

By: Lucio

S.B. No. 2060

A BILL TO BE ENTITLED

AN ACT

relating to school bus safety, including the authority of a school district to implement a monitoring system that captures images of vehicles passing illegally; creating an offense and providing for the imposition of civil and criminal penalties.

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

SECTION 1. Subsection (b), Section 547.701, Transportation Code, is amended to read as follows:

(b) A school bus may be equipped with:

(1) rooftop warning lamps:

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

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

(2) movable stop arms:

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

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

(3) a monitoring system that:

(A) is capable of taking photographic or digital images, including video images, of vehicles that pass the bus when the bus is stopped to load and unload students;

1 (B) is capable of producing a live visual image
2 of a child inside the bus that can be viewed remotely; and

3 (C) conforms to regulations adopted under
4 Section 34.002, Education Code.

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

7 (g) An image recorded by a school bus monitoring system
8 described by Section 547.701(b)(3) may be used in the prosecution
9 of an offense under this section if the image:

10 (1) is otherwise admissible as evidence;

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

14 (3) is accompanied by an affidavit executed by a peace
15 officer who inspected the image attesting to its authenticity.

16 SECTION 3. Chapter 11, Education Code, is amended by adding
17 Subchapter I to read as follows:

18 SUBCHAPTER I. CIVIL PENALTY FOR ILLEGALLY PASSING SCHOOL BUS

19 Sec. 11.401. DEFINITIONS. In this subchapter:

20 (1) "Local authority" means a county, municipality, or
21 other local entity:

22 (A) authorized to enact traffic laws under the
23 laws of this state; and

24 (B) within whose boundaries or extraterritorial
25 jurisdiction a school district adopting a resolution under this
26 subchapter is located.

27 (2) "Owner of a motor vehicle" means the owner of a

1 motor vehicle as shown on the motor vehicle registration records of
2 the Texas Department of Transportation or the analogous department
3 or agency of another state or country.

4 (3) "School bus monitoring system" means a monitoring
5 system described by Section 547.701(b)(3), Transportation Code.

6 Sec. 11.402. AUTHORITY TO PROVIDE FOR CIVIL PENALTY.

7 (a) The board of trustees of a school district by resolution may
8 impose a civil penalty on the owner of a motor vehicle operated in a
9 manner that violates Section 545.066, Transportation Code.

10 (b) A resolution adopted under this section must:

11 (1) provide for a civil penalty of not less than \$200
12 or more than \$1,000;

13 (2) authorize a local law enforcement agency, an
14 attorney employed by the school district, or an attorney with whom
15 the school district contracts to bring suit to collect the penalty;

16 (3) permit the use of images recorded by a school bus
17 monitoring system only for the purposes described by Section
18 11.404(a);

19 (4) provide that a person against whom the school
20 district seeks to impose a penalty is entitled to an administrative
21 adjudication hearing provided by the district or by a local
22 authority with which the district enters into a memorandum of
23 understanding under Section 11.403(a)(2) and:

24 (A) specify the period in which the hearing must
25 be held; and

26 (B) provide for the appointment of a hearing
27 officer with authority to administer oaths and issue orders

1 compelling the attendance of witnesses and the production of
2 documents;

3 (5) designate the department or office of the school
4 district responsible for the enforcement and administration of the
5 resolution or provide that a local law enforcement agency with
6 which the school district enters into a memorandum of understanding
7 under Section 11.403(a)(2) is responsible for the enforcement and
8 administration of the resolution; and

9 (6) provide for other procedures the board determines
10 necessary for the imposition of a penalty authorized by this
11 section.

12 (c) Chapter 133, Local Government Code, does not apply to a
13 civil penalty imposed under this subchapter.

14 Sec. 11.403. OPERATION OF SCHOOL BUS MONITORING SYSTEM.

15 (a) A school district that implements a school bus monitoring
16 system may:

17 (1) install and operate the system or contract with a
18 vendor for the installation or operation of the system; and

19 (2) enter into memoranda of understanding with:

20 (A) a local authority regarding administrative
21 adjudication hearings conducted under this subchapter; and

22 (B) a local law enforcement agency regarding the
23 collection of civil penalties imposed under this subchapter and the
24 enforcement of Section 545.066, Transportation Code.

25 (b) A vendor that contracts with a school district for the
26 operation of a school bus monitoring system must advise the
27 district and appropriate law enforcement agencies of all

1 information recorded by the system relating to a violation or
2 suspected violation of Section 545.066, Transportation Code,
3 within 24 hours after the occurrence of the violation or suspected
4 violation.

5 Sec. 11.404. GENERAL SURVEILLANCE PROHIBITED; OFFENSE.

6 (a) A school district may operate a school bus monitoring system
7 only for the purpose of:

8 (1) detecting a violation or suspected violation of
9 Section 545.066, Transportation Code;

10 (2) collecting a civil penalty imposed under this
11 subchapter; and

12 (3) monitoring the safety of children on the bus.

13 (b) A person commits an offense if the person uses a school
14 bus monitoring system to produce a recorded image other than in the
15 manner and for the purpose specified by this subchapter.

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

17 Sec. 11.405. USE OF REVENUE. Revenue from penalties
18 imposed by a school district under this subchapter must be
19 deposited in the maintenance and operation fund or the general fund
20 of the district to pay, as necessary, costs related to school bus
21 monitoring systems, including:

22 (1) the costs of:

23 (A) purchasing, leasing, or installing equipment
24 that is part of, or that is used in connection with, a system,
25 including labor costs; and

26 (B) operating and maintaining a system,
27 including the costs of creating, distributing, and delivering

violation notices, reviewing violations conducted by district employees, and processing fine payments and collections, and costs associated with administrative adjudications and appeals; and

(2) as applicable, amounts due:

(A) a vendor contracting with the district under Section 11.403(a)(1); and

(B) a local law enforcement agency or a local authority that enters into a memorandum of understanding with the district under Section 11.403(a)(2).

Sec. 11.406. NOTICE OF VIOLATION; CONTENTS. (a) The imposition of a civil penalty under this subchapter is initiated by the mailing of a notice of violation to the owner of the motor vehicle against whom the school district seeks to impose the penalty.

(b) Not later than the 30th day after the date the violation is alleged to have occurred, the designated department or office of the school district, or, if applicable, the local law enforcement agency with which the school district has entered into a memorandum of understanding under Section 11.403(a)(2), shall mail the notice of violation to the owner at:

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

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

(c) The notice of violation must contain:

- 1 (1) a description of the violation alleged;
- 2 (2) the date, time, and location of the violation;
- 3 (3) the name and address of the owner of the vehicle
4 involved in the violation;
- 5 (4) the registration number displayed on the license
6 plate of the vehicle involved in the violation;
- 7 (5) a copy of a recorded image of the violation limited
8 solely to a depiction of the area of the registration number
9 displayed on the license plate of the vehicle involved in the
10 violation;
- 11 (6) the amount of the civil penalty for which the owner
12 is liable;
- 13 (7) the number of days the person has in which to pay
14 or contest the imposition of the civil penalty;
- 15 (8) a statement that the owner of the vehicle
16 specified in the notice of violation may elect to pay the civil
17 penalty by mail sent to a specified address instead of appearing at
18 the time and place of the administrative adjudication hearing; and
- 19 (9) information that informs the owner of the vehicle
20 named in the notice of violation:
 - 21 (A) of the owner's right to contest the
22 imposition of the civil penalty against the person in an
23 administrative adjudication hearing;
 - 24 (B) that imposition of the civil penalty may be
25 contested by submitting a written request for an administrative
26 adjudication hearing before the expiration of the period specified
27 under Subdivision (7); and

1 (C) that failure to pay the civil penalty or to
2 contest liability for the penalty in a timely manner is an admission
3 of liability and a waiver of the owner's right to appeal the
4 imposition of the civil penalty and court costs.

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

7 Sec. 11.407. ADMISSION OF LIABILITY. A person who fails to
8 pay the civil penalty or to contest liability for the penalty in a
9 timely manner, or who requests an administrative adjudication
10 hearing to contest the imposition of the civil penalty against the
11 person and fails to appear at that hearing, is considered to:

12 (1) admit liability for the full amount of the civil
13 penalty stated in the notice of violation mailed to the person; and

14 (2) waive the person's right to appeal the imposition
15 of the civil penalty.

16 Sec. 11.408. PRESUMPTION. (a) It is presumed that the
17 owner of the motor vehicle committed the violation alleged in a
18 notice of violation mailed to the person under Section 11.406 if the
19 motor vehicle depicted in a photograph or digital image taken by a
20 school bus monitoring system belongs to the owner of the motor
21 vehicle.

22 (b) If, at the time of the violation alleged in the notice of
23 violation, the motor vehicle depicted in a photograph or digital
24 image taken by a school bus monitoring system was owned by a person
25 in the business of selling, renting, or leasing motor vehicles or by
26 a person who was not the person named in the notice of violation,
27 the presumption under Subsection (a) is rebutted on the

1 presentation of evidence establishing that the vehicle was at that
2 time:

- 3 (1) being test-driven by another person;
4 (2) being rented or leased by the vehicle's owner to
5 another person; or
6 (3) owned by a person who was not the person named in
7 the notice of violation.

8 (c) Notwithstanding Section 11.409, the presentation of
9 evidence under Subsection (b) by a person who is in the business of
10 selling, renting, or leasing motor vehicles or who did not own the
11 vehicle at the time of the violation must be made by affidavit,
12 through testimony at an administrative adjudication hearing under
13 Section 11.409, or by a written declaration under penalty of
14 perjury. The affidavit or written declaration may be submitted by
15 mail to the school district, or, if appropriate, to the local law
16 enforcement agency with which the district has entered into a
17 memorandum of understanding under Section 11.403(a)(2).

18 (d) If the presumption established by Subsection (a) is
19 rebutted under Subsection (b), a civil penalty may not be imposed on
20 the owner of the motor vehicle or the person named in the notice of
21 violation, as applicable.

22 (e) If, at the time of the violation alleged in a notice of
23 violation, the motor vehicle depicted in the photograph or digital
24 image taken by the school bus monitoring system was owned by a
25 person in the business of renting or leasing motor vehicles and the
26 vehicle was being rented or leased to an individual, the owner of
27 the motor vehicle shall provide to the school district, or, if

1 appropriate, to the local law enforcement agency with which the
2 district has entered into a memorandum of understanding under
3 Section 11.403(a)(2), the name and address of the individual who
4 was renting or leasing the motor vehicle depicted in the photograph
5 or digital image and a statement of the period during which that
6 individual was renting or leasing the vehicle. The owner shall
7 provide the information required by this subsection not later than
8 the 30th day after the date the notice of violation is received. If
9 the owner provides the required information, it is presumed that
10 the individual renting or leasing the motor vehicle committed the
11 violation alleged in the notice of violation and the school
12 district or local law enforcement agency may send a notice of
13 violation to that individual at the address provided by the owner of
14 the motor vehicle.

15 Sec. 11.409. ADMINISTRATIVE ADJUDICATION HEARING. (a) A
16 person who receives a notice of violation under this subchapter may
17 contest the imposition of the civil penalty specified in the notice
18 of violation by filing a written request for an administrative
19 adjudication hearing. The request for a hearing must be filed on or
20 before the date specified in the notice of violation, which may not
21 be earlier than the 30th day after the date the notice of violation
22 was mailed.

23 (b) On receipt of a timely request for an administrative
24 adjudication hearing, the school district shall, after consulting
25 with the local authority, if appropriate, notify the person of the
26 date and time of the hearing.

27 (c) A hearing officer designated by the school district or

1 the local authority shall conduct the administrative adjudication
2 hearing.

3 (d) In an administrative adjudication hearing, the issues
4 must be proven by a preponderance of the evidence.

5 (e) The reliability of the school bus monitoring system used
6 to produce the recorded image of the motor vehicle involved in the
7 violation may be attested to by affidavit of an officer or employee
8 of the school district, or, if appropriate, of the vendor with which
9 the district contracts under Section 11.403(a)(1) and that is
10 responsible for operating and maintaining the system.

11 (f) An affidavit of an officer or employee of the school
12 district, or, if appropriate, of a peace officer employed by a local
13 law enforcement agency with which the district has entered into a
14 memorandum of understanding under Section 11.403(a)(2), that
15 alleges a violation based on an inspection of the applicable
16 recorded image is:

17 (1) admissible in the administrative adjudication
18 hearing and in an appeal under Section 11.411; and

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

20 (g) At the conclusion of the administrative adjudication
21 hearing, the hearing officer shall enter a finding of liability for
22 the civil penalty or a finding of no liability for the civil
23 penalty. A finding under this subsection must be in writing and be
24 signed and dated by the hearing officer.

25 (h) A finding of liability for a civil penalty must specify
26 the amount of the civil penalty for which the person is liable. If
27 the hearing officer enters a finding of no liability, a civil

1 penalty for the violation may not be imposed against the person.

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

4 (1) be filed with the school district, with the clerk
5 or secretary of the local authority, or with a person designated by
6 the governing body of the local authority, as appropriate; and

7 (2) be recorded on microfilm, microfiche, or any other
8 electronic storage media.

9 Sec. 11.410. UNTIMELY REQUEST FOR ADMINISTRATIVE
10 ADJUDICATION HEARING. Notwithstanding any other provision of this
11 subchapter, a person who receives a notice of violation under this
12 subchapter and who fails to timely pay the amount of the civil
13 penalty or fails to timely request an administrative adjudication
14 hearing is entitled to an administrative adjudication hearing if:

15 (1) the person submits a written request for the
16 hearing to the designated hearing officer, accompanied by an
17 affidavit that attests to the date on which the person received the
18 notice of violation; and

19 (2) the written request and affidavit are submitted to
20 the hearing officer within the same number of days after the date
21 the person received the notice of violation as specified under
22 Section 11.406(c)(7).

23 Sec. 11.411. APPEAL. (a) The owner of a motor vehicle
24 determined by a hearing officer to be liable for a civil penalty may
25 appeal that determination to a judge by filing an appeal petition
26 with the clerk of the court. The petition must be filed with:

27 (1) a justice court of the county in which the school

1 district is located; or

2 (2) if the school district is located within a
3 municipality, the municipal court of the municipality.

4 (b) The petition must be:

5 (1) filed before the 31st day after the date on which
6 the administrative adjudication hearing officer entered the
7 finding of liability for the civil penalty; and

8 (2) accompanied by payment of the costs required by
9 law for the court.

10 (c) The court clerk shall schedule a hearing and notify the
11 owner of the motor vehicle and the school district, or, if
12 appropriate, the local law enforcement agency with which the
13 district has entered into a memorandum of understanding under
14 Section 11.403(a)(2), of the date, time, and place of the hearing.

15 (d) An appeal stays enforcement and collection of the civil
16 penalty imposed against the owner of the motor vehicle. The owner
17 must file a notarized statement of personal financial obligation to
18 perfect the owner's appeal.

19 (e) An appeal under this section shall be determined by the
20 court by trial de novo.

21 Sec. 11.412. ENFORCEMENT. If the owner of a motor vehicle
22 is delinquent in the payment of a civil penalty imposed under this
23 subchapter, the county assessor-collector or the Texas Department
24 of Transportation may refuse to register a motor vehicle alleged to
25 have been involved in the violation.

26 Sec. 11.413. IMPOSITION OF CIVIL PENALTY NOT A CONVICTION.
27 The imposition of a civil penalty under this subchapter is not a

1 conviction and may not be considered a conviction for any purpose.

2 Sec. 11.414. FAILURE TO PAY CIVIL PENALTY. If the owner of
3 the motor vehicle fails to timely pay the amount of the civil
4 penalty imposed against the owner:

5 (1) an arrest warrant may not be issued for the owner;
6 and

7 (2) the imposition of the civil penalty may not be
8 recorded on the owner's driving record.

9 SECTION 4. Subsection (a), Section 27.031, Government Code,
10 is amended to read as follows:

11 (a) In addition to the jurisdiction and powers provided by
12 the constitution and other law, the justice court has original
13 jurisdiction of:

14 (1) civil matters in which exclusive jurisdiction is
15 not in the district or county court and in which the amount in
16 controversy is not more than \$10,000, exclusive of interest;

17 (2) cases of forcible entry and detainer;

18 (3) foreclosure of mortgages and enforcement of liens
19 on personal property in cases in which the amount in controversy is
20 otherwise within the justice court's jurisdiction; and

21 (4) cases arising under Chapter 707, Transportation
22 Code, and Chapter 11, Education Code, outside a municipality's
23 territorial limits.

24 SECTION 5. Subsection (g), Section 29.003, Government Code,
25 is amended to read as follows:

26 (g) A municipal court, including a municipal court of
27 record, shall have exclusive appellate jurisdiction within the

1 municipality's territorial limits in a case arising under Chapter
2 707, Transportation Code, or Chapter 11, Education Code.

3 SECTION 6. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2009.