issued pursuant to subdivi-  
22 sion (g) of this section shall not be liable for the violation of subdivi-  
23 sion (a) of section eleven hundred seventy-four of this title,  
24 provided that he or she sends to the administrative tribunal, traffic  
25 violations bureau, or court having jurisdiction a copy of the rental,  
26 lease or other such contract document covering such vehicle on the date  
27 of the violation, with the name and address of the lessee clearly legi-  
28 ble, within thirty-seven days after receiving notice from the bureau or  
29 court of the date and time of such violation, together with the other  
30 information contained in the original notice of liability. Failure to  
31 send such information within such thirty-seven day time period shall  
32 render the owner liable for the penalty prescribed by this section.  
33 Where the lessor complies with the provisions of this paragraph, the  
34 lessee of such vehicle on the date of such violation shall be deemed to  
35 be the owner of such vehicle for purposes of this section, shall be  
36 subject to liability for the violation of subdivision (a) of section  
37 eleven hundred seventy-four of this title pursuant to this section and  
38 shall be sent a notice of liability pursuant to subdivision (g) of this  
39 section.

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

45 2. Notwithstanding any other provision of this section, no owner of a  
46 vehicle shall be subject to a monetary fine imposed pursuant to this  
47 section if the operator of such vehicle was operating such vehicle with-  
48 out the consent of the owner at the time such operator was found to have  
49 been overtaking or passing a school bus. For purposes of this subdivi-  
50 sion there shall be a presumption that the operator of such vehicle was  
51 operating such vehicle with the consent of the owner at the time such  
52 operator was found to have been overtaking or passing a school bus.

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

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

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

11 2. the aggregate number of annual incidents of violations of subdivi-  
12 sion (a) of section eleven hundred seventy-four of this title within the  
13 districts;

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

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

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

20 6. the number of violations adjudicated and results of such adjudi-  
21 cations including breakdowns of dispositions made for violations  
22 recorded by such systems;

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

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

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

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

32 § 4. This act shall take effect immediately.