HOUSE DOCKET, NO. 1119 FILED ON: 1/16/2013

HOUSE . . . . . No. 3153

The Commonwealth of Massachusetts

PRESENTED BY:

William M. Straus

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act concerning the safety of school children embarking and disembarking school buses..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
William M. Straus	*10th Bristol*
Michael F. Rush	*Norfolk and Suffolk*
James M. Cantwell	*4th Plymouth*
Danielle W. Gregoire	*4th Middlesex*
Robert M. Koczera	*11th Bristol*
Kay Khan	*11th Middlesex*
John D. Keenan	*7th Essex*
John W. Scibak	*2nd Hampshire*
Angelo J. Puppolo, Jr.	*12th Hampden*
Louis L. Kafka	*8th Norfolk*
Colleen M. Garry	*36th Middlesex*
John V. Fernandes	*10th Worcester*

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HOUSE . . . . . No. 3153

By Mr. Straus of Mattapoisett, a petition (accompanied by bill, House, No. 3153) of William M. Straus and others relative to the installation of live digital video school bus violation detection monitoring systems . Transportation.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *3817* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act concerning the safety of school children embarking and disembarking school buses..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 14 of Chapter 90 of the General Laws is hereby amended by inserting after section 14B the following section:- Section 14C. (a) In addition to other monitoring devices lawfully authorized to be installed in school buses and notwithstanding any general or special law to the contrary, any city or town within the Commonwealth is hereby authorized to install and operate live digital video school bus violation detection monitoring systems for purpose of enforcing violations against the owner of a motor vehicle whose vehicle failed to stop for a school bus when required to do so by the provisions of Section 14. Such systems shall be limited to monitor and detect violations of motorists failing to stop for a school bus. (b) (1) As used in this section, the following words shall have the following meanings: "School bus violation detection monitoring system" a camera system that shall monitor and detect motor vehicles overtaking or passing school buses when said buses are stopped and displaying front and rear alternating flashing red signal lamps as provided in section seven B, and which has been stopped to allow pupils to alight from or board the same. It shall be a system with two or more camera sensors and computers that produce live digital and recorded video and 2 or more film or digital photographic still images of each motor vehicle at the time it is used or operated in a manner that is in violation of Section 14 of Chapter 90. "Stop arm traffic control sign" a stop sign mounted on a mechanical arm installed on a school bus which is deployed when a school bus is stopped to allow pupils to alight from or board the same and notify motorists

19 when it they are required to stop and when they can proceed. "Violation" the failure of an
20 operator of a motor vehicle to comply with the laws, codes, regulations, by-laws, ordinances,
21 rules or other forms of legislation governing the traffic control requirements for school buses
22 stopped to allow pupils to alight from or board same for which a school bus violation detection
23 monitoring system is installed and in operation. (2) All systems installed for use under this
24 section shall produce an evidence file that includes a live visual image viewable remotely, a
25 recorded image of the license plate and be able to record the date, time and location of the
26 vehicle committing the violation. An affidavit shall be signed by a person trained to observe
27 and detect such violations who witnesses the violation via live video provided by the school bus
28 violation detection monitoring system. (3) Recorded video images and still photographic
29 images must record the rear of the motor vehicle, with at least 1 photographic image and one
30 recorded video image clearly recording the motor vehicle immediately before the violation of the
31 stop arm traffic control sign and at least 1 photographic image and one recorded video image
32 recording the motor vehicle passing the stopped school bus with the stop arm traffic control sign
33 deployed in violation of the stop arm traffic control sign. Additionally, at least 1 photographic
34 image and 1 recorded video image must clearly identify the license plate of the motor vehicle.
35 (4) To the extent practicable, any school bus violation detection monitoring system shall use
36 necessary technologies to ensure that photographs or recorded video images produced by the
37 school bus violation detection monitoring system shall not include a frontal view photograph or
38 video image of the motor vehicle that is in violation of the stop arm traffic control sign or images
39 that identify the operator, the passengers, or the contents of the vehicle, but no notice of liability
40 issued under this section shall be dismissed solely because a photograph or recorded video image
41 allow for the identification of the operator, passengers, or contents of a vehicle as long as a
42 reasonable effort has been made to comply with this paragraph. (5) Any school bus installed
43 with a school bus violation detection monitoring system shall post warning signage indicating
44 the use of such system. The signage shall remain on each bus as long as a school bus violation
45 detection monitoring system is in operation. (6) A penalty imposed for a violation of this
46 section shall not be considered a criminal conviction and shall not be considered a moving
47 violation of the motor vehicle laws for the purpose of determining surcharges on motor vehicle
48 premiums pursuant to Section113B of Chapter 175 although as provided in this section the
49 violation shall be noted on the registered owner or owner's driving record. (7) The fines
50 contained in this section and section 14 for a failure to stop for a school bus shall be applied
51 whether the violation is detected through the use of a school bus mounted violation detection
52 monitoring system or by a police officer on scene who issues a written citation to the operator of
53 the motor vehicle. Pursuant to the provisions of Section 2 of Chapter 280, all fines imposed for a
54 violation of failing to stop for school bus in accordance with section 14 that is detected by a
55 school bus violation detection monitoring system or by a police officer who cites the operator in
56 hand shall be paid over to the treasury of the city or town where the offense was committed. (8)
57 Wherever an agreement under this section is to take effect upon its acceptance by a municipality
58 or district, or is to be effective in municipalities or districts accepting its provisions, this

59 acceptance shall be, except as otherwise provided, in a municipality, by vote of the legislative
60 body, subject to the charter of the municipality, or, in a district, by vote of the district at a district
61 meeting. A city or town may enter into an agreement with a private vendor or manufacturer to
62 provide a school bus violation detection monitoring system on each bus within its fleet whether
63 owned or leased, up to and including the installation, operation and maintenance of such
64 systems. Compensation paid to the manufacturer or vendor of the school bus violation detection
65 monitoring system as authorized by this section shall not be based upon the revenue generated by
66 the use of such systems. The compensation paid to the manufacturer or vendor of the equipment
67 shall be based upon the value of the equipment installed and the recurring services provided in
68 support of the school bus violation detection monitoring systems including processing of
69 evidence files, cost of the technology provided and maintenance of such technology. Said
70 agreement shall only become effective after consent by the affected local or regional school
71 department, by vote of a majority of its governing school committee. (9) A city or town shall
72 provide reimbursement of expenses to the private vendor or manufacturer for the installation,
73 operation and maintenance of the school bus violation detection monitoring systems in operation
74 and acknowledged by an agreement between the private vendor and the school department that
75 has adopted this section. Unless modified by an agreement with a city or town, reimbursement
76 shall be made from ticket revenue proceeds incurred under this section only if received as
77 currently allocated under the laws of the Commonwealth for said citations so as to eliminate any
78 cost to the city or town for installation, operation and maintenance of the school bus violation
79 detection monitoring systems in its municipality. Such reimbursement shall be made to the
80 private vendor or manufacturer within 45 days following the submittal of request for cost
81 reimbursement. Such reimbursement shall not exceed 50% of the ticket revenue proceeds in any
82 preceding period. If such violations occur on highways or roads controlled by the
83 Commonwealth, then reimbursement for installing, operating, and maintaining school bus
84 violation detection systems shall be permitted from the Commonwealth to the private vendor
85 from ticket proceeds pursuant to this section only. (c) (1) An evidence file of the alleged
86 violation and the signed affidavit shall be forwarded to a trained law enforcement officer in the
87 jurisdiction who is trained to observe and detect a violation for failure to stop for a stopped
88 school bus allowing pupils to alight or board the same. The officer shall issue a citation if he or
89 she is satisfied that a violation was committed under section 14 and the vehicle committing such
90 violation can be indentified from its registration plate. A certificate, or a facsimile thereof sworn
91 to or affirmed by a police officer or other law enforcement officer authorized to issue motor
92 vehicle citations for violations of traffic laws, stating that based upon inspection of the evidence
93 file produced by a school bus violation detection monitoring system, the vehicle was in violation
94 of this section, shall be prima facie evidence of the facts contained therein. Any recorded video
95 images or still photographic images produced by a school bus violation detection monitoring
96 system evidencing the violation shall be available for inspection in any proceeding to adjudicate
97 the liability for the violation adopted under this section. (2) In all prosecutions of civil traffic
98 violations based on evidence obtained from a school bus violation detection monitoring system

99 the registered owner of the motor vehicle shall be primarily responsible pursuant to the
100 provisions of this chapter except as otherwise provided in this section. In the event the registered
101 owner of the vehicle operated in violation of this chapter was not the operator of the vehicle at
102 the time of the violation the registered owner of the vehicle shall either (a) assume liability for
103 the violation by paying the fine or; (b) upon written receipt of the citation provide the issuing
104 authority within 30 days of the date of issuance, the name, address and registration number
105 {license plate}of the operator of the vehicle who was responsible along with a signed affidavit
106 acknowledging such or; (c) defend the violation pursuant to the procedures established for traffic
107 violations under this section. A vehicle owned or leased to a corporation that is identified by a
108 school bus violation detection monitoring system under this section shall be primarily
109 responsible for a violation pursuant to section 14 even if a person who normally operates the
110 vehicle for the corporation denies that he or she was operating the vehicle at the time of the
111 violation although no entry shall be made on the person's driving record. (3) A penalty imposed
112 may, if so provided in writing, be increased by up to 33 1/3% if the penalty remains unpaid in
113 excess of 45 days after a citation has been issued consistent with the procedures established in
114 this section and there has been no request for a hearing under paragraph (3) of subsection (d).
115 (d) (1) Upon the determination of a violation through the use of a school bus violation detection
116 monitoring system, it shall be the duty of the chief of police of the city or town, or any designee
117 of the chief, to issue the owner or owners of the vehicle a citation pursuant to the provisions of
118 Chapter 90C. The citation shall require the owner or owners to pay the fine amount issued
119 pursuant to section 14 or appear before the parking clerk not later than 30 days after the date the
120 citation was sent under the procedures established pursuant to violations under this section. The
121 citation shall be mailed to the address of the registered owner or owners as contained in the
122 registry or in records of the Department of Motor Vehicles in the jurisdiction in which the
123 vehicle is registered if other than the Commonwealth for any motor vehicle identified by the
124 school bus violation detection monitoring system as evidence of a violation of this section.
125 Citations shall be mailed by first class mail, post marked no later than 14 days after the date of
126 the alleged violation, inclusive of Sundays and holidays. In the case of any motor vehicle
127 registered under the laws of another state or country, if the address is unavailable, it shall be
128 sufficient to mail the citation to the official in the state or country having charge of the
129 registration of the motor vehicle. The citation shall be considered sufficient notice, and a
130 certificate of the chief of police or the chief's designee mailing the citation stating that it has
131 been mailed in accordance with this section shall be deemed prima facie evidence thereof and
132 shall be admissible in any judicial or administrative proceeding as to the facts contained therein.
133 It shall be sufficient to commence a prosecution. The chief or the chief's designee shall retain
134 and safely preserve a copy of the Citation and shall at a time no later than the beginning of the
135 next business day of the city or town after mailing to the owner or owners, deliver another copy
136 to the parking clerk before whom the owner or owners have been notified to appear. The parking
137 clerk shall maintain a docket of all such notices to appear. For purposes of this section, the date
138 of issuance shall be the date of mailing. The police officer issuing the citation shall certify that

139 the evidence obtained from the school bus violation detection monitoring system was sufficient
140 to demonstrate a violation of section 14. Such certification shall be sufficient in all prosecutions
141 pursuant to this section to justify the entry of a default judgment in all cases where the citation is
142 not answered within the time period permitted under this section. The citation issued by the
143 trained law enforcement officer in the jurisdiction shall contain but not be limited to the
144 following information: (i) a citation for the violation, which shall include the name and address
145 of the person or persons liable as an owner or owners of the motor vehicle for the violation of
146 this section, the registration number and state of issuance of the registration number of the
147 vehicle involved in the violation, the date, time and location of the violation, the specific
148 violation charged, the amount of the penalty for the violation, and the date by which the penalty
149 shall be paid; (ii) a copy of two or more still photographs, microphotographs, video or other
150 recorded images showing the vehicle in violation of the stop arm traffic sign; (iii) a copy of the
151 certificate or affidavit of the police officer under paragraph (1) of subsection (c); (iv) a
152 statement that recorded video images and photographic images are evidence of a violation of
153 section 14; (v) a schedule of fines for the violation as established by the Commonwealth; (vi)
154 instructions for the return of the citation notice including but not limited to the following text:—
155 "This notice and the required payment may be returned in person, by mail, or by a duly
156 authorized agent. A hearing to contest liability may be obtained upon the written request of the
157 registered owner. Failure to pay the penalty or to contest liability within 30 days of issuance of
158 this notice is an admission of liability and may result in a default judgment being entered against
159 the owner to whom the violation has been issued and/or non-renewal or suspension of the license
160 to drive and the certificate of registration of the registered owner."; (vii) an affidavit form
161 approved by the parking clerk for the purpose of complying with paragraph (5);and (viii) a
162 statement explaining the procedure to adjudicate the violation by mail under paragraph (6) . (2)
163 Any person notified to appear before the parking clerk, as provided in this section, may appear
164 before the parking clerk, or his designee, and confess the offense charged, either personally or
165 through a duly authorized agent or by mailing to the parking clerk the notice accompanied by the
166 fine provided therein, such payment to be made only by postal note, money order or check made
167 out to the parking clerk. Payment of the penalty established shall operate as a final disposition of
168 the case. (3) Except as expressly provided, all prosecutions based on evidence produced by a
169 school bus violation detection monitoring system shall follow the procedures of this section.
170 Notwithstanding the installation and use of a live digital video school bus violation detection
171 monitoring system on a school bus, a trained police officer in whose presence of motorist failing
172 to stop for a stopped school bus as required under section 14, may issue a citation at the scene to
173 the operator of such vehicle for such violation pursuant to section 14. An owner of a vehicle
174 shall not be liable for a citation as a result of a school bus violation detection monitoring system
175 if the operator of the vehicle was cited directly by a police officer at the scene of the violation.
176 (4) Should any person notified to appear hereunder fail to appear and, if a penalty is provided
177 hereunder, to pay the same, or if the person requests a hearing to contest liability, the parking
178 clerk shall forthwith schedule the matter before a person referred to in this section as a hearing

179 officer. The hearing officer shall be the parking clerk of the city or town in which the violation
180 occurred or any other person or persons that the parking clerk may designate. Written notice of
181 the date, time and place of the hearing shall be sent by first-class mail to the registered owner or
182 owners. The hearing shall be informal, the rules of evidence shall not apply and the decision of
183 the hearing officer shall be final subject to judicial review as provided by Section 14 of Chapter
184 30A. Within 21 days of the hearing, the hearing officer shall send by first class mail to the
185 registered owner or owners the decision of the hearing officer, including the reasons for the
186 outcome. (5) Any owner to whom a citation has been issued shall not be liable for a violation of
187 this section (a) if the violation was necessary to allow the passage of an emergency vehicle; (b) if
188 the violation was necessary in order to protect the property or person of another; (c) if the
189 violation was incurred while participating in a funeral procession; (d) if the violation was
190 incurred during a period of time in which the motor vehicle was reported to the police
191 department of any state, city or town as having been stolen and had not been recovered before
192 the time the violation occurred; (e) if the operator of the motor vehicle was operating the motor
193 vehicle under a rental or lease agreement and the owner of the motor vehicle is a rental or leasing
194 company; (f) if the operator of the motor vehicle was convicted of the underlying violation under
195 a citation issued in accordance with Section 2 of Chapter 90C; (g) if the violation was necessary
196 to comply with an order of a law enforcement officer or of a flagger directing traffic flow; or (h)
197 if the vehicle was subject to the exceptions granted to an authorized emergency vehicle under
198 Section 7B of Chapter 89. An owner disputing a violation under this subsection shall, within 30
199 days of issuance of the notice, provide the parking clerk with an affidavit signed under the pains
200 and penalties of perjury in a form approved by the parking clerk, as provided for in clause (vii)
201 of paragraph (1) of this subsection stating (1) the reason for disputing the violation; (2) the full
202 legal name and address of the owner of the motor vehicle; (3) the names and addresses of all
203 witnesses supporting the owner's defense and the specifics of their knowledge; and where
204 applicable (4) the signed statements from witnesses. The affidavit shall be filed with the request
205 for a hearing. (6) Any person notified to appear before the parking clerk, as provided in this
206 paragraph, may without waiving his right to a hearing before the parking clerk or hearing officer
207 as provided by this subsection, and also without waiving judicial review under Section 14 of
208 Chapter 30A, challenge the validity of the citation and receive a review and disposition of the
209 violation from the parking clerk or a hearing officer by mail. The owner may, upon receipt of
210 the citation, send a signed statement explaining his objections to the violation notice as well as
211 signed statements from witnesses, police officers, government officials and any other relevant
212 parties. Photographs, diagrams, maps and other documents may also be sent with the statements.
213 Any statements or materials sent to the parking clerk for review shall have attached the person's
214 name and address as well as the citation number and the date of the violation. The parking clerk
215 or hearing officer shall, within 21 days of receipt of this material, review the material and
216 dismiss or uphold the violation and notify, by mail, the owner or owners of the disposition of the
217 written review. If the outcome of the written review is adverse to the owner or owners, the
218 parking clerk or hearing officer shall explain the reasons for the outcome on the notice. The

219 review and disposition handled by mail shall be informal, the rules of evidence shall not apply,
220 and the decision of the parking clerk or hearing officer based upon the written materials shall be
221 final, unless the owner invokes the hearing provisions under this section or judicial review under
222 Section 14 of Chapter 30A. (7) If any person fails to appear before the hearing officer in
223 accordance with the notice, or fails to receive a favorable adjudication of the hearing from a
224 hearing officer and fails to pay the fine within 30 days of the date that the hearing officer has
225 mailed notice of the decision of the hearing officer, the parking clerk shall notify the registrar of
226 motor vehicles, who shall place the matter on record. Upon notification to the registrar of 2 or
227 more citations under this section or section 14 from the parking clerk of the city or town, or state
228 authorities or agencies, the registrar shall not issue or renew or may suspend the owner's license
229 to operate a motor vehicle or motor vehicle registration until after notification from the parking
230 clerk of each city, agency or authority, from whom the registrar received notification, that all
231 fines, taxes and penalties owed by the owner under this section have been disposed of in
232 accordance with law. Upon such notification to the registrar, an additional charge of $20 payable
233 to the registrar but collected by the city or town, and an additional charge of $20 payable to and
234 collected by the city or town, shall be assessed against the registered owner of the motor vehicle.
235 It shall be the duty of the parking clerk to notify the registrar forthwith that the case has been so
236 disposed, but certified receipt of full and final payment from the parking clerk of the city or
237 town, or state agency or authority issuing the violation shall also serve as legal notice to the
238 registrar that the violation has been disposed of in accordance with law. The certified receipt
239 shall be printed in a form approved by the registrar of motor vehicles. (8) Upon the
240 accumulation by an owner of 2 or more outstanding citations under this section or section 14 on
241 account of violations of any statute, ordinance, order, rule or regulation relating to the operation,
242 control or parking of motor vehicles in a particular city or town, notwithstanding any notification
243 to the registrar, the parking clerk of the city or town may notify the chief of police or director of
244 traffic and parking of the city or town that the vehicle bearing the registration to which the
245 notices have been issued shall be removed and stored or otherwise immobilized by a mechanical
246 device at the expense of the registered owner of the vehicle until all fines, taxes and penalties
247 owed by the owner either under this section, or otherwise arising out of the parking or usage of
248 the owner's motor vehicle, have been disposed of in accordance with law. No vehicle shall be
249 removed, stored, or otherwise immobilized unless the owner of the motor vehicle shall have
250 received 10 days prior notification by mail that the motor vehicle may be removed, stored, or
251 immobilized without further notification. It shall be sufficient for the parking clerk to mail,
252 postage prepaid, the notification to the last known address of the registered owner. It shall be
253 sufficient for the parking clerk, in the case of a motor vehicle registered in another state or
254 country, to mail notification to the official in the state or country having charge of the
255 registration of the motor vehicle. (e)(1) Other than for purposes of enforcement of a violation of
256 this section and section 14 or for purposes of an owner defending a violation of this section,
257 recorded video images and photographs taken or created under this section may only be obtained
258 under an order by a court of competent jurisdiction. (2) All recorded video images and other

259 photographic information obtained through the use of school bus violation detection monitoring
260 systems authorized in this section that do not identify a violation shall be destroyed by any city,
261 town, school department or vendor within 30 days of the date the image was recorded, unless
262 otherwise ordered by a court of competent jurisdiction. All photographic and other recorded
263 information that identifies a violation shall be destroyed within 1 year of final disposition of
264 proceedings related to the enforcement or defense of a violation, unless otherwise ordered by a
265 court of competent jurisdiction. Each city, town, school department, and vendor under agreement
266 utilizing 1 or more school bus violation detection monitoring systems shall file notice attested
267 under penalties of perjury annually within 30 days of the close of the fiscal year with the
268 secretary of state that these records have been destroyed in accordance with this paragraph. All
269 recorded video, audio and other photographic information, however stored or retained, which is
270 obtained through systems authorized in this section are the property of the municipality under
271 agreement with a vendor and may not be used by a vendor for any other purposes; upon the
272 expiration of any agreement authorized under this section, all of said video, audio, and/or other
273 photographic information shall be delivered within 30 days to the particular municipality unless
274 otherwise ordered by a court of competent jurisdiction. (3) The administrator of the school bus
275 violation detection monitoring system within any city or town accepting this section shall also
276 submit an annual report to the Massachusetts Department of Transportation regarding the use
277 and operation of the monitoring system. This annual report shall contain data on the number of
278 citations issued under this section at each particular intersection, and of those citations, shall
279 detail the number paid without a request for a hearing; the number found responsible after a
280 hearing; and the number dismissed after a hearing. In addition, the report shall also include the
281 cost to maintain each said monitoring system and the amount of revenue obtained from each said
282 monitoring system.