STATE OF NEW YORK

8603

IN SENATE

February 21, 2024

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

AN ACT to amend the vehicle and traffic law and the administrative code of the city of New York, in relation to owner liability for failure of operator to stop for a school bus displaying a red visual signal and stop-arm; and to amend chapter 145 of the laws of 2019 amending the vehicle and traffic law relating to school bus photo violation monitoring systems and owner liability for failure of operator to stop for a school bus displaying a red visual signal, in relation to the effectiveness thereof

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

Section 1. Section 1174-a of the vehicle and traffic law, as added by chapter 145 of the laws of 2019, is amended to read as follows:

§ 1174-a. Owner liability for failure of operator to stop for a school bus displaying a red visual signal and stop-arm. (a) 1. Notwithstanding any other provision of law, a county, city, town or village located within a school district ("district") is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration 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 [~~chapter~~] article when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter and operated in such county, city, town or village, in accordance with the provisions of this section. Such demonstration program shall empower such county, city, town or village to install and operate school bus photo violation monitoring systems which may be stationary or mobile, and which may be installed, pursuant to an agreement with a school district within such county, city, town or village, on school buses owned and operated by such school district or privately owned and operated for compensation under contract with such district. Provided, however, that (a) no stationary school bus photo violation monitoring system shall be installed or operated by a county, city, town or village except on roadways under the jurisdiction of such county, city, town or village, and (b) no mobile school bus photo violation monitoring system shall be installed or operated on any such school buses unless such county, city,

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

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town or village and such district enter into an agreement for such installation and operation.

1-a. Any county, city, town or village, [~~located within a school district,~~] that has adopted a local law or ordinance pursuant to this section establishing a demonstration program imposing liability on the owner of a vehicle for failure of an operator thereof to comply with section eleven hundred seventy-four of this [~~chapter~~] **article** when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter and operated in such county, city, town or village may enter into an agreement with [~~the applicable~~] **a** school district **that operates school buses within the county, city, town or village** for the installation, maintenance and use of school bus photo violation monitoring systems on school buses pursuant to this section and section twenty-two of [~~the~~] chapter **one hundred forty-five** of the laws of two thousand nineteen [~~which added this section~~], for the proper handling and custody of photographs, microphotographs, videotapes, other recorded images and data produced by such systems, and for the forwarding of such photographs, microphotographs, videotapes, other recorded images and data to the applicable county, city, town or village. Any agreement entered into hereunder shall be approved by each participating county, city, town or village by a majority vote of the voting strength of its governing body and by resolution of the district pursuant to section sixteen hundred four, section seventeen hundred nine, section twenty-five hundred three, section twenty-five hundred fifty-four or section twenty-five hundred ninety-h of the education law, as applicable. Provided, however, that where a district has entered an agreement as provided hereunder with a county, no cities, towns or villages within the same county may enter into, or be a party to, any agreement with such district pursuant to this section. Provided further, however, that no county shall enter **into** an agreement with any city school district [~~wholly contained within a city~~] **in a city with a population over one million**. Nothing in this section shall be construed to prevent a county, city, town, village or district at any time to withdraw from or terminate an agreement entered pursuant to this section and section twenty-two of [~~the~~] chapter **one hundred forty-five** of the laws of 2019 [~~which added this section~~].

1-b. **A county, city, town or village that has adopted a local law or ordinance pursuant to this section that has entered into an agreement with a school district located within such county, city, town or village, may enforce section eleven hundred seventy-four of this article pursuant to this section within its boundaries without necessitating additional agreements with overlapping jurisdictions.**

1-c. The total cost to the district of the installation, maintenance and use of school bus photo violation monitoring systems pursuant to this section shall be borne entirely by the county, city, town or village within the district which is a party to such agreement. On or before September first of each year, the district shall determine and certify to each county, city, town or village with which it has entered into an agreement pursuant to this section the total cost to the district for the school year ending the preceding June thirtieth of installing, maintaining and using such systems within each such county, city, town or village, respectively, for the proper handling and custody of photographs, microphotographs, videotapes, other recorded images and data produced by such systems, and for the forwarding of such photographs, microphotographs, videotapes, other recorded images and data to the applicable county, city, town or village. On or before the following

December first of each year, each such county, city, town or village shall pay to the district such cost so certified to it on or before the preceding September first. Not later than twenty days after each such payment is submitted or is due, whichever occurs first, the district shall submit to the director of the budget and the chairpersons of the fiscal committees of the legislature a report for each such county, city, town and village showing the amount of costs so certified and the amount of payments so received or due. If a county, city, town or village fails to make the payment required to the district by the twentieth day after the date such payment was due, (i) the district shall notify the director of the budget and the chairpersons of the fiscal committees of the legislature of such occurrence within twenty-four hours of such day; and (ii) the demonstration program shall be suspended within such county, city, town, or village until such time as such county, city, town, or village makes the payment required to the district. The district shall notify the director of the budget and the chairpersons of the fiscal committees of the legislature of such payment within seven business days of its receipt. Provided, however, that any notice of liability issued prior to such date shall not be voided.

2. Any image or images captured by school bus photo violation monitoring systems shall be inadmissible in any disciplinary proceeding convened by any school district or any school bus contractor thereof, and any proceeding initiated by the department involving licensure privileges of school bus operators. Any school bus photo violation monitoring device mounted on a school bus shall be directed outwardly from such school bus to capture images of vehicles operated in violation of section eleven hundred seventy-four of this [~~chapter~~] **article**, and images produced by such device shall not be used for any other purpose.

3. (i) Any participating school district shall be prohibited from accessing any photographs, microphotographs, videotapes, other recorded images or data from school bus photo violation monitoring systems but shall provide, pursuant to an agreement with a county, city, town or village as provided in this section, for the proper handling and custody of such photographs, microphotographs, videotapes, other recorded images and data produced by such systems, and for the forwarding of such photographs, microphotographs, videotapes, other recorded images and data to the applicable county, city, town or village for the purpose of determining whether a motor vehicle was operated in violation of subdivision (a) of section eleven hundred seventy-four of this [~~title~~] **article** and imposing monetary liability on the owner of such motor vehicle therefor.

(ii) Photographs, microphotographs, videotapes, other recorded images and data produced by school bus photo violation monitoring systems shall be destroyed (A) ninety days after the date of the alleged imposition of liability if a notice of liability is not issued for such alleged imposition of liability pursuant to this section or (B) upon final disposition of a notice of liability issued pursuant to this section.

4. A county, city, town or village establishing a demonstration program pursuant to this section shall adopt and enforce measures to protect the privacy of drivers, passengers, pedestrians and cyclists whose identity and identifying information may be captured by a school bus photo violation monitoring device**. 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 county, city, town or village has made a reasonable effort to comply with the provisions of this paragraph**. Such measures shall include:

(i) utilization of necessary technologies to ensure, to the extent practicable, that photographs produced by such school bus photo violation monitoring systems shall not include images that identify the driver, the passengers, the contents of the vehicle, pedestrians and cyclists[~~. 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 county, city, town or village has made a reasonable effort to comply with the provisions of this paragraph~~];

(ii) a prohibition on the use or dissemination of vehicles' license plate information and other information and images captured by school bus photo violation monitoring systems except: (A) as required to establish liability under this section or collect payment of penalties; (B) as required by court order; or (C) as otherwise required by law; **and**

(iii) [~~the installation of signage in conformance with standards established in the MUTCD at each roadway entrance of the jurisdictional boundaries of such county, city, town or village giving notice that school bus photo violation monitoring systems are used to enforce restrictions on vehicles violating section eleven hundred seventy-four of this chapter. For the purposes of this paragraph, the term "roadway" shall not include state expressway routes or state interstate routes but shall include controlled-access highway exit ramps that enter the jurisdictional boundaries of a county, city, town or village; and~~

~~(iv)~~] oversight procedures to ensure compliance with the aforementioned privacy protection measures.

5. A county, city, town or village establishing a demonstration program pursuant to this section shall install signage in conformance with standards established in the MUTCD at each roadway entrance of the jurisdictional boundaries of such county, city, town or village giving notice that school bus photo violation monitoring systems are used to enforce restrictions on vehicles violating section eleven hundred seventy-four of this article. For the purposes of this paragraph, the term "roadway" shall not include state expressway routes or state interstate routes but shall include controlled-access highway exit ramps that enter the jurisdictional boundaries of a county, city, town or village. Provided, however, that no notice of liability issued pursuant to this section shall be dismissed if such county, city, town or village has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such county, city, town or village which has adopted a local law or ordinance 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 article, and such violation is evidenced by information obtained from a school bus photo violation monitoring system; 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 article.

(c) For purposes of this section, the following terms shall have the following meanings: "county" shall have the meaning provided in section three of the county law, except that such term shall not include any county wholly contained within a city; "manual on uniform traffic control devices" or "MUTCD" shall mean the manual and specifications for a uniform system of traffic control devices maintained by the commis-

sioner of transportation pursuant to section sixteen hundred eighty of this chapter; "owner" shall have the meaning provided in article two-B of this chapter; and "school bus photo violation monitoring system" shall mean a device that is capable of operating independently of an enforcement officer which is installed to work in conjunction with a school bus stop-arm and which automatically produces two or more photographs, two or more microphotographs, a videotape or other recorded images of a vehicle at the time it is used or operated in violation of subdivision (a) of section eleven hundred seventy-four of this article.

(d) **1.** A certificate, sworn to or affirmed by a technician employed by the county, city, town or village in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a school bus photo violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

2. There shall be a rebuttable presumption that (i) any bus that is the color known as national school bus chrome and equipped with a school bus photo violation monitoring system is a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter; (ii) when the bus is stopped and the stop-arm is activated, it is for the purpose of receiving or discharging passengers; and (iii) the school bus' red signal lights are flashing and operational when a recorded image from the school bus photo violation monitoring system includes an electronic indicator signifying activation of red signal lights.

3. Such rebuttable presumption shall not be overcome unless a defendant shows by clear and convincing evidence that (i) the bus is not a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter; (ii) the school bus was not stopped for the purpose of receiving passengers; and (iii) the school bus' red signal lights were not flashing and operational at the time of the violation.

(e) An owner liable for a violation of subdivision (a) of section eleven hundred seventy-four of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that if a city by local law has authorized the adjudication of such owner liability by a parking violations bureau, such schedule shall be promulgated by such bureau. The liability of the owner pursuant to this section shall be two hundred fifty dollars for a first violation, two hundred seventy-five dollars for a second violation both of which were committed within a period of eighteen months, and three hundred dollars for a third or subsequent violation all of which were committed within a period of eighteen months; provided, however, that such local law or ordinance may provide for an additional penalty not in excess of twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.

(f) An imposition of liability under a local law or ordinance adopted pursuant to 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 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 article 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 article 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 or she~~] they 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 judgment may be entered thereon.

4. The notice of liability shall be prepared and mailed by the county, city, town or village in which the violation occurred, or by any other entity authorized by such county, city, town or village to prepare and mail such notification of violation.

(h) [~~Adjudication~~] 1. A county, city, town or village is hereby authorized to adopt a local law or ordinance to institute an administrative adjudication hearing process for impartial administration and conduct of adjudicatory proceedings for disputed notices of violations under this section. A county, city, town, village or any entity authorized by such county, city, town or village may administer the hearing. The rules of evidence do not apply, and the decision of the proceeding shall be made based on the substantial evidence standard. The decision shall be prepared and sent by first class mail by the county, city, town, village or another entity authorized by such county, city, town or village within fourteen business days after the hearing. The decision shall also provide instructions for how the owner may, within thirty days of the decision mailing date, request adjudication of the notice of violation by a court of competent jurisdiction. 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. Upon request by an owner, if a county, city, town or village has not instituted an administrative adjudication hearing process to hear disputed notices of violation under this section, or upon thirty days of the issuance of a decision of an administrative adjudication hearing, 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 where the violation occurred or, if there be none, by the court having jurisdiction over traffic infractions where the violation occurred, except that if a city has established an administrative tribunal to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations such city may, by local law, authorize such adjudication by such tribunal.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle was reported to the

police 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 article 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) 1. In such county, city, town or village where the adjudication of liability imposed upon owners pursuant to this section is by a 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 article, provided that he or she sends to the 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 article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. (i) In a city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, 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 article, provided that:

(A) prior to the violation, the lessor has filed with the bureau in accordance with the provisions of section two hundred thirty-nine of this chapter; and

(B) within thirty-seven days after receiving notice from the bureau of the date and time of a liability, together with the other information contained in the original notice of liability, the lessor submits to the bureau the correct name and address of the lessee of the vehicle identified in the notice of liability at the time of such violation, together with such other additional information contained in the rental, lease or other contract document, as may be reasonably required by the bureau pursuant to regulations that may be promulgated for such purpose.

(ii) Failure to comply with clause (B) of subparagraph (i) of this paragraph shall render the owner liable for the penalty prescribed in this section.

(iii) 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 such violation 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 article 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 failed to comply with section eleven hundred seventy-four of this [~~chapter~~] **article**. 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 failed to comply with section eleven hundred seventy-four of this [~~chapter~~] **article**.

(l) **It shall be a defense to any prosecution for a violation of subdivision (a) of section eleven hundred seventy-four of this article pursuant to a local law or ordinance adopted pursuant to this section that such school bus stop-arms were malfunctioning at the time of the alleged violation.**

(m) 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 article.

[~~(m)~~] **(n)** In any such county, city, town or village which adopts a demonstration program pursuant to subdivision (a) of this section, such county, city, town or village shall submit an annual report on the results of the use of a school bus photo violation monitoring system 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. the number of buses and a description of the routes where stationary and mobile school bus photo violation monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at locations where a school bus photo violation monitoring system is used for the year preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at locations where a school bus photo violation monitoring system is used, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of violations recorded at each location where a school bus photo violation monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

4-a. the number of convictions for violations of subdivision (a) of section eleven hundred seventy-four of this article recorded at each location where a school bus photo violation monitoring system is used on an annual basis, to the extent the information is maintained by the department of motor vehicles of this state;

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

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

7. the number of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems which shall be provided at least annually to

such county, city, town or village by the respective courts, bureaus and agencies conducting such adjudications;

8. the total amount of revenue realized by such city, town or village from such adjudications;

9. the expenses incurred by such city, town or village in connection with the program;

10. the quality of the adjudication process and its results including the total number of hearings scheduled, re-scheduled, and held; the total number of persons scheduled for such hearings; the total number of cases where fines were paid on or before the hearing date; and the total number of default judgments entered. Such information shall be provided at least annually to such county, city, town or village by the respective courts, bureaus and agencies conducting such adjudications; and

11. a description of public education activities conducted to warn motorists of the dangers of overtaking and passing stopped school buses.

[~~(n) It shall be a defense to any prosecution for a violation of subdivision (a) of section eleven hundred seventy-four of this article pursuant to a local law or ordinance adopted pursuant to this section that such school bus stop-arms were malfunctioning at the time of the alleged violation.~~]

§ 2. Subdivisions f and h of section 19-610 of the administrative code of the city of New York, as added by local law number 10 of the city of New York for the year 2022, is amended to read as follows:

f. Payment to school district required. If the city does not make the payment to the school district required by paragraph [~~1-b~~] **1-c** of subdivision (a) of section 1174-a of the vehicle and traffic law, no liability may be imposed under this section until the city makes such required payment to the district.

h. Annual report. The implementing agency shall submit an annual report on the results of the use of a school bus photo violation monitoring system to the mayor and the speaker of the council. Such report shall be submitted by June 1 of each year in which such system is operable. Such report shall include, but need not be limited to, the information described in subdivision [~~(m)~~] **(n)** of section 1174-a of the vehicle and traffic law.

§ 3. The opening paragraph of section 25 of chapter 145 of the laws of 2019 amending the vehicle and traffic law relating to school bus photo violation monitoring systems and owner liability for failure of operator to stop for a school bus displaying a red visual signal, is amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law and shall expire December 1, [~~2024~~] **2029** when upon such date the provisions of this act shall be deemed repealed; provided that any such local law as may be enacted pursuant to this act shall remain in full force and effect only until December 1, [~~2024~~] **2029** and provided, further, that:

§ 4. This act shall take effect immediately; provided, however, that sections one and two of this act shall take effect on the ninetieth day after it shall have become a law; provided, further, that the amendments to section 1174-a of the vehicle and traffic law and section 19-610 of the administrative code of the city of New York made by sections one and two of this act shall not affect the expiration and repeal of such sections and shall be deemed repealed therewith.