

STATE OF NEW YORK

518--A

2017-2018 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2017

Introduced by Sens. YOUNG, ADDABBO, AKSHAR, AVELLA, BONACIC, BOYLE, FUNKE, 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

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:

- 1 Section 1. Short title. This act shall be known and may be cited as
2 the "school bus camera safety act".
3 § 2. Legislative intent. In the state of New York, 2.5 million chil-
4 dren ride school buses and public transportation to and from school each
5 day. The legislature recognizes that the safe transportation of children
6 to and from school is a shared responsibility of each school district
7 and the driving public. It is the intent of this legislature to author-
8 ize school districts to utilize school bus safety camera technology,
9 which will identify drivers who violate the law by passing a stopped
10 school bus with its red flashing signal lamps illuminated and stop arm
11 engaged.
12 § 3. Section 375 of the vehicle and traffic law is amended by adding a
13 new subdivision 21-j to read as follows:

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

LBD00638-02-8

1 21-j. School buses owned or contracted for by a school district which
2 has adopted a resolution providing for the installation of school bus
3 safety cameras, as defined in section eleven hundred seventy-four-a of
4 this chapter, may be equipped with and operate such cameras. School
5 districts that, at the time of adoption of such a resolution, have
6 entered into a contract for transportation services, may, notwithstanding
7 any other provision of state law, rule or regulation, renegotiate
8 the terms of their current transportation contract for the purposes of
9 allowing the installation of school bus safety cameras. School
10 districts shall not be required to take school buses out of service if
11 such buses are not equipped with automated school bus safety cameras or
12 functional automated safety cameras.

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

22 § 4. The vehicle and traffic law is amended by adding a new section
23 1174-a to read as follows:

24 § 1174-a. Owner liability for operator illegally overtaking or passing
25 a school bus. (a) For the purposes of this section:

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

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

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

46 2. In such school districts that have adopted a resolution authorizing
47 the installation of such school bus safety cameras, the board of educa-
48 tion or of trustees of the school district or a school bus transporta-
49 tion contractor may, furthermore, enter into an agreement with a private
50 vendor for the installation, operation, notice processing and adminis-
51 tration, and maintenance of school bus safety cameras on buses within
52 such district's fleet. School bus transportation contractors are
53 empowered to purchase or lease, through a private vendor, school bus
54 safety cameras; provided, that any agreement between a school bus trans-
55 portation contractor and a private camera vendor shall stipulate that a
56 school bus transportation contractor shall only be allowed to recoup

1 expenses incurred through the installation and operation of a school bus
2 arm camera and shall not allow the school bus transportation contractor
3 to charge the camera vendor a fee for the installation, operation or
4 maintenance of such cameras, nor receive any portion of the fine for a
5 violation of section eleven hundred seventy-four of this article. A
6 private camera vendor shall have the right to retain any school bus
7 safety cameras installed on a school bus after the expiration of the
8 agreement with the school bus transportation contractor, unless the
9 equipment was purchased from the vendor. Provided, further, that any
10 agreement between a school bus transportation contractor and a private
11 camera vendor shall stipulate the number of cameras to be installed
12 shall not exceed the total amount requested by the school district.

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

21 4. Upon adoption of a resolution by a school district as required in
22 subdivision twenty-one-j of section three hundred seventy-five of this
23 chapter, such school district may enter into a memorandum of understand-
24 ing with a local governing authority to enable the implementation of the
25 provisions of this section. Such traffic violations bureau or court
26 shall make available to such school district the adjudication data
27 required by paragraph seven of subdivision (1) of this section as to
28 allow such school district to complete the report required by subdivi-
29 sion (1) of this section in a timely manner. Any intergovernmental
30 agreement pursuant to this paragraph shall inform such traffic
31 violations bureau or court of the requirements of this subdivision and
32 shall make provisions regarding the transmittal of such required infor-
33 mation. School districts that elect to purchase such cameras shall be
34 reimbursed for the cost of such cameras out of the net proceeds, after
35 the expenses of administration. Reimbursement for the cost of such
36 cameras shall not be considered generating income.

37 (c) In any school district in which school bus safety cameras are
38 installed and operated pursuant to subdivision (b) of this section, the
39 owner of a motor vehicle, upon issuance of a simplified traffic informa-
40 tion by a police officer, shall be liable for a civil penalty of two
41 hundred fifty dollars if such vehicle was used or operated with the
42 permission of the owner, express or implied, in violation of subdivision
43 (a) of section eleven hundred seventy-four of this article, and such
44 violation is evidenced by information obtained from a school bus safety
45 camera; provided, however, that no owner of a vehicle shall be liable
46 for a penalty imposed pursuant to this section where the operator of
47 such vehicle has been convicted of the underlying violation of subdivi-
48 sion (a) of section eleven hundred seventy-four of this article.
49 Provided, further, that the net proceeds of any penalty, after the
50 expenses of administration and operating costs of the cameras, collected
51 by a traffic violations bureau or court pursuant to this section shall
52 be expended for programs related to improving traffic safety and/or
53 school district safety in the municipality in which the violation
54 occurred. School districts are authorized to accept grants from munici-
55 palities for the implementation of this section. School districts may
56 allow for a warning period of up to twenty-one days from the time the

1 first school bus safety cameras are installed in the district before
2 monetary penalties are imposed on violations occurring from such
3 cameras.

4 (d) A school district or school bus camera vendor shall forward or
5 cause to be forwarded, the images and videotape from its school bus
6 safety cameras to a law enforcement agency having jurisdiction in the
7 area where the violation occurred. A school bus contractor may not proc-
8 ess a violation of section eleven hundred seventy-four of this article.
9 After receipt of such images, a police officer shall inspect such vide-
10 otape and images to determine whether a violation of subdivision (a) of
11 section eleven hundred seventy-four of this article was committed,
12 provided that such videotape and one or more images must display a red
13 visual signal as specified in subdivision twenty of section three
14 hundred seventy-five of this chapter. If such police officer finds that
15 such a violation occurred, he or she shall issue a simplified traffic
16 information alleging the violation, and such information with a copy of
17 the photographic image of the violation shall be mailed to the owner of
18 the motor vehicle by first class mail within thirty days of the alleged
19 violation. The videotape and images produced by a school bus safety
20 camera shall be prima facie evidence of the facts contained therein. All
21 photographic images of motor vehicles which do not depict or result in
22 liability for violation of subdivision (a) of section eleven hundred
23 seventy-four of this article shall be destroyed by the appropriate
24 school district and law enforcement agency within two days.

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

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

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

51 3. The simplified traffic information shall contain information advis-
52 ing the person charged of the manner, the time, the place and the court
53 or administrative body in which he or she may contest the liability
54 alleged in the simplified traffic information. Such simplified traffic
55 information shall also contain a warning to advise the persons charged
56 that failure to answer in the manner and time provided shall be deemed

1 an admission of liability and that he or she shall be liable for failure
2 to respond to a summons.

3 (g) Adjudication of the liability imposed upon owners by this section
4 shall be by a traffic violations bureau established pursuant to section
5 three hundred seventy of the general municipal law or, if there be none,
6 by the court having jurisdiction over traffic infractions.

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

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

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

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

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

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

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

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

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

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

7 6. the number of violations adjudicated and results of such adjudi-
8 cations including breakdowns of disposition made for violations recorded
9 by such systems;

10 7. the total amount of revenue realized from adjudications;

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

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

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

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

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

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

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

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

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

49 3. After due consideration of the evidence and arguments offered in a
50 contested case, the hearing officer shall determine whether the charges
51 have been established. In the case of an owner charged as such pursuant
52 to article twenty-nine of this chapter, it shall be a complete defense
53 to such charge that a vehicle alleged to be in violation was operated
54 without the permission of such owner or his or her agent and the estab-
55 lishment of lack of permission shall result in an order dismissing such
56 charge against such owner. Where the charges have not been established,

1 an order dismissing the charges shall be entered. Where a determination
2 is made that a charge has been established, either in a contested case
3 or in an uncontested case where there is an appearance before a hearing
4 officer, or if an answer admitting the charge otherwise has been
5 received, an appropriate order shall be entered in the department's
6 records.

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

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

32 (p) are photographs, microphotographs, videotape or other recorded
33 images prepared under the authority of section eleven hundred seventy-
34 four-a of the vehicle and traffic law. Any school district that adopts
35 a resolution providing for the installation and operation of school bus
36 safety cameras upon school buses operated by or contracted with such
37 district pursuant to section eleven hundred seventy-four-a of the vehi-
38 cle and traffic law shall notify its residents through adopted proce-
39 dures about such installation and operation before any simplified traf-
40 fic information issued based on evidence obtained by such school bus
41 safety cameras.

42 § 9. This act shall take effect on the first of November next succeed-
43 ing the date on which it shall have become a law; except that sections
44 four and five of this act shall take effect on the first of April next
45 succeeding the effective date of this act. The provisions of this act
46 shall expire and be deemed repealed September 1, 2024.