

SENATE No. 2573

Senate, February 27, 2020 -- Text of amendment (1) (offered by Senator DiZoglio) to the Senate Bill relative to automated enforcement

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

1 by inserting the following new section:-

2 SECTION XX. Section 14 of Chapter 90 of the General Laws is hereby amended by
3 inserting after section 14B the following section:-

4 Section 14C. (a) In addition to other monitoring devices lawfully authorized to be
5 installed in school buses and notwithstanding any general or special law to the contrary, any city
6 or town within the Commonwealth is hereby authorized to install and operate live digital video
7 school bus violation detection monitoring systems for purpose of enforcing violations against the
8 owner of a motor vehicle whose vehicle failed to stop for a school bus when required to do so by
9 the provisions of Section 14. Such systems shall be limited to monitor and detect violations of
10 motorists failing to stop for a school bus. (b) (1) As used in this section, the following words
11 shall have the following meanings: "School bus violation detection monitoring system" a camera
12 system that shall monitor and detect motor vehicles overtaking or passing school buses when
13 said buses are stopped and displaying front and rear alternating flashing red signal lamps as
14 provided in section seven B, and which has been stopped to allow pupils to alight from or board
15 the same. It shall be a system with two or more camera sensors and computers that produce live
16 digital and recorded video and 2 or more film or digital photographic still images of each motor

17 vehicle at the time it is used or operated in a manner that is in violation of Section 14 of Chapter
18 90. “Stop arm traffic control sign” a stop sign mounted on a mechanical arm installed on a school
19 bus which is deployed when a school bus is stopped to allow pupils to alight from or board the
20 same and notify motorists when it they are required to stop and when they can proceed.
21 “Violation” the failure of an operator of a motor vehicle to comply with the laws, codes,
22 regulations, by-laws, ordinances, rules or other forms of legislation governing the traffic control
23 requirements for school buses stopped to allow pupils to alight from or board same for which a
24 school bus violation detection monitoring system is installed and in operation. (2) All systems
25 installed for use under this section shall produce an evidence file that includes a live visual image
26 viewable remotely, a recorded image of the license plate and be able to record the date, time and
27 location of the vehicle committing the violation. An affidavit shall be signed by a person trained
28 to observe and detect such violations who witnesses the violation via live video provided by the
29 school bus violation detection monitoring system. (3) Recorded video images and still
30 photographic images must record the rear of the motor vehicle, with at least 1 photographic
31 image and one recorded video image clearly recording the motor vehicle immediately before the
32 violation of the stop arm traffic control sign and at least 1 photographic image and one recorded
33 video image recording the motor vehicle passing the stopped school bus with the stop arm traffic
34 control sign deployed in violation of the stop arm traffic control sign. Additionally, at least 1
35 photographic image and 1 recorded video image must clearly identify the license plate of the
36 motor vehicle. (4) To the extent practicable, any school bus violation detection monitoring
37 system shall use necessary technologies to ensure that photographs or recorded video images
38 produced by the school bus violation detection monitoring system shall not include a frontal
39 view photograph or video image of the motor vehicle that is in violation of the stop arm traffic

40 control sign or images that identify the operator, the passengers, or the contents of the vehicle,
41 but no notice of liability issued under this section shall be dismissed solely because a photograph
42 or recorded video image allow for the identification of the operator, passengers, or contents of a
43 vehicle as long as a reasonable effort has been made to comply with this paragraph. (5) Any
44 school bus installed with a school bus violation detection monitoring system shall post warning
45 signage indicating the use of such system. The signage shall remain on each bus as long as a
46 school bus violation detection monitoring system is in operation. (6) A penalty imposed for a
47 violation of this section shall not be considered a criminal conviction and shall not be considered
48 a moving violation of the motor vehicle laws for the purpose of determining surcharges on motor
49 vehicle premiums pursuant to Section 113B of Chapter 175 although as provided in this section
50 the violation shall be noted on the registered owner or owner's driving record. (7) The fines
51 contained in this section and section 14 for a failure to stop for a school bus shall be applied
52 whether the violation is detected through the use of a school bus mounted violation detection
53 monitoring system or by a police officer on scene who issues a written citation to the operator of
54 the motor vehicle. Pursuant to the provisions of Section 2 of Chapter 280, all fines imposed for a
55 violation of failing to stop for school bus in accordance with section 14 that is detected by a
56 school bus violation detection monitoring system or by a police officer who cites the operator in
57 hand shall be paid over to the treasury of the city or town where the offense was committed. (8)
58 Wherever an agreement under this section is to take effect upon its acceptance by a municipality
59 or district, or is to be effective in municipalities or districts accepting its provisions, this
60 acceptance shall be, except as otherwise provided, in a municipality, by vote of the legislative
61 body, subject to the charter of the municipality, or, in a district, by vote of the district at a district
62 meeting. A city or town may enter into an agreement with a private vendor or manufacturer to

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

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

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

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

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

178 hereunder, to pay the same, or if the person requests a hearing to contest liability, the parking
179 clerk shall forthwith schedule the matter before a person referred to in this section as a hearing
180 officer. The hearing officer shall be the parking clerk of the city or town in which the violation
181 occurred or any other person or persons that the parking clerk may designate. Written notice of
182 the date, time and place of the hearing shall be sent by first-class mail to the registered owner or
183 owners. The hearing shall be informal, the rules of evidence shall not apply and the decision of
184 the hearing officer shall be final subject to judicial review as provided by Section 14 of Chapter
185 30A. Within 21 days of the hearing, the hearing officer shall send by first class mail to the
186 registered owner or owners the decision of the hearing officer, including the reasons for the
187 outcome. (5) Any owner to whom a citation has been issued shall not be liable for a violation of
188 this section (a) if the violation was necessary to allow the passage of an emergency vehicle; (b) if
189 the violation was necessary in order to protect the property or person of another; (c) if the
190 violation was incurred while participating in a funeral procession; (d) if the violation was
191 incurred during a period of time in which the motor vehicle was reported to the police
192 department of any state, city or town as having been stolen and had not been recovered before
193 the time the violation occurred; (e) if the operator of the motor vehicle was operating the motor
194 vehicle under a rental or lease agreement and the owner of the motor vehicle is a rental or leasing
195 company; (f) if the operator of the motor vehicle was convicted of the underlying violation under
196 a citation issued in accordance with Section 2 of Chapter 90C; (g) if the violation was necessary
197 to comply with an order of a law enforcement officer or of a flagger directing traffic flow; or (h)
198 if the vehicle was subject to the exceptions granted to an authorized emergency vehicle under
199 Section 7B of Chapter 89. An owner disputing a violation under this subsection shall, within 30
200 days of issuance of the notice, provide the parking clerk with an affidavit signed under the pains

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

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

247 expense of the registered owner of the vehicle until all fines, taxes and penalties owed by the
248 owner either under this section, or otherwise arising out of the parking or usage of the owner's
249 motor vehicle, have been disposed of in accordance with law. No vehicle shall be removed,
250 stored, or otherwise immobilized unless the owner of the motor vehicle shall have received 10
251 days prior notification by mail that the motor vehicle may be removed, stored, or immobilized
252 without further notification. It shall be sufficient for the parking clerk to mail, postage prepaid,
253 the notification to the last known address of the registered owner. It shall be sufficient for the
254 parking clerk, in the case of a motor vehicle registered in another state or country, to mail
255 notification to the official in the state or country having charge of the registration of the motor
256 vehicle. (e)(1) Other than for purposes of enforcement of a violation of this section and section
257 14 or for purposes of an owner defending a violation of this section, recorded video images and
258 photographs taken or created under this section may only be obtained under an order by a court
259 of competent jurisdiction. (2) All recorded video images and other photographic information
260 obtained through the use of school bus violation detection monitoring systems authorized in this
261 section that do not identify a violation shall be destroyed by any city, town, school department or
262 vendor within 30 days of the date the image was recorded, unless otherwise ordered by a court of
263 competent jurisdiction. All photographic and other recorded information that identifies a
264 violation shall be destroyed within 1 year of final disposition of proceedings related to the
265 enforcement or defense of a violation, unless otherwise ordered by a court of competent
266 jurisdiction. Each city, town, school department, and vendor under agreement utilizing 1 or more
267 school bus violation detection monitoring systems shall file notice attested under penalties of
268 perjury annually within 30 days of the close of the fiscal year with the secretary of state that
269 these records have been destroyed in accordance with this paragraph. All recorded video, audio

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