HOUSE DOCKET, NO. 1895 FILED ON: 1/15/2015

HOUSE . . . . . No. 3014

The Commonwealth of Massachusetts

PRESENTED BY:

Kevin G. Honan

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:
Kevin G. Honan	*17th Suffolk*
Mayor Martin J. Walsh	*1 City Hall Plaza Boston, MA 02201*
Daniel J. Ryan	*2nd Suffolk*
Aaron Michlewitz	*3rd Suffolk*
William N. Brownsberger	*Second Suffolk and Middlesex*
Daniel J. Hunt	*13th Suffolk*
Linda Dorcena Forry	*First Suffolk*
Lori A. Ehrlich	*8th Essex*
Edward F. Coppinger	*10th Suffolk*
Michael F. Rush	*Norfolk and Suffolk*

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HOUSE . . . . . No. 3014

By Mr. Honan of Boston, a petition (accompanied by bill, House, No. 3014) of Kevin G. Honan and others for legislation to authorize the installation and operation of digital video violation detection monitoring systems to detect drivers failing to stop for school buses. Transportation.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

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) 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 7B, and which has been stopped to allow pupils to alight from or board the same.

"School bus violation detection monitoring system" shall be a system with 2 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.

13 “Stop arm traffic control sign”, a stop sign mounted on a mechanical arm installed on a
14 school bus which is deployed when a school bus is stopped to allow pupils to alight from or
15 board the same and notify motorists when they are required to stop and when they can proceed.

16 “Violation”, the failure of an operator of a motor vehicle to fully stop when approaching
17 a school bus which has stopped to allow pupils to alight from or board the same and deployed its
18 stop arm traffic control sign.

19 (b) (1) Notwithstanding any general or special law to the contrary, a city or town may
20 install and operate live digital video school bus violation detection monitoring systems for the
21 purposes of enforcing violations against the registered owner of a motor vehicle whose vehicle
22 failed to stop for a school bus when required to do so pursuant to this section. Such systems
23 shall be limited to monitor and detect violations of motorists failing to stop for a school bus.

24 (2) All systems installed for use under this section shall produce an evidence file that
25 includes a live digital video image viewable remotely, a recorded image of the license plate and
26 shall be able to record the date, time and location of the vehicle committing the violation.

27 (3) Recorded video images and still photographic images shall record the rear or front of
28 the motor vehicle, with at least 1 photographic image and 1 recorded video image clearly
29 recording the motor vehicle immediately before the violation and at least 1 photographic image
30 and 1 recorded video image recording the motor vehicle committing the violation. At least 1
31 photographic image and 1 recorded video image shall clearly identify the license plate of the
32 motor vehicle.

33 (4) To the extent practicable, a school bus violation detection monitoring system shall use
34 necessary technologies to ensure that photographs or recorded video images produced by the

35 school bus violation detection monitoring system shall not include a frontal view photograph or
36 video image that identifies the operator, the passengers, or the contents of the vehicle; provided,
37 however, no notice of liability issued under this section shall be dismissed solely because a
38 photograph or recorded video image allow for the identification of the operator, passengers, or
39 contents of a vehicle as long as a reasonable effort has been made to comply with this paragraph.

40 (5) A school bus installed with a school bus violation detection monitoring system shall
41 post warning signage indicating the use of such system. The signage shall remain on each bus as
42 long as a school bus violation detection monitoring system is in operation.

43 (6) A penalty imposed for a violation of this section shall not be considered a criminal
44 conviction and shall not be considered a surchargeable offense pursuant to section113B of
45 chapter 175; provided, however, the violation shall be noted on the registered owner's driving
46 record.

47 (7) The fines contained in this section for a failure to stop for a school bus shall be
48 applied whether the violation is detected through the use of a school bus violation detection
49 monitoring system or by a police officer on scene who issues a written citation to the operator of
50 the motor vehicle. Pursuant to the provisions of section 2 of chapter 280, all fines imposed for a
51 violation of failing to stop for school bus that is detected by a school bus violation detection
52 monitoring system or by a police officer who cites the operator in hand shall be paid over to the
53 treasury of the city or town where the offense was committed.

54 (8) A city or town may enter into an agreement with a private vendor or manufacturer,
55 pursuant to the provisions of chapter 30B, to provide a school bus violation detection monitoring
56 system and evidence file processing services on each bus within its fleet whether owned or

57 leased, up to and including the installation, operation, monitoring, evidence file preparation and
58 maintenance of such systems. An agreement pursuant to this section shall take effect upon its
59 acceptance by a municipality or district, such acceptance shall be in a municipality, by a vote of
60 the legislative body, subject to the charge of the municipality, or, in a district, by a vote of the
61 district at a district meeting. Compensation paid to the manufacturer or vendor of the school bus
62 violation detection monitoring system shall not be based upon the revenue generated by the use
63 of such systems. The compensation paid to the manufacturer or vendor of the equipment shall be
64 based upon the value of the equipment installed and the recurring services provided in support of
65 the school bus violation detection monitoring systems including processing of evidence files,
66 cost of the technology provided and maintenance of such technology.

67 (9) A city or town shall provide reimbursement of expenses to the private vendor or
68 manufacturer for the installation, operation and maintenance of the school bus violation detection
69 monitoring systems in operation and acknowledged by an agreement between the private vendor
70 and the city or town. Unless modified by an agreement with a city or town, reimbursement shall
71 be made from ticket revenue proceeds incurred under this section only if received as currently
72 allocated under the laws of the Commonwealth for said citations so as to eliminate any cost to
73 the city or town for installation, operation and maintenance of the school bus violation detection
74 monitoring systems in its municipality. Such reimbursement shall be made to the private vendor
75 or manufacturer within 45 days following the submittal of request for cost reimbursement.

76 (c) (1) An evidence file of the alleged violation shall be forwarded to the chief of police
77 of the municipality, or a designee of the chief, who is trained to observe and detect a violation of
78 this section. The officer shall issue a citation if satisfied that a violation was committed and the
79 vehicle committing such violation can be identified from its registration plate. A certificate, or a

80 facsimile thereof, sworn to or affirmed by a police officer or other law enforcement officer
81 authorized to issue motor vehicle citations, stating that based upon inspection of the evidence file
82 produced by a school bus violation detection monitoring system, the vehicle was in violation of
83 this section, shall be prima facie evidence of the facts contained therein. A recorded video
84 images or still photographic images produced by a school bus violation detection monitoring
85 system evidencing the violation shall be available for inspection in any proceeding to adjudicate
86 the liability for a violation pursuant tothis section.

87 (2) In all proceedings of violations pursuant to this section, the registered owner of the
88 motor vehicle shall be primarily responsible, except as otherwise provided in this section. In the
89 event the registered owner of the vehicle operated in violation of this section was not the
90 operator of the vehicle at the time of the violation, the registered owner of the vehicle shall
91 assume liability for the violation by paying the fine or defend the violation pursuant to the
92 procedures established for violations pursuant to this section. A vehicle owned or leased to a
93 corporation that is identified by a school bus violation detection monitoring system shall be
94 primarily responsible for a violation pursuant to this section even if a person who normally
95 operates the vehicle for the corporation denies operating the vehicle at the time of the violation;
96 provided, however, no entry shall be made on the person's driving record.

97 (3) A penalty imposed may, if so provided in writing, be increased by up to 33 1/3% if
98 the penalty remains unpaid in excess of 45 days after a citation has been issued consistent with
99 the procedures established in this section and there has been no request for a hearing under
100 paragraph (3) of subsection (d).

101 (d) (1) Upon the determination of a violation through the use of a school bus violation
102 detection monitoring system, the chief of police of the city or town, or a designee of the chief,
103 shall issue to the registered owner of the vehicle a citation. The citation shall include, but not be
104 limited to, the following information: (i) the name and address of the the registered owner of the
105 motor vehicle; the registration number and state of issuance of the registration number of the
106 vehicle involved in the violation; the date, time and location of the violation; the specific
107 violation charged; the amount of the penalty for the violation; and the date by which the penalty
108 shall be paid; (ii) a copy of 2 or more still photographs or microphotographs showing the vehicle
109 committing the violation; (iii) a copy of the certificate or affidavit of the police officer under
110 paragraph (1) of subsection (c); (iv) a statement that recorded video images and photographic
111 images are evidence of a violation of section 14; (v) instructions for the return of the citation
112 notice including, but not limited to the following text:- "This notice and the required payment
113 may be returned in person, by mail, or by a duly authorized agent. A hearing to contest liability
114 may be obtained upon the written request of the registered owner. Failure to pay the penalty or to
115 contest liability within 30 days of issuance of this notice is an admission of liability and may
116 result in a default judgment being entered against the owner to whom the violation has been
117 issued and non-renewal or suspension of the license to drive and the certificate of registration of
118 the registered owner."; (vii) a statement explaining the procedure to adjudicate the violation by
119 mail under paragraph (6); and (viii) a statement explaining the procedure for the violator to
120 access and view the digital video or other recorded images showing the vehicle in violation. The
121 citation shall require the registered owner to pay the fine amount issued pursuant to this section
122 or appear before the parking clerk not later than 30 days after the date the citation was mailed to
123 the registered owner. Citations shall be mailed by first class mail, post marked no later than 14

124 days after the date of the alleged violation, inclusive of sundays and legal holidays. The citation
125 shall be mailed to the address of the registered owner on record with the registry of motor
126 vehicles, or, in the case of a motor vehicle registered under the laws of another state or
127 jurisdiction, at the address of the registered owner on record with the official in the state or other
128 jurisdiction having charge of the registration of the vehicle. If the address is unavailable in the
129 case of a motor vehicle registered under the laws of another state or jurisdiction, the chief of
130 police, or a designee, shall mail the citation to the official in the state or other jurisdiction having
131 charge of the registration of the vehicle. The citation shall be considered sufficient notice, and a
132 certificate of the chief of police, or a designee, mailing the citation stating that it has been mailed
133 in accordance with this section shall be deemed prima facie evidence thereof and shall be
134 admissible in any judicial or administrative proceeding as to the facts contained therein.

135 The chief of police, or designee, shall retain and safely preserve a copy of the citation and
136 shall at a time no later than the beginning of the next business day after mailing to the registered
137 owner, deliver a copy of the citation to the parking clerk. The parking clerk shall maintain a
138 docket of allissued citations. The date of issuance shall be the date of mailing. The police
139 officer issuing the citation shall certify that the evidence obtained from the school bus violation
140 detection monitoring system was sufficient to demonstrate a violation of this section. Such
141 certification shall be sufficient in all proceedings pursuant to this section to justify the entry of a
142 default judgment in all cases where the citation is not answered within the time period permitted
143 under this section.

144 (2) A person issued a citation may pay the fine by appearing before the parking clerk, or
145 his designee, and admit to theviolation, either personally, through a duly authorized agent, or by

146 mailing to the parking clerk the fine. Payment of the penalty established shall operate as a final
147 disposition of the case.

148 (3) If the person requests a hearing to contest liability of the citation, the parking clerk
149 shall forthwith schedule the matter before a hearing officer. The hearing officer shall be the
150 parking clerk, or a designee, of the city or town in which the violation occurred. Written notice
151 of the date, time and place of the hearing shall be sent by first-class mail to the registered owner.
152 The hearing shall be informal, the rules of evidence shall not apply and the decision of the
153 hearing officer shall be final subject to judicial review as provided by section 14 of chapter 30A.
154 Within 21 days of the hearing, the hearing officer shall send by first class mail to the registered
155 owner the decision of the hearing officer, including the reasons for the outcome.

156 (4) A person issued a citation may, without waiving his right to a hearing before the
157 parking clerk or hearing officer, and also without waiving judicial review under section 14 of
158 chapter 30A, challenge the validity of the citation and receive a review and disposition of the
159 violation from the parking clerk or a hearing officer by mail. The registered owner may, upon
160 receipt of the citation, send a signed statement explaining his objections to the violation notice as
161 well as signed statements from witnesses, police officers, government officials and any other
162 relevant parties. Photographs, diagrams, maps and other documents may also be sent with the
163 statements. Any statements or materials sent to the parking clerk for review shall include the
164 name and address of the person as well as the citation number and the date of the violation. The
165 parking clerk or hearing officer shall, within 21 days of receipt of this material, review the
166 material and dismiss or uphold the violation and notify, by mail, the registered owner of the
167 disposition of the written review. If the outcome of the written review is adverse to the
168 registered owner, the parking clerk or hearing officer shall include the reasons for the outcome

169 on the notice. The review and disposition handled by mail shall be informal, the rules of
170 evidence shall not apply, and the decision of the parking clerk or hearing officer based upon the
171 written materials shall be final, unless the owner invokes the hearing provisions under this
172 section or judicial review under section 14 of chapter 30A.

173 (5) A person who violates this section shall be punished by a fine of not less than $250;
174 and for a second offense by a fine of not less than $500 nor more than $1,000; and for a third or
175 subsequent offense by a fine of not less than $1,000 nor more than $2,000.

176 (6) If a person fails to pay the fine or fails to receive a favorable adjudication of the
177 hearing from a hearing officer and fails to pay the fine within 30 days of the date that the hearing
178 officer has mailed notice of the decision of the hearing officer, the parking clerk shall notify the
179 registrar of motor vehicles, who shall place the matter on record. Upon notification to the
180 registrar of 2 or more citations under this section from the parking clerk of the city or town, the
181 registrar shall not issue or renew or may suspend the license to operate a motor vehicle of the
182 registered owner or motor vehicle registration of the registered owner until after notification
183 from the parking clerk of each city or town, from whom the registrar received notification, that
184 all fines, taxes and penalties owed by the owner under this section have been disposed of in
185 accordance with law. Upon such notification to the registrar, an additional charge of $20 payable
186 to the registrar but collected by the city or town, and an additional charge of $20 payable to and
187 collected by the city or town, shall be assessed against the registered owner of the motor vehicle.
188 It shall be the duty of the parking clerk to notify the registrar forthwith that the case has been so
189 disposed; provided, however, certified receipt of full and final payment from the parking clerk of
190 the city or town issuing the violation shall also serve as legal notice to the registrar that the

191 violation has been disposed of in accordance with law. The certified receipt shall be printed in a
192 form approved by the registrar of motor vehicles.

193 (7) Upon the accumulation by a registered owner of 2 or more outstanding citations
194 under this section on account of violation of this section, the parking clerk of the city or town
195 may notify the chief of police or director of traffic and parking of the city or town that the
196 vehicle bearing the registration to which the notices have been issued shall be removed and
197 stored or otherwise immobilized by a mechanical device at the expense of the registered owner
198 of the vehicle until all fines, taxes and penalties owed by the owner either under this section, or
199 otherwise arising out of the parking or usage of the owner's motor vehicle, have been disposed
200 of in accordance with law. No vehicle shall be removed, stored, or otherwise immobilized unless
201 the registered owner of the motor vehicle shall have received 10 days prior notification by mail
202 that the motor vehicle may be removed, stored, or immobilized without further notification. It
203 shall be sufficient for the parking clerk to mail, postage prepaid, the notification to the last
204 known address of the registered owner. It shall be sufficient for the parking clerk, in the case of a
205 motor vehicle registered in another state or jurisdiction, to mail notification to the official in the
206 state or jurisdiction having charge of the registration of the motor vehicle.

207 (8) Except as expressly provided, all proceedings based on evidence produced by a
208 school bus violation detection monitoring system shall follow the procedures of this section.
209 Notwithstanding the installation and use of a live digital video school bus violation detection
210 monitoring system on a school bus, a trained police officer, in whose presence a motorist fails to
211 stop for a stopped school bus as required under section 14, may issue a citation at the scene to the
212 operator of such vehicle for such violation pursuant to section 14. An owner of a vehicle shall

213 not be liable for a citation as a result of a school bus violation detection monitoring system if the
214 operator of the vehicle was cited directly by a police officer at the scene of the violation

215 (9) An owner to whom a citation has been issued shall not be liable for a violation of this
216 section (a) if the violation was necessary to allow the passage of an emergency vehicle; (b) if the
217 violation was necessary in order to protect the property or person of another; (c) if the violation
218 was incurred while participating in a funeral procession; (d) if the violation was incurred during
219 a period of time in which the motor vehicle was reported to the police department of any state,
220 city or town as having been stolen and had not been recovered before the time the violation
221 occurred; (e) if the operator of the motor vehicle was convicted of the underlying violation under
222 a citation issued in accordance with section 2 of chapter 90C; (f) if the violation was necessary to
223 comply with an order of a law enforcement officer or a flagger directing traffic flow; or (g) if the
224 vehicle was subject to the exceptions granted to an authorized emergency vehicle under section
225 7B of chapter 89. An owner disputing a violation under this subsection shall, within 30 days of
226 issuance of the notice, provide the parking clerk with an affidavit signed under the pains and
227 penalties of perjury in a form approved by the parking clerk, as provided for in clause (vii) of
228 paragraph (1) of this subsection, stating the following: (1) the reason for disputing the violation;
229 (2) the full legal name and address of the registered owner of the motor vehicle; (3) the names
230 and addresses of all witnesses supporting the registered owner's defense and the specifics of their
231 knowledge; and (4) where applicable, the signed statements from witnesses. The affidavit shall
232 be filed with the request for a hearing.

233 (e)(1) Other than for purposes of enforcement of a violation of this section or for
234 purposes of a registered owner defending a violation of this section, recorded video images and

235 photographs taken or created under this section may only be obtained under an order by a court
236 of competent jurisdiction.

237 (2) All recorded video images and other photographic information obtained through the
238 use of school bus violation detection monitoring systems authorized in this section that do not
239 identify a violation shall be destroyed by a city, town, school department or vendor within 30
240 days of the date the image was recorded, unless otherwise ordered by a court of competent
241 jurisdiction. All photographic and other recorded information that identifies a violation shall be
242 destroyed within 1 year of final disposition of proceedings related to the enforcement or defense
243 of a violation, unless otherwise ordered by a court of competent jurisdiction. Each city, town,
244 school department, and vendor under agreement utilizing 1 or more school bus violation
245 detection monitoring systems shall file notice attested under penalties of perjury annually within
246 30 days of the close of the fiscal year with Massachusetts Department of Transportation that such
247 records have been destroyed in accordance with this paragraph. All recorded video, audio and
248 other photographic information, however stored or retained, which is obtained through a school
249 bus violation detection monitoring system are the property of the municipality under agreement
250 with a vendor and shall not be used by a vendor for any other purposes. Upon the expiration of
251 an agreement authorized under this section, all of such video, audio, and other photographic
252 information shall be delivered within 30 days to the particular municipality, unless otherwise
253 ordered by a court of competent jurisdiction.

254 (3) The administrator of the school bus violation detection monitoring system within any
255 city or town accepting this section shall submit an annual report to the Massachusetts
256 Department of Transportation regarding the use and operation of the school bus violation
257 detection monitoring system. The report shall include, but not be limited to, the following: data

258 on the number of citations issued under this section; the number of citations paid without a
259 request for a hearing; the number of citations found responsible after a hearing; the number of
260 citations dismissed after a hearing;the cost to maintain each school bus violation detection
261 monitoring system; and the amount of revenue obtained from each such monitoring system.