

By: Lucio

S.B. No. 2060

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a school district to implement a school bus monitoring system that records images, including images of vehicles that pass a stopped school bus; providing for the imposition of penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as the Valerie Garcia Act.

SECTION 2. Section 545.066, Transportation Code, is amended by adding Subsection (g) to read as follows:

(g) An image recorded by the monitoring system authorized by Section 547.701(b)(3) may be used in the administrative adjudication of a violation under this section if the image:

(1) is otherwise admissible;

(2) clearly shows the vehicle, including the license plate attached to the vehicle, at the time the offense is alleged to have occurred; and

(3) is accompanied by an affidavit executed by a peace officer stating that the image is authentic and that establishes probable cause that a violation occurred.

SECTION 3. Chapter 545, Transportation Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. SCHOOL BUS MONITORING SYSTEM

Sec. 545.451. APPLICABILITY OF SUBCHAPTER. This subchapter

1 applies only to a county that has a population of more than 325,000  
2 and that is located adjacent to:

- 3 (1) an international border; and  
4 (2) a county that has a population of more than  
5 550,000.

6 Sec. 545.452. DEFINITIONS. In this subchapter:

7 (1) "Owner of a motor vehicle" means the owner of a  
8 motor vehicle as shown on the motor vehicle registration records of  
9 the Texas Department of Transportation or the analogous department  
10 or agency of another state or country.

11 (2) "Recorded image" means a live or recorded  
12 photographic, electronic, video, or digital image that depicts a  
13 motor vehicle.

14 (3) "School bus monitoring system" means a system  
15 authorized by Section 547.701(b)(3).

16 Sec. 545.453. AUTHORITY TO PROVIDE FOR PENALTY. (a) The  
17 board of trustees of a school district by resolution may impose a  
18 financial penalty on the registered owner of a vehicle that is  
19 operated in a manner that violates Section 545.066 within the  
20 school district.

21 (b) The resolution adopted under this section must:

22 (1) provide for a penalty of not less than \$1 or more  
23 than \$250;

24 (2) authorize an attorney employed by the school  
25 district or an attorney with whom the school district contracts to  
26 bring suit to collect the penalty;

27 (3) provide for notice of the violation to the

1 registered owner of the motor vehicle that committed the violation;

2 (4) provide that a person against whom the school  
3 district seeks to impose a penalty is entitled to an administrative  
4 adjudication hearing;

5 (5) designate the department, agency, or office of the  
6 school district responsible for the enforcement and administration  
7 of the resolution or provide that the entity with which the school  
8 district enters into an interlocal agreement of understanding under  
9 Section 545.454(3) is responsible for the enforcement and  
10 administration of the resolution;

11 (6) provide regulations for the use of live or  
12 recorded images recorded by the school bus monitoring system; and

13 (7) provide for other procedures that the board  
14 determines are necessary for the imposition of any penalty  
15 authorized by this section.

16 (c) Except as otherwise provided:

17 (1) by this subchapter, an image recorded by the  
18 monitoring system authorized by Section 547.701(b)(3) that is not  
19 used in the prosecution of an offense under this section shall be  
20 destroyed by the owner of the school bus; or

21 (2) by Section 545.066(g), an image recorded by the  
22 monitoring system authorized by Section 547.701(b)(3) may not be  
23 sold or distributed to another person.

24 (d) Penalties collected under this section may be used by a  
25 school district only to cover the cost of:

26 (1) installing, operating, and maintaining the school  
27 bus monitoring system;

1           (2) collecting a penalty imposed under this section;

2           (3) developing and implementing a program that  
3 promotes student safety; or

4           (4) complying with Section 547.701(e) relating to  
5 three point seatbelts for school buses.

6           Sec. 545.454. INSTALLATION AND OPERATION OF SCHOOL BUS  
7 MONITORING SYSTEM. A school district that implements a school bus  
8 monitoring system and adopts a resolution imposing a penalty under  
9 this subchapter may:

10           (1) contract for the administration and enforcement of  
11 the system;

12           (2) install and operate the system or contract for the  
13 installation or operation of the system;

14           (3) enter into an interlocal agreement with a  
15 municipality or county in which the school district is located  
16 regarding administrative adjudication hearings required by a  
17 resolution adopted under this subchapter; or

18           (4) enter into an interlocal agreement with another  
19 school district regarding the administration, enforcement,  
20 installation, or operation of the system.

21           Sec. 545.455. GENERAL SURVEILLANCE PROHIBITED; OFFENSE.

22           (a) A school district shall operate a monitoring system authorized  
23 by Section 547.701(b)(3) only for the purpose of detecting a  
24 violation or suspected violation of Section 545.066 within the  
25 school district.

26           (b) A person commits an offense if the person uses a school  
27 bus monitoring system to produce a recorded image other than in the

1 manner and for the purpose specified by a resolution adopted under  
2 Section 545.453.

3 (c) An offense under this section is a Class A misdemeanor.

4 Sec. 545.456. EFFECT ON OTHER ENFORCEMENT. (a) The  
5 implementation of a school bus monitoring system by a school  
6 district under this subchapter does not:

7 (1) preclude the application or enforcement within the  
8 school district of Section 545.066 in the manner prescribed by  
9 Chapter 543; or

10 (2) prohibit a peace officer from arresting a violator  
11 of Section 545.066 as provided by Chapter 543 or from issuing the  
12 violator a citation and notice to appear as provided by that  
13 chapter.

14 (b) A school district may not impose a penalty under this  
15 subchapter on the owner of a motor vehicle if the operator of the  
16 vehicle was arrested or issued a citation and notice to appear by a  
17 peace officer for the same violation of Section 545.066 recorded by  
18 the school bus monitoring system.

19 Sec. 545.457. NOTICE OF VIOLATION; CONTENTS. (a) The  
20 imposition of a penalty under this subchapter is initiated by the  
21 mailing of a notice of violation to the owner of the motor vehicle  
22 against whom the school district seeks to impose the penalty.

23 (b) Not later than the 30th day after the date the violation  
24 is alleged to have occurred, the designated department, agency, or  
25 office of the school district or the entity with which the school  
26 district enters into an interlocal agreement under Section  
27 545.454(3) shall mail the notice of violation to the owner of the

1 motor vehicle at:

2 (1) the owner's address as shown on the registration  
3 records of the Texas Department of Transportation; or

4 (2) if the vehicle is registered in another state or  
5 country, the owner's address as shown on the motor vehicle  
6 registration records of the department or agency of the other state  
7 or country analogous to the Texas Department of Transportation.

8 (c) The notice of violation must contain:

9 (1) a description of the violation alleged;

10 (2) the location where the violation occurred;

11 (3) the date and time of the violation;

12 (4) the name and address of the owner of the vehicle  
13 involved in the violation;

14 (5) the registration number displayed on the license  
15 plate of the vehicle involved in the violation;

16 (6) a copy of a recorded image of the violation that  
17 includes a depiction of the registration number displayed on the  
18 license plate of the vehicle involved in the violation;

19 (7) the amount of the penalty for which the owner is  
20 liable;

21 (8) the number of days the person has in which to pay  
22 or contest the imposition of the penalty;

23 (9) a statement that the owner of the vehicle in the  
24 notice of violation may elect to pay the penalty instead of  
25 appearing at the time and place of the administrative adjudication  
26 hearing; and

27 (10) information that informs the owner of the vehicle

1 named in the notice of violation:

2 (A) of the owner's right to contest the  
3 imposition of the penalty against the person in an administrative  
4 adjudication hearing;

5 (B) that imposition of the penalty may be  
6 contested by submitting a written request for an administrative  
7 adjudication hearing before the expiration of the period specified  
8 under Subdivision (8); and

9 (C) that failure to pay the penalty or to contest  
10 liability for the penalty in a timely manner is an admission of  
11 liability.

12 (d) A notice of violation is presumed to have been received  
13 on the fifth day after the date the notice is mailed.

14 Sec. 545.458. PRESUMPTION. (a) It is presumed that the  
15 owner of the motor vehicle committed the violation alleged in the  
16 notice of violation mailed to the person if the motor vehicle  
17 depicted in a recorded image taken by a school bus monitoring system  
18 belongs to the owner of the motor vehicle.

19 (b) If, at the time of the violation alleged in the notice of  
20 violation, the motor vehicle depicted in a recorded image taken by a  
21 school bus monitoring system was owned by a person in the business  
22 of selling, renting, or leasing motor vehicles or by a person who  
23 was not the person named in the notice of violation, the presumption  
24 under Subsection (a) is rebutted on the presentation of evidence  
25 establishing that the vehicle was at that time:

26 (1) being test driven by another person;

27 (2) being rented or leased by the vehicle's owner to

1 another person; or

2 (3) owned by a person who was not the person named in  
3 the notice of violation.

4 (c) Notwithstanding Section 545.459, the presentation of  
5 evidence under Subsection (b) by a person who is in the business of  
6 selling, renting, or leasing motor vehicles or did not own the  
7 vehicle at the time of the violation must be made by affidavit,  
8 through testimony at the administrative adjudication hearing under  
9 Section 545.459, or by a written declaration under penalty of  
10 perjury. The affidavit or written declaration may be submitted by  
11 mail to the school district or the entity with which the school  
12 district contracts under Section 545.454(1).

13 (d) If the presumption established by Subsection (a) is  
14 rebutted under Subsection (b), a penalty may not be imposed on the  
15 owner of the vehicle or the person named in the notice of violation,  
16 as applicable.

17 (e) If, at the time of the violation alleged in the notice of  
18 violation, the motor vehicle depicted in the recorded image taken  
19 by the school bus monitoring system was owned by a person in the  
20 business of renting or leasing motor vehicles and the vehicle was  
21 being rented or leased to an individual, the owner of the motor  
22 vehicle shall provide to the school district or the entity with  
23 which the school district contracts under Section 545.454(1) the  
24 name and address of the individual who was renting or leasing the  
25 motor vehicle depicted in the recorded image and a statement of the  
26 date and times during which that individual was renting or leasing  
27 the vehicle. The owner shall provide the information required by



1 this subsection not later than the 30th day after the date the  
2 notice of violation is received. If the owner provides the required  
3 information, it is presumed that the individual renting or leasing  
4 the motor vehicle committed the violation alleged in the notice of  
5 violation and the school district or contractor may send a notice of  
6 violation to that individual at an address provided by the owner of  
7 the motor vehicle or from motor vehicle registration records.

8 Sec. 545.459. ADMINISTRATIVE ADJUDICATION HEARING. (a) A  
9 person who receives a notice of violation under this subchapter may  
10 contest the imposition of the penalty specified in the notice of  
11 violation by filing a written request for an administrative  
12 adjudication hearing. The request for a hearing must be filed on or  
13 before the date specified in the notice of violation, which may not  
14 be earlier than the 30th day after the date the notice of violation  
15 was mailed.

16 (b) On receipt of a timely request for an administrative  
17 adjudication hearing, the school district shall notify the person  
18 of the date and time of the hearing.

19 (c) An administrative adjudication hearing under this  
20 subchapter may be conducted by any justice of the peace court in a  
21 county where the alleged violation of Section 545.066 within the  
22 school district occurred. For purpose of establishing jurisdiction  
23 for justice of the peace courts to conduct administrative  
24 adjudication hearings under this subchapter, only a violation of  
25 this subchapter is a case under Article 4.11(a), Code of Criminal  
26 Procedure.

27 (d) In an administrative adjudication hearing, the issues

1 must be proven by a preponderance of the evidence.

2 (e) The reliability of the school bus monitoring system used  
3 to produce the recorded image of the motor vehicle involved in the  
4 violation may be attested to by affidavit of an officer or employee  
5 of the school district or of the entity with which the school  
6 district contracts under Section 545.454(1) who is responsible for  
7 inspecting and maintaining the system.

8 (f) An affidavit of a peace officer that alleges a violation  
9 based on an inspection of the applicable recorded image is:

10 (1) admissible in the administrative adjudication  
11 hearing; and

12 (2) evidence of the facts contained in the affidavit.

13 (g) At the conclusion of the administrative adjudication  
14 hearing, the hearing officer shall enter a finding of liability for  
15 the penalty or a finding of no liability for the penalty. A finding  
16 under this subsection must be in writing and be signed and dated by  
17 the hearing officer.

18 (h) A finding of liability for a penalty must specify the  
19 amount of the penalty for which the person is liable. If the  
20 hearing officer enters a finding of no liability, a penalty for the  
21 violation may not be imposed against the person.

22 (i) A finding of liability or a finding of no liability  
23 entered under this section may:

24 (1) be filed with a person designated by the board of  
25 trustees of the school district; and

26 (2) be recorded on microfilm or microfiche or using  
27 data processing techniques.

1       Sec. 545.460. IMPOSITION OF PENALTY NOT A CONVICTION. The  
2 imposition of a penalty under this subchapter is not a conviction  
3 and may not be considered a conviction for any purpose.

4       Sec. 545.461. FAILURE TO PAY PENALTY. (a) If the owner of  
5 the motor vehicle fails to timely pay the amount of the penalty  
6 imposed against the owner:

7           (1) an arrest warrant may not be issued for the owner;  
8 and

9           (2) the imposition of the penalty may not be recorded  
10 on the owner's driving record.

11       (b) Notice of Subsection (a) must be included in the notice  
12 of violation required by Section 545.456.

13       SECTION 4. Subsection (b), Section 547.701, Transportation  
14 Code, is amended to read as follows:

15       (b) A school bus may be equipped with:

16           (1) rooftop warning lamps:

17                   (A) that conform to and are placed on the bus in  
18 accordance with specifications adopted under Section 34.002,  
19 Education Code; and

20                   (B) that are operated under rules adopted by the  
21 school district; ~~and~~

22           (2) movable stop arms:

23                   (A) that conform to regulations adopted under  
24 Section 34.002, Education Code; and

25                   (B) that may be operated only when the bus is  
26 stopped to load or unload students; and

27           (3) a monitoring system that:

1           (A) is capable of taking live or recorded  
2 photographic, electronic, video, or digital images of vehicles that  
3 pass the bus when the bus is operating a visual signal as required  
4 by this section;

5           (B) conforms to regulations adopted under  
6 Section 34.002, Education Code; and

7           (C) is capable of producing a live or recorded  
8 visual image of a person inside the bus that may be viewed from  
9 another location or of taking photographic, electronic, video, or  
10 digital images of a person inside the bus.

11           SECTION 5. Section 545.451, Transportation Code, as added  
12 by this Act, expires September 1, 2013.

13           SECTION 6. This Act takes effect September 1, 2009.