

By: West

S.B. No. 1485

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

9 (g) An image recorded by a monitoring system authorized by
10 Section 547.701(b)(3) may be used in the prosecution of an offense
11 under this section if the image:

12 (1) is otherwise admissible;

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

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

19 SECTION 2. Chapter 545, Transportation Code, is amended by
20 adding Subchapter J to read as follows:

21 SUBCHAPTER J. SCHOOL BUS MONITORING SYSTEM

22 Sec. 545.451. APPLICABILITY OF SUBCHAPTER. (a) This
23 subchapter:

24 (1) applies only to a school district that uses school

1 bus monitoring systems installed on or before September 1, 2011;
2 and

3 (2) does not prohibit a school district that uses
4 school bus monitoring systems installed on or before September 1,
5 2011, from installing additional school bus monitoring systems
6 after that date.

7 (b) This section expires September 1, 2015.

8 Sec. 545.452. DEFINITIONS. In this subchapter:

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

13 (2) "Recorded image" means a live or recorded
14 photographic, video, or digital image.

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

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

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

23 (1) provide for a penalty of not less than \$250 or more
24 than \$1,000;

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

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

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

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

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

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

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

22 (d) Except as provided by Section 545.066(g), an image
23 recorded by a school bus monitoring system may not be sold or
24 distributed to another person.

25 (e) Penalties collected under this section may be used by a
26 school district only to pay for:

27 (1) installing, operating, and maintaining school bus

1 monitoring systems;

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

3 or

4 (3) developing and implementing measures designed to
5 improve student safety, including the purchase of new school buses
6 and seat belts for school buses, student safety training, and
7 school bus driver training.

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

12 (1) contract for the administration and enforcement of
13 the system;

14 (2) install and operate the system or contract for the
15 installation or operation of the system;

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

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

23 Sec. 545.455. GENERAL SURVEILLANCE PROHIBITED; OFFENSE.

24 (a) A school district may use a school bus monitoring system only
25 to:

26 (1) monitor safety issues inside or outside the school
27 bus; or

1 (2) detect a violation or suspected violation of
2 Section 545.066 in the boundaries of the school district.

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

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

8 Sec. 545.456. EFFECT ON OTHER ENFORCEMENT. (a) The
9 implementation of a school bus monitoring system by a school
10 district under this subchapter does not preclude the application or
11 enforcement in the boundaries of the school district of Section
12 545.066 in the manner prescribed by Chapter 543.

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

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

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

27 (1) the owner's address as shown on the registration

1 records of the Texas Department of Motor Vehicles; or

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

6 (c) The notice of violation must contain:

7 (1) a description of the violation alleged;

8 (2) the location where the violation occurred;

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

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

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

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

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

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

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

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

27 (A) of the owner's right to contest the

1 imposition of the penalty against the person in an administrative
2 adjudication hearing;

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

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

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

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

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

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

22 (A) being test driven by another person; or

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

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

27 (c) Notwithstanding Section 545.459, the presentation of

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

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

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

1 district or contractor may send a notice of violation to that
2 individual at the address provided by the owner of the motor vehicle
3 or from motor vehicle registration records.

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

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

15 (c) An administrative adjudication hearing under this
16 subchapter may be conducted by any justice of the peace court in the
17 boundaries of the school district where the alleged violation
18 occurred.

19 (d) In an administrative adjudication hearing, the
20 violation must be proven by a preponderance of the evidence.

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

27 (f) An affidavit of a peace officer that alleges a violation

1 based on an inspection of the applicable recorded image is:

2 (1) admissible in the administrative adjudication
3 hearing; and

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

5 (g) At the conclusion of the administrative adjudication
6 hearing, the hearing officer shall enter a finding of liability or a
7 finding of no liability for the penalty. A finding under this
8 subsection must be in writing and be signed and dated by the hearing
9 officer.

10 (h) A finding of liability for a penalty must specify the
11 amount of the penalty for which the person is liable. If the
12 hearing officer enters a finding of no liability, a penalty for the
13 violation may not be imposed against the person.

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

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

18 (2) be recorded:

19 (A) on microfilm or microfiche; or

20 (B) using data processing techniques.

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

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

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

1 and

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

4 (b) Notice of the provisions of Subsection (a) must be
5 included in the notice of violation required by Section 545.457.

6 Sec. 545.462. REPORTING. (a) A school district shall
7 provide the Department of Public Safety written notification of:

8 (1) the resolution adopted by the school district
9 under Section 545.453;

10 (2) the number of school bus monitoring systems
11 installed on school buses owned by the school district; and

12 (3) the number of violations issued under this
13 subchapter.

14 (b) Notice shall be sent to the Department of Public Safety
15 by September 1 of each year.

16 (c) Notice must be delivered by one of the following
17 methods:

18 (1) facsimile;

19 (2) e-mail; or

20 (3) mail.

21 SECTION 3. Section 547.701(b), Transportation Code, is
22 amended to read as follows:

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

24 (1) rooftop warning lamps:

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

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

3 (2) movable stop arms:

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

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

8 (3) a monitoring system that:

9 (A) is capable of taking live or recorded
10 photographic, video, or digital images of vehicles that pass the
11 bus when the bus is operating a visual signal as required by this
12 section;

13 (B) conforms to regulations adopted under
14 Section 34.002, Education Code; and

15 (C) is capable of producing a live or recorded
16 visual image of a person inside the bus that may be viewed from
17 another location.

18 SECTION 4. This Act takes effect September 1, 2011.