

1-1 By: Lucio S.B. No. 2060
1-2 (In the Senate - Filed March 12, 2009; March 31, 2009, read
1-3 first time and referred to Committee on Transportation and Homeland
1-4 Security; May 14, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 May 14, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2060 By: Watson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the authority of a school district to implement a school
1-11 bus monitoring system that records images, including images of
1-12 vehicles that pass a stopped school bus; providing for the
1-13 imposition of penalties.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Section 545.066, Transportation Code, is amended
1-16 by adding Subsection (g) to read as follows:

1-17 (g) An image recorded by the monitoring system authorized by
1-18 Section 547.701(b)(3) may be used in the administrative
1-19 adjudication of a violation under this section if the image:

1-20 (1) is otherwise admissible;

1-21 (2) clearly shows the vehicle, including the license
1-22 plate attached to the vehicle, at the time the offense is alleged to
1-23 have occurred; and

1-24 (3) is accompanied by an affidavit executed by a peace
1-25 officer stating that the image is authentic and that establishes
1-26 probable cause that a violation occurred.

1-27 SECTION 2. Chapter 545, Transportation Code, is amended by
1-28 adding Subchapter J to read as follows:

1-29 SUBCHAPTER J. SCHOOL BUS MONITORING SYSTEM

1-30 Sec. 545.451. APPLICABILITY OF SUBCHAPTER. This subchapter
1-31 applies only to a county that has a population of more than 325,000
1-32 and that is located adjacent to:

1-33 (1) an international border; and

1-34 (2) a county that has a population of more than
1-35 550,000.

1-36 Sec. 545.452. DEFINITIONS. In this subchapter:

1-37 (1) "Owner of a motor vehicle" means the owner of a
1-38 motor vehicle as shown on the motor vehicle registration records of
1-39 the Texas Department of Transportation or the analogous department
1-40 or agency of another state or country.

1-41 (2) "Recorded image" means a live or recorded
1-42 photographic, electronic, video, or digital image that depicts a
1-43 motor vehicle.

1-44 (3) "School bus monitoring system" means a system
1-45 authorized by Section 547.701(b)(3).

1-46 Sec. 545.453. AUTHORITY TO PROVIDE FOR PENALTY. (a) The
1-47 board of trustees of a school district by resolution may impose a
1-48 financial penalty on the registered owner of a vehicle that is
1-49 operated in a manner that violates Section 545.066 within the
1-50 school district.

1-51 (b) The resolution adopted under this section must:

1-52 (1) provide for a penalty of not less than \$1 or more
1-53 than \$250;

1-54 (2) authorize an attorney employed by the school
1-55 district or an attorney with whom the school district contracts to
1-56 bring suit to collect the penalty;

1-57 (3) provide for notice of the violation to the
1-58 registered owner of the motor vehicle that committed the violation;

1-59 (4) provide that a person against whom the school
1-60 district seeks to impose a penalty is entitled to an administrative
1-61 adjudication hearing;

1-62 (5) designate the department, agency, or office of the
1-63 school district responsible for the enforcement and administration

2-1 of the resolution or provide that the entity with which the school
2-2 district enters into an interlocal agreement of understanding under
2-3 Section 545.454(3) is responsible for the enforcement and
2-4 administration of the resolution;

2-5 (6) provide regulations for the use of live or
2-6 recorded images recorded by the school bus monitoring system; and

2-7 (7) provide for other procedures that the board
2-8 determines are necessary for the imposition of any penalty
2-9 authorized by this section.

2-10 (c) Except as otherwise provided:

2-11 (1) by this subchapter, an image recorded by the
2-12 monitoring system authorized by Section 547.701(b)(3) that is not
2-13 used in the prosecution of an offense under this section shall be
2-14 destroyed by the owner of the school bus; or

2-15 (2) by Section 545.066(g), an image recorded by the
2-16 monitoring system authorized by Section 547.701(b)(3) may not be
2-17 sold or distributed to another person.

2-18 (d) Penalties collected under this section may be used by a
2-19 school district only to cover the cost of:

2-20 (1) installing, operating, and maintaining the school
2-21 bus monitoring system;

2-22 (2) collecting a penalty imposed under this section;

2-23 (3) developing and implementing a program that
2-24 promotes student safety; or

2-25 (4) complying with Section 547.701(e) relating to
2-26 three point seatbelts for school buses.

2-27 Sec. 545.454. INSTALLATION AND OPERATION OF SCHOOL BUS
2-28 MONITORING SYSTEM. A school district that implements a school bus
2-29 monitoring system and adopts a resolution imposing a penalty under
2-30 this subchapter may:

2-31 (1) contract for the administration and enforcement of
2-32 the system;

2-33 (2) install and operate the system or contract for the
2-34 installation or operation of the system;

2-35 (3) enter into an interlocal agreement with a
2-36 municipality or county in which the school district is located
2-37 regarding administrative adjudication hearings required by a
2-38 resolution adopted under this subchapter; or

2-39 (4) enter into an interlocal agreement with another
2-40 school district regarding the administration, enforcement,
2-41 installation, or operation of the system.

2-42 Sec. 545.455. GENERAL SURVEILLANCE PROHIBITED; OFFENSE.

2-43 (a) A school district shall operate a monitoring system authorized
2-44 by Section 547.701(b)(3) only for the purpose of detecting a
2-45 violation or suspected violation of Section 545.066 within the
2-46 school district.

2-47 (b) A person commits an offense if the person uses a school
2-48 bus monitoring system to produce a recorded image other than in the
2-49 manner and for the purpose specified by a resolution adopted under
2-50 Section 545.453.

2-51 (c) An offense under this section is a Class A misdemeanor.

2-52 Sec. 545.456. EFFECT ON OTHER ENFORCEMENT. (a) The
2-53 implementation of a school bus monitoring system by a school
2-54 district under this subchapter does not:

2-55 (1) preclude the application or enforcement within the
2-56 school district of Section 545.066 in the manner prescribed by
2-57 Chapter 543; or

2-58 (2) prohibit a peace officer from arresting a violator
2-59 of Section 545.066 as provided by Chapter 543 or from issuing the
2-60 violator a citation and notice to appear as provided by that
2-61 chapter.

2-62 (b) A school district may not impose a penalty under this
2-63 subchapter on the owner of a motor vehicle if the operator of the
2-64 vehicle was arrested or issued a citation and notice to appear by a
2-65 peace officer for the same violation of Section 545.066 recorded by
2-66 the school bus monitoring system.

2-67 Sec. 545.457. NOTICE OF VIOLATION; CONTENTS. (a) The
2-68 imposition of a penalty under this subchapter is initiated by the
2-69 mailing of a notice of violation to the owner of the motor vehicle

3-1 against whom the school district seeks to impose the penalty.
3-2 (b) Not later than the 30th day after the date the violation
3-3 is alleged to have occurred, the designated department, agency, or
3-4 office of the school district or the entity with which the school
3-5 district enters into an interlocal agreement under Section
3-6 545.454(3) shall mail the notice of violation to the owner of the
3-7 motor vehicle at:
3-8 (1) the owner's address as shown on the registration
3-9 records of the Texas Department of Transportation; or
3-10 (2) if the vehicle is registered in another state or
3-11 country, the owner's address as shown on the motor vehicle
3-12 registration records of the department or agency of the other state
3-13 or country analogous to the Texas Department of Transportation.
3-14 (c) The notice of violation must contain:
3-15 (1) a description of the violation alleged;
3-16 (2) the location where the violation occurred;
3-17 (3) the date and time of the violation;
3-18 (4) the name and address of the owner of the vehicle
3-19 involved in the violation;
3-20 (5) the registration number displayed on the license
3-21 plate of the vehicle involved in the violation;
3-22 (6) a copy of a recorded image of the violation that
3-23 includes a depiction of the registration number displayed on the
3-24 license plate of the vehicle involved in the violation;
3-25 (7) the amount of the penalty for which the owner is
3-26 liable;
3-27 (8) the number of days the person has in which to pay
3-28 or contest the imposition of the penalty;
3-29 (9) a statement that the owner of the vehicle in the
3-30 notice of violation may elect to pay the penalty instead of
3-31 appearing at the time and place of the administrative adjudication
3-32 hearing; and
3-33 (10) information that informs the owner of the vehicle
3-34 named in the notice of violation:
3-35 (A) of the owner's right to contest the
3-36 imposition of the penalty against the person in an administrative
3-37 adjudication hearing;
3-38 (B) that imposition of the penalty may be
3-39 contested by submitting a written request for an administrative
3-40 adjudication hearing before the expiration of the period specified
3-41 under Subdivision (8); and
3-42 (C) that failure to pay the penalty or to contest
3-43 liability for the penalty in a timely manner is an admission of
3-44 liability.
3-45 (d) A notice of violation is presumed to have been received
3-46 on the fifth day after the date the notice is mailed.
3-47 Sec. 545.458. PRESUMPTION. (a) It is presumed that the
3-48 owner of the motor vehicle committed the violation alleged in the
3-49 notice of violation mailed to the person if the motor vehicle
3-50 depicted in a recorded image taken by a school bus monitoring system
3-51 belongs to the owner of the motor vehicle.
3-52 (b) If, at the time of the violation alleged in the notice of
3-53 violation, the motor vehicle depicted in a recorded image taken by a
3-54 school bus monitoring system was owned by a person in the business
3-55 of selling, renting, or leasing motor vehicles or by a person who
3-56 was not the person named in the notice of violation, the presumption
3-57 under Subsection (a) is rebutted on the presentation of evidence
3-58 establishing that the vehicle was at that time:
3-59 (1) being test driven by another person;
3-60 (2) being rented or leased by the vehicle's owner to
3-61 another person; or
3-62 (3) owned by a person who was not the person named in
3-63 the notice of violation.
3-64 (c) Notwithstanding Section 545.459, the presentation of
3-65 evidence under Subsection (b) by a person who is in the business of
3-66 selling, renting, or leasing motor vehicles or did not own the
3-67 vehicle at the time of the violation must be made by affidavit,
3-68 through testimony at the administrative adjudication hearing under
3-69 Section 545.459, or by a written declaration under penalty of

4-1 perjury. The affidavit or written declaration may be submitted by
 4-2 mail to the school district or the entity with which the school
 4-3 district contracts under Section 545.454(1).

4-4 (d) If the presumption established by Subsection (a) is
 4-5 rebutted under Subsection (b), a penalty may not be imposed on the
 4-6 owner of the vehicle or the person named in the notice of violation,
 4-7 as applicable.

4-8 (e) If, at the time of the violation alleged in the notice of
 4-9 violation, the motor vehicle depicted in the recorded image taken
 4-10 by the school bus monitoring system was owned by a person in the
 4-11 business of renting or leasing motor vehicles and the vehicle was
 4-12 being rented or leased to an individual, the owner of the motor
 4-13 vehicle shall provide to the school district or the entity with
 4-14 which the school district contracts under Section 545.454(1) the
 4-15 name and address of the individual who was renting or leasing the
 4-16 motor vehicle depicted in the recorded image and a statement of the
 4-17 date and times during which that individual was renting or leasing
 4-18 the vehicle. The owner shall provide the information required by
 4-19 this subsection not later than the 30th day after the date the
 4-20 notice of violation is received. If the owner provides the required
 4-21 information, it is presumed that the individual renting or leasing
 4-22 the motor vehicle committed the violation alleged in the notice of
 4-23 violation and the school district or contractor may send a notice of
 4-24 violation to that individual at an address provided by the owner of
 4-25 the motor vehicle or from motor vehicle registration records.

4-26 Sec. 545.459. ADMINISTRATIVE ADJUDICATION HEARING. (a) A
 4-27 person who receives a notice of violation under this subchapter may
 4-28 contest the imposition of the penalty specified in the notice of
 4-29 violation by filing a written request for an administrative
 4-30 adjudication hearing. The request for a hearing must be filed on or
 4-31 before the date specified in the notice of violation, which may not
 4-32 be earlier than the 30th day after the date the notice of violation
 4-33 was mailed.

4-34 (b) On receipt of a timely request for an administrative
 4-35 adjudication hearing, the school district shall notify the person
 4-36 of the date and time of the hearing.

4-37 (c) An administrative adjudication hearing under this
 4-38 subchapter may be conducted by any justice of the peace court in a
 4-39 county where the alleged violation of Section 545.066 within the
 4-40 school district occurred. For purpose of establishing jurisdiction
 4-41 for justice of the peace courts to conduct administrative
 4-42 adjudication hearings under this subchapter only a violation of
 4-43 this subchapter is a case under Article 4.11(a), Code of Criminal
 4-44 Procedure.

4-45 (d) In an administrative adjudication hearing, the issues
 4-46 must be proven by a preponderance of the evidence.

4-47 (e) The reliability of the school bus monitoring system used
 4-48 to produce the recorded image of the motor vehicle involved in the
 4-49 violation may be attested to by affidavit of an officer or employee
 4-50 of the school district or of the entity with which the school
 4-51 district contracts under Section 545.454(1) who is responsible for
 4-52 inspecting and maintaining the system.

4-53 (f) An affidavit of a peace officer that alleges a violation
 4-54 based on an inspection of the applicable recorded image is:

4-55 (1) admissible in the administrative adjudication
 4-56 hearing; and

4-57 (2) evidence of the facts contained in the affidavit.

4-58 (g) At the conclusion of the administrative adjudication
 4-59 hearing, the hearing officer shall enter a finding of liability for
 4-60 the penalty or a finding of no liability for the penalty. A finding
 4-61 under this subsection must be in writing and be signed and dated by
 4-62 the hearing officer.

4-63 (h) A finding of liability for a penalty must specify the
 4-64 amount of the penalty for which the person is liable. If the
 4-65 hearing officer enters a finding of no liability, a penalty for the
 4-66 violation may not be imposed against the person.

4-67 (i) A finding of liability or a finding of no liability
 4-68 entered under this section may:

4-69 (1) be filed with a person designated by the board of

5-1 trustees of the school district; and
5-2 (2) be recorded on microfilm or microfiche or using
5-3 data processing techniques.

5-4 Sec. 545.460. IMPOSITION OF PENALTY NOT A CONVICTION. The
5-5 imposition of a penalty under this subchapter is not a conviction
5-6 and may not be considered a conviction for any purpose.

5-7 Sec. 545.461. FAILURE TO PAY PENALTY. (a) If the owner of
5-8 the motor vehicle fails to timely pay the amount of the penalty
5-9 imposed against the owner:

5-10 (1) an arrest warrant may not be issued for the owner;
5-11 and

5-12 (2) the imposition of the penalty may not be recorded
5-13 on the owner's driving record.

5-14 (b) Notice of Subsection (a) must be included in the notice
5-15 of violation required by Section 545.456.

5-16 SECTION 3. Subsection (b), Section 547.701, Transportation
5-17 Code, is amended to read as follows:

5-18 (b) A school bus may be equipped with:

5-19 (1) rooftop warning lamps:

5-20 (A) that conform to and are placed on the bus in
5-21 accordance with specifications adopted under Section 34.002,
5-22 Education Code; and

5-23 (B) that are operated under rules adopted by the
5-24 school district; ~~and~~

5-25 (2) movable stop arms:

5-26 (A) that conform to regulations adopted under
5-27 Section 34.002, Education Code; and

5-28 (B) that may be operated only when the bus is
5-29 stopped to load or unload students; and

5-30 (3) a monitoring system that:

5-31 (A) is capable of taking live or recorded
5-32 photographic, electronic, video, or digital images of vehicles that
5-33 pass the bus when the bus is operating a visual signal as required
5-34 by this section;

5-35 (B) conforms to regulations adopted under
5-36 Section 34.002, Education Code; and

5-37 (C) is capable of producing a live or recorded
5-38 visual image of a person inside the bus that may be viewed from
5-39 another location or of taking photographic, electronic, video, or
5-40 digital images of a person inside the bus.

5-41 SECTION 4. Section 545.451, Transportation Code, as added
5-42 by this Act, expires September 1, 2013.

5-43 SECTION 5. This Act takes effect September 1, 2009.

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