

# STATE OF NEW YORK

4658

2019-2020 Regular Sessions

## IN SENATE

March 19, 2019

Introduced by Sen. TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

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.

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

16 43. To pass a resolution, in the discretion of the board, authorizing  
17 the use of school bus cameras pursuant to section eleven hundred eigh-  
18 teen of the vehicle and traffic law, provided that the board may also  
19 enter into contracts with a third party for the installation, adminis-  
20 tration, operation, notice processing, and maintenance of such cameras,  
21 and for the sharing of revenue derived from such cameras pursuant to  
22 section eleven hundred eighteen of the vehicle and traffic law, provided  
23 that the purchase, lease, installation, operation and maintenance, or

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

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1 any other costs associated with such cameras shall not be considered an  
2 aidable expense pursuant to section thirty-six hundred twenty-three-a of  
3 this chapter.

4 § 3. The vehicle and traffic law is amended by adding a new section  
5 1118 to read as follows:

6 § 1118. Owner liability for operator illegally overtaking or passing a  
7 school bus. (a) 1. Notwithstanding any other provision of law, each  
8 board of education or trustees of a school district is hereby authorized  
9 and empowered to adopt and amend a resolution establishing a school bus  
10 safety camera program imposing monetary liability on the owner of a  
11 vehicle for failure of an operator thereof to comply with section eleven  
12 hundred seventy-four of this title. Such program shall empower a board  
13 of education or school district or school bus transportation contractor  
14 that has contracted with such school district to install school bus  
15 safety cameras upon school buses operated by or contracted with such  
16 district.

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

25 (b) In any school district which has adopted a resolution pursuant to  
26 subdivision (a) of this section, the owner of a vehicle shall be liable  
27 for a penalty imposed pursuant to this section if such vehicle was used  
28 or operated with the permission of the owner, express or implied, in  
29 violation of subdivision (a) of section eleven hundred seventy-four of  
30 this title, and such violation is evidenced by information obtained from  
31 a school bus safety camera; provided however that no owner of a vehicle  
32 shall be liable for a penalty imposed pursuant to this section where the  
33 operator of such vehicle has been convicted of the underlying violation  
34 of subdivision (a) of section eleven hundred seventy-four of this title.

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

42 (d) No school district or school bus transportation contractor that  
43 has installed cameras pursuant to this section shall access the images  
44 from such cameras but shall provide, pursuant to an agreement with the  
45 appropriate law enforcement agency or agencies, for the proper handling  
46 and custody of such images for the forwarding of such images from such  
47 cameras to a law enforcement agency having jurisdiction in the area in  
48 which the violation occurred for the purpose of imposing monetary  
49 liability on the owner of a motor vehicle for illegally overtaking or  
50 passing a school bus in violation of subdivision (a) of section eleven  
51 hundred seventy-four of this title. After receipt of such images a  
52 police officer shall inspect such images to determine whether a  
53 violation of subdivision (a) of section eleven hundred seventy-four of  
54 this title was committed. Upon such a finding a certificate, sworn to or  
55 affirmed by an officer of such agency, or a facsimile thereof, based  
56 upon inspection of photographs, microphotographs or other recorded

1 images produced by a school bus safety camera, shall be prima facie  
2 evidence of the facts contained therein. Any photographs, microphoto-  
3 graphs or other recorded images evidencing such a violation shall be  
4 available for inspection in any proceeding to adjudicate the liability  
5 for such violation.

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

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

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

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

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

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

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

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

53 (i) If an owner receives a notice of liability pursuant to this  
54 section for any time period during which the vehicle was reported to a  
55 police department as having been stolen, it shall be a valid defense to  
56 an allegation of liability for a violation of subdivision (a) of section

1 eleven hundred seventy-four of this title pursuant to this section that  
2 the vehicle had been reported to the police as stolen prior to the time  
3 the violation occurred and had not been recovered by such time. For  
4 purposes of asserting the defense provided by this subdivision it shall  
5 be sufficient that a certified copy of the police report on the stolen  
6 vehicle be sent by first class mail to the traffic violations bureau,  
7 court having jurisdiction or parking violations bureau.

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

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

35 2. Notwithstanding any other provision of this section, no owner of a  
36 vehicle shall be subject to a monetary fine imposed pursuant to this  
37 section if the operator of such vehicle was operating such vehicle with-  
38 out the consent of the owner at the time such operator was found to have  
39 been overtaking or passing a school bus. For purposes of this subdivi-  
40 sion there shall be a presumption that the operator of such vehicle was  
41 operating such vehicle with the consent of the owner at the time such  
42 operator was found to have been overtaking or passing a school bus.

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

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

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

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

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

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

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

10    6. the number of violations adjudicated and results of such adjudi-  
11    cations including breakdowns of dispositions made for violations  
12    recorded by such systems;

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

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

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

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

22    § 4. This act shall take effect immediately.