

1-1 By: West S.B. No. 1485
1-2 (In the Senate - Filed March 10, 2011; March 22, 2011, read
1-3 first time and referred to Committee on Transportation and Homeland
1-4 Security; May 9, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 2, 1
1-6 present not voting; May 9, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1485 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 a monitoring system authorized by
1-18 Section 547.701(b)(3) may be used in the prosecution of an offense
1-19 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 was alleged
1-23 to 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 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. (a) This
1-31 subchapter:

1-32 (1) applies only to a school district that uses school
1-33 bus monitoring systems installed on or before September 1, 2011;
1-34 and

1-35 (2) does not prohibit a school district that uses
1-36 school bus monitoring systems installed on or before September 1,
1-37 2011, from installing additional school bus monitoring systems
1-38 after that date.

1-39 (b) This section expires September 1, 2015.

1-40 Sec. 545.452. DEFINITIONS. In this subchapter:

1-41 (1) "Owner of a motor vehicle" means the owner of a
1-42 motor vehicle as shown on the motor vehicle registration records of
1-43 the Texas Department of Motor Vehicles or the analogous department
1-44 or agency of another state or country.

1-45 (2) "Recorded image" means a live or recorded
1-46 photographic, video, or digital image.

1-47 (3) "School bus monitoring system" means a system
1-48 authorized by Section 547.701(b)(3).

1-49 Sec. 545.453. AUTHORITY TO PROVIDE FOR PENALTY. (a) The
1-50 board of trustees of a school district by resolution may impose a
1-51 financial penalty on the registered owner of a vehicle that is
1-52 operated in a manner that violates Section 545.066 in the
1-53 boundaries of the school district.

1-54 (b) The resolution adopted under this section must:

1-55 (1) provide for a:

1-56 (A) penalty of not less than \$75 or more than
1-57 \$200; and

1-58 (B) late payment penalty not to exceed \$25;

1-59 (2) authorize an attorney employed by the school
1-60 district or an attorney with whom the school district contracts to
1-61 bring suit to collect the penalty;

1-62 (3) provide for notice of the violation to the
1-63 registered owner of the motor vehicle that committed the violation;

2-1 (4) provide that a person against whom the school
2-2 district seeks to impose a penalty is entitled to an administrative
2-3 adjudication hearing;

2-4 (5) designate the department, agency, or office of the
2-5 school district responsible for the enforcement and administration
2-6 of the resolution or provide that the entity with which the school
2-7 district contracts under Section 545.454 is responsible for the
2-8 enforcement and administration of the resolution;

2-9 (6) provide regulations for the use of live or
2-10 recorded images by the school bus monitoring system; and

2-11 (7) provide for other procedures the board determines
2-12 are necessary for the imposition and collection of a penalty
2-13 authorized by this section.

2-14 (c) Except as provided by this subchapter, an image recorded
2-15 by the school bus monitoring system that is not used in the
2-16 prosecution of an offense under Section 545.066 or in an
2-17 administrative adjudication of a violation under this subchapter
2-18 must be destroyed by the owner of the school bus in accordance with
2-19 applicable record retention laws.

2-20 (d) Except as provided by Section 545.066(g), an image
2-21 recorded by a school bus monitoring system may not be sold or
2-22 distributed to another person.

2-23 (e) Penalties collected under this section may be used by a
2-24 school district only to pay for:

2-25 (1) installing, operating, and maintaining school bus
2-26 monitoring systems;

2-27 (2) collecting a penalty imposed under this section;
2-28 or

2-29 (3) developing and implementing measures designed to
2-30 improve student safety, including the purchase of new school buses
2-31 and seat belts for school buses, student safety training, and
2-32 school bus driver training.

2-33 Sec. 545.454. ADMINISTRATION, ENFORCEMENT, INSTALLATION,
2-34 AND OPERATION OF SCHOOL BUS MONITORING SYSTEM. A school district
2-35 that implements a school bus monitoring system and adopts a
2-36 resolution imposing a penalty under this subchapter may:

2-37 (1) contract with a company located in Texas for the
2-38 administration and enforcement of the system;

2-39 (2) install and operate the system or contract with a
2-40 company located in Texas for the installation or operation of the
2-41 system;

2-42 (3) enter into an interlocal agreement with a
2-43 municipality or county in which the school district is located
2-44 regarding administrative adjudication hearings required by a
2-45 resolution adopted under this subchapter; or

2-46 (4) enter into an interlocal agreement with another
2-47 school district regarding the administration, enforcement,
2-48 installation, or operation of the system.

2-49 Sec. 545.455. GENERAL SURVEILLANCE PROHIBITED; OFFENSE.

2-50 (a) A school district may use a school bus monitoring system only
2-51 to:

2-52 (1) monitor safety issues inside or outside the school
2-53 bus; or

2-54 (2) detect a violation or suspected violation of
2-55 Section 545.066 in the boundaries of the school district.

2-56 (b) A person commits an offense if the person uses a school
2-57 bus monitoring system to produce a recorded image other than in the
2-58 manner and for the purpose specified by a resolution adopted under
2-59 Section 545.453.

2-60 (c) An offense under this section is a Class A misdemeanor.

2-61 Sec. 545.456. EFFECT ON OTHER ENFORCEMENT. (a) The
2-62 implementation of a school bus monitoring system by a school
2-63 district under this subchapter does not preclude the application or
2-64 enforcement in the boundaries of the school district of Section
2-65 545.066 in the manner prescribed by Chapter 543.

2-66 (b) A school district may not impose a penalty under this
2-67 subchapter on the owner of a motor vehicle if the operator of the
2-68 vehicle was arrested or issued a citation and notice to appear by a
2-69 peace officer for the same violation of Section 545.066 recorded by

3-1 the school bus monitoring system.
3-2 Sec. 545.457. NOTICE OF VIOLATION; CONTENTS. (a) The
3-3 imposition of a penalty under this subchapter is initiated by
3-4 mailing a notice of violation to the owner of the motor vehicle
3-5 against whom the school district seeks to impose the penalty.
3-6 (b) Not later than the 30th day after the date the violation
3-7 is alleged to have occurred, the designated department, agency, or
3-8 office of the school district or the entity with which the school
3-9 district contracts under Section 545.454 shall mail the notice of
3-10 violation to the owner of the motor vehicle at:
3-11 (1) the owner's address as shown on the registration
3-12 records of the Texas Department of Motor Vehicles; or
3-13 (2) if the vehicle is registered in another state or
3-14 country, the owner's address as shown on the motor vehicle
3-15 registration records of the department or agency of the other state
3-16 or country analogous to the Texas Department of Motor Vehicles.
3-17 (c) The notice of violation must contain:
3-18 (1) a description of the violation alleged;
3-19 (2) the location where the violation occurred;
3-20 (3) the date and time of the violation;
3-21 (4) the name and address of the owner of the vehicle
3-22 involved in the violation;
3-23 (5) the number displayed on the license plate of the
3-24 vehicle involved in the violation;
3-25 (6) a copy of a recorded image of the violation that
3-26 includes a depiction of the number displayed on the license plate of
3-27 the vehicle involved in the violation;
3-28 (7) the amount of the penalty for which the owner is
3-29 liable;
3-30 (8) the number of days the person has to pay or contest
3-31 the imposition of the penalty;
3-32 (9) a statement that the owner of the vehicle in the
3-33 notice of violation may elect to pay the penalty instead of
3-34 appearing at the time and place of the administrative adjudication
3-35 hearing; and
3-36 (10) information that informs the owner of the vehicle
3-37 named in the notice of violation:
3-38 (A) of the owner's right to contest the
3-39 imposition of the penalty against the person in an administrative
3-40 adjudication hearing;
3-41 (B) that imposition of the penalty may be
3-42 contested by submitting a written request for an administrative
3-43 adjudication hearing before the expiration of the period under
3-44 Subdivision (8); and
3-45 (C) that failure to pay the penalty or to contest
3-46 liability for the penalty in a timely manner is an admission of
3-47 liability.
3-48 (d) A notice of violation is presumed to have been received
3-49 on the fifth day after the date the notice is mailed.
3-50 Sec. 545.458. PRESUMPTION. (a) It is presumed that the
3-51 owner of a motor vehicle shown in a recorded image of an alleged
3-52 violation taken by a school bus monitoring system committed the
3-53 alleged violation.
3-54 (b) The presumption under Subsection (a) is rebutted on the
3-55 presentation of evidence establishing that at the time of the
3-56 alleged violation the motor vehicle depicted in the recorded image
3-57 taken by a school bus monitoring system was owned by:
3-58 (1) a person in the business of selling, renting, or
3-59 leasing motor vehicles and the vehicle was:
3-60 (A) being test driven by another person; or
3-61 (B) being rented or leased by the vehicle's owner
3-62 to another person; or
3-63 (2) a person who was not the person named in the notice
3-64 of violation.
3-65 (c) Notwithstanding Section 545.459, the presentation of
3-66 evidence under Subsection (b) by a person who is in the business of
3-67 selling, renting, or leasing motor vehicles or by a person who did
3-68 not own the vehicle at the time of the violation must be made by
3-69 affidavit, through testimony at the administrative adjudication

4-1 hearing under Section 545.459, or by a written declaration under
 4-2 penalty of perjury. An affidavit or written declaration may be
 4-3 submitted by mail to the school district or the entity with which
 4-4 the school district contracts under Section 545.454.

4-5 (d) If the presumption established by Subsection (a) is
 4-6 rebutted under Subsection (b), a penalty may not be imposed on the
 4-7 owner of the vehicle or the person named in the notice of violation,
 4-8 as applicable.

4-9 (e) If the motor vehicle depicted in the recorded image
 4-10 taken by the school bus monitoring system was owned by a person in
 4-11 the business of renting or leasing motor vehicles and the vehicle
 4-12 was being rented or leased to an individual at the time of the
 4-13 alleged violation, the owner of the motor vehicle shall provide to
 4-14 the school district or the entity with which the school district
 4-15 contracts under Section 545.454 the name and address of the
 4-16 individual who was renting or leasing the motor vehicle and a
 4-17 statement of the date and times during which that individual was
 4-18 renting or leasing the vehicle. The owner shall provide the
 4-19 information required by this subsection not later than the 30th day
 4-20 after the date the notice of violation is received. If the owner
 4-21 provides the required information, it is presumed that the
 4-22 individual renting or leasing the motor vehicle committed the
 4-23 violation alleged in the notice of violation, and the school
 4-24 district or contractor may send a notice of violation to that
 4-25 individual at the address provided by the owner of the motor vehicle
 4-26 or from motor vehicle registration records.

4-27 Sec. 545.459. ADMINISTRATIVE ADJUDICATION HEARING. (a) A
 4-28 person who receives a notice of violation under this subchapter may
 4-29 contest the imposition of the penalty specified in the notice of
 4-30 violation by filing a written request for an administrative
 4-31 adjudication hearing. The request for a hearing must be filed on or
 4-32 before the date specified in the notice of violation, which may not
 4-33 be earlier than the 30th day after the date the notice of violation
 4-34 was presumed to have been received.

4-35 (b) On receipt of a timely request for an administrative
 4-36 adjudication hearing, the school district shall notify the person
 4-37 of the date and time of the hearing.

4-38 (c) An administrative adjudication hearing under this
 4-39 subchapter may be conducted by any justice of the peace court in the
 4-40 boundaries of the school district where the alleged violation
 4-41 occurred.

4-42 (d) In an administrative adjudication hearing, the
 4-43 violation must be proven by a preponderance of the evidence.

4-44 (e) The reliability of the school bus monitoring system used
 4-45 to produce the recorded image of the motor vehicle involved in the
 4-46 violation may be attested to by affidavit of an officer or employee
 4-47 of the school district or of the entity with which the school
 4-48 district contracts under Section 545.454 who is responsible for
 4-49 inspecting and maintaining the system.

4-50 (f) An affidavit of a peace officer that alleges a violation
 4-51 based on an inspection of the applicable recorded image is:

4-52 (1) admissible in the administrative adjudication
 4-53 hearing; and

4-54 (2) evidence of the facts contained in the affidavit.

4-55 (g) At the conclusion of the administrative adjudication
 4-56 hearing, the hearing officer shall enter a finding of liability or a
 4-57 finding of no liability for the penalty. A finding under this
 4-58 subsection must be in writing and be signed and dated by the hearing
 4-59 officer.

4-60 (h) A finding of liability for a penalty must specify the
 4-61 amount of the penalty for which the person is liable. If the
 4-62 hearing officer enters a finding of no liability, a penalty for the
 4-63 violation may not be imposed against the person.

4-64 (i) A finding of liability or a finding of no liability
 4-65 entered under this section may:

4-66 (1) be filed with a person designated by the board of
 4-67 trustees of the school district; or

4-68 (2) be recorded:

4-69 (A) on microfilm or microfiche; or

5-1 (B) using data processing techniques.
5-2 Sec. 545.460. IMPOSITION OF PENALTY NOT A CONVICTION. The
5-3 imposition of a penalty under this subchapter is not a conviction
5-4 and may not be considered a conviction for any purpose.

5-5 Sec. 545.461. FAILURE TO PAY PENALTY. (a) If the owner of
5-6 the motor vehicle fails to timely pay the amount of the penalty
5-7 imposed against the owner:

5-8 (1) an arrest warrant may not be issued for the owner;

5-9 (2) the imposition of the penalty may not be recorded
5-10 on the owner's driving record; and

5-11 (3) other than a motor vehicle that is registered
5-12 under Section 501.0234, a county assessor-collector or the Texas
5-13 Department of Motor Vehicles may refuse to register a motor vehicle
5-14 if the assessor-collector or the department receives information
5-15 from a school district that the owner of the motor vehicle has
5-16 failed to timely pay an outstanding penalty imposed under this
5-17 subchapter.

5-18 (b) Notice of the provisions of Subsection (a) must be
5-19 included in the notice of violation required by Section 545.457.

5-20 Sec. 545.462. REPORTING. (a) A school district shall
5-21 provide the Department of Public Safety written notification of:

5-22 (1) the resolution adopted by the school district
5-23 under Section 545.453;

5-24 (2) the number of school bus monitoring systems
5-25 installed on school buses owned by the school district; and

5-26 (3) the number of violations issued under this
5-27 subchapter.

5-28 (b) Notice shall be sent to the Department of Public Safety
5-29 by September 1 of each year.

5-30 (c) Notice must be delivered by one of the following
5-31 methods:

5-32 (1) facsimile;

5-33 (2) e-mail; or

5-34 (3) mail.

5-35 SECTION 3. Subsection (b), Section 547.701, Transportation
5-36 Code, is amended to read as follows:

5-37 (b) A school bus may be equipped with:

5-38 (1) rooftop warning lamps:

5-39 (A) that conform to and are placed on the bus in
5-40 accordance with specifications adopted under Section 34.002,
5-41 Education Code; and

5-42 (B) that are operated under rules adopted by the
5-43 school district; ~~and~~

5-44 (2) movable stop arms:

5-45 (A) that conform to regulations adopted under
5-46 Section 34.002, Education Code; and

5-47 (B) that may be operated only when the bus is
5-48 stopped to load or unload students; and

5-49 (3) a monitoring system that:

5-50 (A) is capable of taking live or recorded
5-51 photographic, video, or digital images of vehicles that pass the
5-52 bus when the bus is operating a visual signal as required by this
5-53 section;

5-54 (B) conforms to regulations adopted under
5-55 Section 34.002, Education Code; and

5-56 (C) is capable of producing a live or recorded
5-57 visual image of a person inside the bus that may be viewed from
5-58 another location.

5-59 SECTION 4. This Act takes effect September 1, 2011.

5-60 * * * * *