

# 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:

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

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

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

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

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

16 § 3. The vehicle and traffic law is amended by adding a new section  
17 1118 to read as follows:

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

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

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

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

54 (d) No school district or school bus transportation contractor that  
55 has installed cameras pursuant to this section shall access the images  
56 from such cameras but shall provide, pursuant to an agreement with the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 6. the number of violations adjudicated and results of such adjudi-  
24 cations including breakdowns of dispositions made for violations  
25 recorded by such systems;

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

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

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

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

35 § 4. This act shall take effect immediately.