SENATE . . . . . No. 2267

The Commonwealth of Massachusetts

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

SENATE, Monday, May 2, 2016

The committee on Transportation to whom was referred the petition (accompanied by bill, Senate, No. 1862) of Kathleen O'Connor Ives, Frank A. Moran and Diana DiZoglio for legislation relative to school bus safety,- reports the accompanying bill (Senate, No. 2267).

For the committee,
Thomas M. McGee

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An Act relative to school bus safety.

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 when it they are required to stop and when they can proceed. “Violation” the failure of an operator of a motor vehicle to comply with the laws, codes, regulations, by-laws, ordinances, rules or other forms of legislation governing the traffic control requirements for school buses stopped to allow pupils to alight from or board same for which a school bus violation detection monitoring system is installed and in operation. (2) All systems installed for use under this section shall produce an evidence file that includes a live visual image viewable remotely, a recorded image of the license plate and be able to record the date, time and location of the vehicle committing the violation. An affidavit shall be signed by a person trained to observe and detect such violations who witnesses the violation via live video provided by the school bus violation detection monitoring system. (3) Recorded video images and still photographic images must record the rear of the motor vehicle, with at least 1 photographic image and one recorded video image clearly recording the motor vehicle immediately before the violation of the stop arm traffic control sign and at least 1 photographic image and one recorded video image recording the motor vehicle passing the stopped school bus with the stop arm traffic control sign deployed in violation of the stop arm traffic control sign. Additionally, at least 1 photographic image and 1 recorded video image must clearly identify the license plate of the motor vehicle. (4) To the extent practicable, any school bus violation detection monitoring system shall use necessary technologies to ensure that photographs or recorded video images produced by the school bus violation detection monitoring system shall not include a frontal view photograph or video image

of the motor vehicle that is in violation of the stop arm traffic control sign or images that identify the operator, the passengers, or the contents of the vehicle, but no notice of liability issued under this section shall be dismissed solely because a photograph or recorded video image allow for the identification of the operator, passengers, or contents of a vehicle as long as a reasonable effort has been made to comply with this paragraph. (5) Any school bus installed with a school bus violation detection monitoring system shall post warning signage indicating the use of such system. The signage shall remain on each bus as long as a school bus violation detection monitoring system is in operation. (6) A penalty imposed for a violation of this section shall not be considered a criminal conviction and shall not be considered a moving violation of the motor vehicle laws for the purpose of determining surcharges on motor vehicle premiums pursuant to Section113B of Chapter 175 although as provided in this section the violation shall be noted on the registered owner or owner's driving record. (7) The fines contained in this section and section 14 for a failure to stop for a school bus shall be applied whether the violation is detected through the use of a school bus mounted violation detection monitoring system or by a police officer on scene who issues a written citation to the operator of the motor vehicle. Pursuant to the provisions of Section 2 of Chapter 280, all fines imposed for a violation of failing to stop for school bus in accordance with section 14 that is detected by a school bus violation detection monitoring system or by a police officer who cites the operator in hand shall be paid over to the treasury of the city or town where the offense was committed. (8) Wherever an agreement under this section is to take effect upon its acceptance by a municipality or district, or is to be effective in municipalities or districts accepting its provisions, this acceptance shall be, except as otherwise provided, in a municipality, by vote of the legislative body, subject to the charter of the municipality, or, in a district, by vote of the district at a district meeting. A city or town may

enter into an agreement with a private vendor or manufacturer to provide a school bus violation detection monitoring system on each bus within its fleet whether owned or leased, up to and including the installation, operation and maintenance of such systems. Compensation paid to the manufacturer or vendor of the school bus violation detection monitoring system as authorized by this section shall not be based upon the revenue generated by the use of such systems. The compensation paid to the manufacturer or vendor of the equipment shall be based upon the value of the equipment installed and the recurring services provided in support of the school bus violation detection monitoring systems including processing of evidence files, cost of the technology provided and maintenance of such technology. Said agreement shall only become effective after consent by the affected local or regional school department, by vote of a majority of its governing school committee. (9) A city or town shall provide reimbursement of expenses to the private vendor or manufacturer for the installation, operation and maintenance of the school bus violation detection monitoring systems in operation and acknowledged by an agreement between the private vendor and the school department that has adopted this section. Unless modified by an agreement with a city or town, reimbursement shall be made from ticket revenue proceeds incurred under this section only if received as currently allocated under the laws of the Commonwealth for said citations so as to eliminate any cost to the city or town for installation, operation and maintenance of the school bus violation detection monitoring systems in its municipality. Such reimbursement shall be made to the private vendor or manufacturer within 45 days following the submittal of request for cost reimbursement. Such reimbursement shall not exceed 50% of the ticket revenue proceeds in any preceding period. If such violations occur on highways or roads controlled by the Commonwealth, then reimbursement for installing, operating, and maintaining school bus violation detection systems shall be permitted from the

Commonwealth to the private vendor from ticket proceeds pursuant to this section only. (c) (1) An evidence file of the alleged violation and the signed affidavit shall be forwarded to a trained law enforcement officer in the jurisdiction who is trained to observe and detect a violation for failure to stop for a stopped school bus allowing pupils to alight or board the same. The officer shall issue a citation if he or she is satisfied that a violation was committed under section 14 and the vehicle committing such violation can be indentified from its registration plate. A certificate, or a facsimile thereof sworn to or affirmed by a police officer or other law enforcement officer authorized to issue motor vehicle citations for violations of traffic laws, stating that based upon inspection of the evidence file produced by a school bus violation detection monitoring system, the vehicle was in violation of this section, shall be prima facie evidence of the facts contained therein. Any recorded video images or still photographic images produced by a school bus violation detection monitoring system evidencing the violation shall be available for inspection in any proceeding to adjudicate the liability for the violation adopted under this section. (2) In all prosecutions of civil traffic violations based on evidence obtained from a school bus violation detection monitoring system the registered owner of the motor vehicle shall be primarily responsible pursuant to the provisions of this chapter except as otherwise provided in this section. In the event the registered owner of the vehicle operated in violation of this chapter was not the operator of the vehicle at the time of the violation the registered owner of the vehicle shall either (a) assume liability for the violation by paying the fine or; (b) upon written receipt of the citation provide the issuing authority within 30 days of the date of issuance, the name, address and registration number {license plate}of the operator of the vehicle who was responsible along with a signed affidavit acknowledging such or; (c) defend the violation pursuant to the procedures established for traffic violations under this section. A vehicle owned

or leased to a corporation that is identified by a school bus violation detection monitoring system under this section shall be primarily responsible for a violation pursuant to section 14 even if a person who normally operates the vehicle for the corporation denies that he or she was operating the vehicle at the time of the violation although no entry shall be made on the person's driving record. (3) A penalty imposed may, if so provided in writing, be increased by up to 33 1/3% if the penalty remains unpaid in excess of 45 days after a citation has been issued consistent with the procedures established in this section and there has been no request for a hearing under paragraph (3) of subsection (d). (d) (1) Upon the determination of a violation through the use of a school bus violation detection monitoring system, it shall be the duty of the chief of police of the city or town, or any designee of the chief, to issue the owner or owners of the vehicle a citation pursuant to the provisions of Chapter 90C. The citation shall require the owner or owners to pay the fine amount issued pursuant to section 14 or appear before the parking clerk not later than 30 days after the date the citation was sent under the procedures established pursuant to violations under this section. The citation shall be mailed to the address of the registered owner or owners as contained in the registry or in records of the Department of Motor Vehicles in the jurisdiction in which the vehicle is registered if other than the Commonwealth for any motor vehicle identified by the school bus violation detection monitoring system as evidence of a violation of this section. Citations shall be mailed by first class mail, post marked no later than 14 days after the date of the alleged violation, inclusive of Sundays and holidays. In the case of any motor vehicle registered under the laws of another state or country, if the address is unavailable, it shall be sufficient to mail the citation to the official in the state or country having charge of the registration of the motor vehicle. The citation shall be considered sufficient notice, and a certificate of the chief of police or the chief's designee mailing the citation stating that it has

been mailed in accordance with this section shall be deemed prima facie evidence thereof and shall be admissible in any judicial or administrative proceeding as to the facts contained therein. It shall be sufficient to commence a prosecution. The chief or the chief's designee shall retain and safely preserve a copy of the Citation and shall at a time no later than the beginning of the next business day of the city or town after mailing to the owner or owners, deliver another copy to the parking clerk before whom the owner or owners have been notified to appear. The parking clerk shall maintain a docket of all such notices to appear. For purposes of this section, the date of issuance shall be the date of mailing. The police officer issuing the citation shall certify that the evidence obtained from the school bus violation detection monitoring system was sufficient to demonstrate a violation of section 14. Such certification shall be sufficient in all prosecutions pursuant to this section to justify the entry of a default judgment in all cases where the citation is not answered within the time period permitted under this section. The citation issued by the trained law enforcement officer in the jurisdiction shall contain but not be limited to the following information: (i) a citation for the violation, which shall include the name and address of the person or persons liable as an owner or owners of the motor vehicle for the violation of this section, the registration number and state of issuance of the registration number of the vehicle involved in the violation, the date, time and location of the violation, the specific violation charged, the amount of the penalty for the violation, and the date by which the penalty shall be paid; (ii) a copy of two or more still photographs, microphotographs, video or other recorded images showing the vehicle in violation of the stop arm traffic sign; (iii) a copy of the certificate or affidavit of the police officer under paragraph (1) of subsection (c); (iv) a statement that recorded video images and photographic images are evidence of a violation of section 14; (v) a schedule of fines for the violation as established by the Commonwealth; (vi) instructions

for the return of the citation notice including but not limited to the following text:— “This notice and the required payment may be returned in person, by mail, or by a duly authorized agent. A hearing to contest liability may be obtained upon the written request of the registered owner. Failure to pay the penalty or to contest liability within 30 days of issuance of this notice is an admission of liability and may result in a default judgment being entered against the owner to whom the violation has been issued and/or non-renewal or suspension of the license to drive and the certificate of registration of the registered owner.”; (vii) an affidavit form approved by the parking clerk for the purpose of complying with paragraph (5);and (viii) a statement explaining the procedure to adjudicate the violation by mail under paragraph (6) . (2) Any person notified to appear before the parking clerk, as provided in this section, may appear before the parking clerk, or his designee, and confess the offense charged, either personally or through a duly authorized agent or by mailing to the parking clerk the notice accompanied by the fine provided therein, such payment to be made only by postal note, money order or check made out to the parking clerk. Payment of the penalty established shall operate as a final disposition of the case. (3) Except as expressly provided, all prosecutions based on evidence produced by a school bus violation detection monitoring system shall follow the procedures of this section. Notwithstanding the installation and use of a live digital video school bus violation detection monitoring system on a school bus, a trained police officer in whose presence of motorist failing to stop for a stopped school bus as required under section 14, may issue a citation at the scene to the operator of such vehicle for such violation pursuant to section 14. An owner of a vehicle shall not be liable for a citation as a result of a school bus violation detection monitoring system if the operator of the vehicle was cited directly by a police officer at the scene of the violation. (4) Should any person notified to appear hereunder fail to appear and, if a penalty is provided

hereunder, to pay the same, or if the person requests a hearing to contest liability, the parking clerk shall forthwith schedule the matter before a person referred to in this section as a hearing officer. The hearing officer shall be the parking clerk of the city or town in which the violation occurred or any other person or persons that the parking clerk may designate. Written notice of the date, time and place of the hearing shall be sent by first-class mail to the registered owner or owners. The hearing shall be informal, the rules of evidence shall not apply and the decision of the hearing officer shall be final subject to judicial review as provided by Section 14 of Chapter 30A. Within 21 days of the hearing, the hearing officer shall send by first class mail to the registered owner or owners the decision of the hearing officer, including the reasons for the outcome. (5) Any owner to whom a citation has been issued shall not be liable for a violation of this section (a) if the violation was necessary to allow the passage of an emergency vehicle; (b) if the violation was necessary in order to protect the property or person of another; (c) if the violation was incurred while participating in a funeral procession; (d) if the violation was incurred during a period of time in which the motor vehicle was reported to the police department of any state, city or town as having been stolen and had not been recovered before the time the violation occurred; (e) if the operator of the motor vehicle was operating the motor vehicle under a rental or lease agreement and the owner of the motor vehicle is a rental or leasing company; (f) if the operator of the motor vehicle was convicted of the underlying violation under a citation issued in accordance with Section 2 of Chapter 90C; (g) if the violation was necessary to comply with an order of a law enforcement officer or of a flagger directing traffic flow; or (h) if the vehicle was subject to the exceptions granted to an authorized emergency vehicle under Section 7B of Chapter 89. An owner disputing a violation under this subsection shall, within 30 days of issuance of the notice, provide the parking clerk with an affidavit signed under the pains

and penalties of perjury in a form approved by the parking clerk, as provided for in clause (vii) of paragraph (1) of this subsection stating (1) the reason for disputing the violation; (2) the full legal name and address of the owner of the motor vehicle; (3) the names and addresses of all witnesses supporting the owner's defense and the specifics of their knowledge; and where applicable (4) the signed statements from witnesses. The affidavit shall be filed with the request for a hearing. (6) Any person notified to appear before the parking clerk, as provided in this paragraph, may without waiving his right to a hearing before the parking clerk or hearing officer as provided by this subsection, and also without waiving judicial review under Section 14 of Chapter 30A, challenge the validity of the citation and receive a review and disposition of the violation from the parking clerk or a hearing officer by mail. The owner may, upon receipt of the citation, send a signed statement explaining his objections to the violation notice as well as signed statements from witnesses, police officers, government officials and any other relevant parties. Photographs, diagrams, maps and other documents may also be sent with the statements. Any statements or materials sent to the parking clerk for review shall have attached the person's name and address as well as the citation number and the date of the violation. The parking clerk or hearing officer shall, within 21 days of receipt of this material, review the material and dismiss or uphold the violation and notify, by mail, the owner or owners of the disposition of the written review. If the outcome of the written review is adverse to the owner or owners, the parking clerk or hearing officer shall explain the reasons for the outcome on the notice. The review and disposition handled by mail shall be informal, the rules of evidence shall not apply, and the decision of the parking clerk or hearing officer based upon the written materials shall be final, unless the owner invokes the hearing provisions under this section or judicial review under Section 14 of Chapter 30A. (7) If any person fails to appear before the hearing officer in

accordance with the notice, or fails to receive a favorable adjudication of the hearing from a hearing officer and fails to pay the fine within 30 days of the date that the hearing officer has mailed notice of the decision of the hearing officer, the parking clerk shall notify the registrar of motor vehicles, who shall place the matter on record. Upon notification to the registrar of 2 or more citations under this section or section 14 from the parking clerk of the city or town, or state authorities or agencies, the registrar shall not issue or renew or may suspend the owner's license to operate a motor vehicle or motor vehicle registration until after notification from the parking clerk of each city, agency or authority, from whom the registrar received notification, that all fines, taxes and penalties owed by the owner under this section have been disposed of in accordance with law. Upon such notification to the registrar, an additional charge of $20 payable to the registrar but collected by the city or town, and an additional charge of $20 payable to and collected by the city or town, shall be assessed against the registered owner of the motor vehicle. It shall be the duty of the parking clerk to notify the registrar forthwith that the case has been so disposed, but certified receipt of full and final payment from the parking clerk of the city or town, or state agency or authority issuing the violation shall also serve as legal notice to the registrar that the violation has been disposed of in accordance with law. The certified receipt shall be printed in a form approved by the registrar of motor vehicles. (8) Upon the accumulation by an owner of 2 or more outstanding citations under this section or section 14 on account of violations of any statute, ordinance, order, rule or regulation relating to the operation, control or parking of motor vehicles in a particular city or town, notwithstanding any notification to the registrar, the parking clerk of the city or town may notify the chief of police or director of traffic and parking of the city or town that the vehicle bearing the registration to which the notices have been issued shall be removed and stored or otherwise immobilized by a mechanical device at the

expense of the registered owner of the vehicle until all fines, taxes and penalties owed by the owner either under this section, or otherwise arising out of the parking or usage of the owner's motor vehicle, have been disposed of in accordance with law. No vehicle shall be removed, stored, or otherwise immobilized unless the owner of the motor vehicle shall have received 10 days prior notification by mail that the motor vehicle may be removed, stored, or immobilized without further notification. It shall be sufficient for the parking clerk to mail, postage prepaid, the notification to the last known address of the registered owner. It shall be sufficient for the parking clerk, in the case of a motor vehicle registered in another state or country, to mail notification to the official in the state or country having charge of the registration of the motor vehicle. (e)(1) Other than for purposes of enforcement of a violation of this section and section 14 or for purposes of an owner defending a violation of this section, recorded video images and photographs taken or created under this section may only be obtained under an order by a court of competent jurisdiction. (2) All recorded video images and other photographic information obtained through the use of school bus violation detection monitoring systems authorized in this section that do not identify a violation shall be destroyed by any city, town, school department or vendor within 30 days of the date the image was recorded, unless otherwise ordered by a court of competent jurisdiction. All photographic and other recorded information that identifies a violation shall be destroyed within 1 year of final disposition of proceedings related to the enforcement or defense of a violation, unless otherwise ordered by a court of competent jurisdiction. Each city, town, school department, and vendor under agreement utilizing 1 or more school bus violation detection monitoring systems shall file notice attested under penalties of perjury annually within 30 days of the close of the fiscal year with the secretary of state that these records have been destroyed in accordance with this paragraph. All recorded video, audio

and other photographic information, however stored or retained, which is obtained through systems authorized in this section are the property of the municipality under agreement with a vendor and may not be used by a vendor for any other purposes; upon the expiration of any agreement authorized under this section, all of said video, audio, and/or other photographic information shall be delivered within 30 days to the particular municipality unless otherwise ordered by a court of competent jurisdiction. (3) The administrator of the school bus violation detection monitoring system within any city or town accepting this section shall also submit an annual report to the Massachusetts Department of Transportation regarding the use and operation of the monitoring system. This annual report shall contain data on the number of citations issued under this section at each particular intersection, and of those citations, shall detail the number paid without a request for a hearing; the number found responsible after a hearing; and the number dismissed after a hearing. In addition, the report shall also include the cost to maintain each said monitoring system and the amount of revenue obtained from each said monitoring system.