

BILL ANALYSIS

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C.S.S.B. 1485
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Transportation & Homeland Security
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Passing stopped buses with flashing lights and the stop arm extended is against the law. Yet motorists, continue to do this and children continue to be killed or injured. C.S.S.B. 1485 will protect children, increase awareness of school bus safety, and raise funds for bus safety.

Getting on and off the bus is the most dangerous time for the estimated 1.4 million Texas children who ride a bus to school. Motorists are required to stop if a school bus has its flashing red lights on and the stop arm extended. Recent studies, including a 2008 report by the Texas Transportation Institute at Texas A&M University, looked at the effectiveness of digital video technology to reduce stop arm violations. A 2006 study by the Department of Public Safety of the State of Texas indicated that in one day 12,850 violations occurred. This bill seeks to use technologies that increase the overall safety of children entering and exiting school buses, while providing new revenue streams to the city or county and school district. This bill is permissive and simply gives school districts that already have the technology available the option to utilize this technology. The decision will be made at the local level.

This bill provides the authority for a school district to implement a school bus monitoring system to record images of vehicles that pass a stopped school bus and to impose civil penalties. Funds generated could be used to purchase safety items for buses, such as seatbelts.

C.S.S.B. 1485 amends current law 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 and provides for the imposition of penalties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 545.066, Transportation Code, by adding Subsection (g), as follows:

(g) Authorizes an image recorded by a monitoring system authorized by Section 547.701(b)(3) (relating to a monitoring system meeting certain criteria) to be used in the prosecution of an offense 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 was alleged to have occurred; and
- (3) is accompanied by an affidavit executed by a peace officer stating that the image is authentic and establishes probable cause that a violation occurred.

SECTION 2. Amends Chapter 545, Transportation Code, by adding Subchapter J, as follows:

SUBCHAPTER J. SCHOOL BUS MONITORING SYSTEM

Sec. 545.451. APPLICABILITY OF SUBCHAPTER. (a) Provides that this subchapter:

- (1) applies only to a school district that uses school bus monitoring systems installed on or before September 1, 2011; and
- (2) does not prohibit a school district that uses school bus monitoring systems installed on or before September 1, 2011, from installing additional school bus monitoring systems after that date.

(b) Provides that this section expires September 1, 2015.

Sec. 545.452. DEFINITIONS. Defines, in this subchapter, "owner of a motor vehicle," "recorded image," and "school bus monitoring system."

Sec. 545.453. AUTHORITY TO PROVIDE FOR PENALTY. (a) Authorizes the board of trustees of a school district by resolution to impose a financial penalty on the registered owner of a vehicle that is operated in a manner that violates Section 545.066 (Passing a School Bus; Offense) in the boundaries of the school district.

(b) Requires that the resolution adopted under this section:

(1) provide for a:

(A) penalty of not less than \$75 or more than \$200; and

(B) late payment penalty not to exceed \$25;

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

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

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

(5) designate the department, agency, or office of the school district responsible for the enforcement and administration of the resolution or provide that the entity with which the school district contracts under Section 545.454 is responsible for the enforcement and administration of the resolution;

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

(7) provide for other procedures the board determines are necessary for the imposition and collection of a penalty authorized by this section.

(c) Requires that an image recorded by the school bus monitoring system that is not used in the prosecution of an offense under Section 545.066 or in an administrative adjudication of a violation under this subchapter, except as provided by this subchapter, be destroyed by the owner of the school bus in accordance with applicable record retention laws.

(d) Prohibits an image recorded by a school bus monitoring system, except as provided by Section 545.066(g), from being sold or distributed to another person.

(e) Authorizes penalties collected under this section to be used by a school district only to pay for:

- (1) installing, operating, and maintaining school bus monitoring systems;
- (2) collecting a penalty imposed under this section; or
- (3) developing and implementing measures designed to improve student safety, including the purchase of new school buses and seat belts for school buses, student safety training, and school bus driver training.

Sec. 545.454. ADMINISTRATION, ENFORCEMENT, INSTALLATION, AND OPERATION OF SCHOOL BUS MONITORING SYSTEM. Authorizes a school district that implements a school bus monitoring system and adopts a resolution imposing a penalty under this subchapter to:

- (1) contract with a company located in Texas for the administration and enforcement of the system;
- (2) install and operate the system or contract with a company located in Texas for the installation or operation of the system;
- (3) enter into an interlocal agreement with a municipality or county in which the school district is located regarding administrative adjudication hearings required by a resolution adopted under this subchapter; or
- (4) enter into an interlocal agreement with another school district regarding the administration, enforcement, installation, or operation of the system.

Sec. 545.455. GENERAL SURVEILLANCE PROHIBITED; OFFENSE. (a) Authorizes a school district to use a school bus monitoring system only to:

- (1) monitor safety issues inside or outside the school bus; or
- (2) detect a violation or suspected violation of Section 545.066 in the boundaries of the school district.

(b) Provides that a person commits an offense if the person uses a school bus monitoring system to produce a recorded image other than in the manner and for the purpose specified by a resolution adopted under Section 545.453.

(c) Provides that an offense under this section is a Class A misdemeanor.

Sec. 545.456. EFFECT ON OTHER ENFORCEMENT. (a) Provides that the implementation of a school bus monitoring system by a school district under this subchapter does not preclude the application or enforcement in the boundaries of the school district of Section 545.066 in the manner prescribed by Chapter 543 (Arrest and Prosecution of Violators).

(b) Prohibits a school district from imposing a penalty under this subchapter on the owner of a motor vehicle if the operator of the vehicle was arrested or issued a citation and notice to appear by a peace officer for the same violation of Section 545.066 recorded by the school bus monitoring system.

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

(b) Requires the designated department, agency, or office of the school district or the entity with which the school district contracts under Section 545.454, not later than the 30th day after the date the violation is alleged to have occurred, to mail the notice of violation to the owner of the motor vehicle at:

(1) the owner's address as shown on the registration records of the Texas Department of Motor Vehicles (TxDMV); 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 TxDMV.

(c) Provides that the notice of violation contain:

(1) a description of the violation alleged;

(2) the location where the violation occurred;

(3) the date and time of the violation;

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

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

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

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

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

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

(10) information that informs the owner of the vehicle named in the notice of violation:

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

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

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

(d) Provides that a notice of violation is presumed to have been received on the fifth day after the date the notice is mailed.

Sec. 545.458. PRESUMPTION. (a) Provides that it is presumed that the owner of a motor vehicle shown in a recorded image of an alleged violation taken by a school bus monitoring system committed the alleged violation.

(b) Provides that the presumption under Subsection (a) is rebutted on the presentation of evidence establishing that at the time of the alleged violation the motor vehicle depicted in the recorded image taken by a school bus monitoring system was owned by:

(1) a person in the business of selling, renting, or leasing motor vehicles and the vehicle was:

(A) being test driven by another person; or

(B) being rented or leased by the vehicle's owner to another person; or

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

(c) Requires that the presentation of evidence under Subsection (b) by a person who is in the business of selling, renting, or leasing motor vehicles or by a person who did not own the vehicle at the time of the violation, notwithstanding Section 545.459, be made by affidavit, through testimony at the administrative adjudication hearing under Section 545.459, or by a written declaration under penalty of perjury. Authorizes an affidavit or written declaration to be submitted by mail to the school district or the entity with which the school district contracts under Section 545.454.

(d) Prohibits a penalty, if the presumption established by Subsection (a) is rebutted under Subsection (b), from being imposed on the owner of the vehicle or the person named in the notice of violation, as applicable.

(e) Requires the owner of a motor vehicle, if the motor vehicle depicted in the recorded image taken by the school bus monitoring system was owned by a person in the business of renting or leasing motor vehicles and the vehicle was being rented or leased to an individual at the time of the alleged violation, to provide to the school district or the entity with which the school district contracts under Section 545.454 the name and address of the individual who was renting or leasing the motor vehicle and a statement of the date and times during which that individual was renting or leasing the vehicle. Requires the owner to provide the information required by this subsection not later than the 30th day after the date the notice of violation is received. Provides that, if the owner provides the required information, it is presumed that the individual renting or leasing the motor vehicle committed the violation alleged in the notice of violation, and authorizes the school district or contractor to send a notice of violation to that individual at the address provided by the owner of the motor vehicle or from motor vehicle registration records.

Sec. 545.459. ADMINISTRATIVE ADJUDICATION HEARING. (a) Authorizes a person who receives a notice of violation under this subchapter to contest the imposition of the penalty specified in the notice of violation by filing a written request for an administrative adjudication hearing. Requires that the request for a hearing be filed on or before the date specified in the notice of violation, which may not be earlier than the 30th day after the date the notice of violation was presumed to have been received.

(b) Requires the school district, on receipt of a timely request for an administrative adjudication hearing, to notify the person of the date and time of the hearing.

(c) Authorizes that an administrative adjudication hearing under this subchapter be conducted by any justice of the peace court in the boundaries of the school district where the alleged violation occurred.

(d) Requires that the violation, in an administrative adjudication hearing, the violation be proven by a preponderance of the evidence.

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

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

(1) admissible in the administrative adjudication hearing; and

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

(g) Requires the hearing officer, at the conclusion of the administrative adjudication hearing, to enter a finding of liability or a finding of no liability for the penalty. Requires that a finding under this subsection be in writing and be signed and dated by the hearing officer.

(h) Requires that a finding of liability for a penalty specify the amount of the penalty for which the person is liable. Prohibits a penalty for the violation, if the hearing officer enters a finding of no liability, from being imposed against the person.

(i) Authorizes a finding of liability or a finding of no liability entered under this section to:

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

(2) be recorded:

(A) on microfilm or microfiche; or

(B) using data processing techniques.

Sec. 545.460. IMPOSITION OF PENALTY NOT A CONVICTION. Provides that the imposition of a penalty under this subchapter is not a conviction and is prohibited from being considered a conviction for any purpose.

Sec. 545.461. FAILURE TO PAY PENALTY. (a) Provides that, if the owner of the motor vehicle fails to timely pay the amount of the penalty imposed against the owner:

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

(2) the imposition of the penalty may not be recorded on the owner's driving record; and

(3) other than a motor vehicle registered under Section 501.0234 (Duty of Vehicle Dealer on Sale of Certain Vehicles), a county assessor-collector or TxDMV may refuse to register a motor vehicle if the assessor-collector of TxDMV receives information from a school district that the owner of the motor vehicle has failed to timely pay an outstanding penalty imposed under this subchapter.

(b) Requires that notice of the provisions of Subsection (a) be included in the notice of violation required by Section 545.457.

Sec. 545.462. REPORTING. (a) Requires a school district to provide the Department of Public Safety of the State of Texas (DPS) written notification of:

- (1) the resolution adopted by the school district under Section 545.453;
- (2) the number of school bus monitoring systems installed on school buses owned by the school district; and
- (3) the number of violations issued under this subchapter.

(b) Requires that notice be sent to DPS by September 1 of each year.

(c) Requires that notice be delivered by one of the following methods:

- (1) facsimile;
- (2) e-mail; or
- (3) mail.

SECTION 3. Amends Section 547.701(b), Transportation Code, to authorize a school bus to be equipped with certain equipment, including a monitoring system that is capable of taking live or recorded photographic, video, or digital images of vehicles that pass the bus when the bus is operating a visual signal as required by this section; conforms to regulations adopted under Section 34.002 (Safety Standards), Education Code; and is capable of producing a live or recorded visual image of a person inside the bus that may be viewed from another location.

SECTION 4. Effective date: September 1, 2011.