

SENATE No. 2965

Text of amendment (Senator DiZoglio) to the Senate Bill making appropriations for the fiscal year 2021 for the maintenance of the departments, boards, commissions, institutions and certain activities of the commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (Senate, No. 4).

The Commonwealth of Massachusetts

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

1 by adding the following 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.

11 (b) (1) As used in this section, the following words shall have the following meanings:

12 “School bus violation detection monitoring system” a camera system that shall monitor
13 and detect motor vehicles overtaking or passing school buses when said buses are stopped and
14 displaying front and rear alternating flashing red signal lamps as provided in section seven B,

15 and which has been stopped to allow pupils to alight from or board the same. It shall be a system
16 with two or more camera sensors and computers that produce live digital and recorded video and
17 2 or more film or digital photographic still images of each motor vehicle at the time it is used or
18 operated in a manner that is in violation of Section 14 of Chapter 90.

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

22 “Violation” the failure of an operator of a motor vehicle to comply with the laws, codes,
23 regulations, by-laws, ordinances, rules or other forms of legislation governing the traffic control
24 requirements for school buses stopped to allow pupils to alight from or board same for which a
25 school bus violation detection monitoring system is installed and in operation.

26 (2) All systems installed for use under this section shall produce an evidence file that
27 includes a live visual image viewable remotely, a recorded image of the license plate and be able
28 to record the date, time and location of the vehicle committing the violation. An affidavit shall be
29 signed by a person trained to observe and detect such violations who witnesses the violation via
30 live video provided by the school bus violation detection monitoring system.

31 (3) Recorded video images and still photographic images must record the rear of the
32 motor vehicle, with at least 1 photographic image and one recorded video image clearly
33 recording the motor vehicle immediately before the violation of the stop arm traffic control sign
34 and at least 1 photographic image and one recorded video image recording the motor vehicle
35 passing the stopped school bus with the stop arm traffic control sign deployed in violation of the

36 stop arm traffic control sign. Additionally, at least 1 photographic image and 1 recorded video
37 image must clearly identify the license plate of the motor vehicle.

38 (4) To the extent practicable, any school bus violation detection monitoring system shall
39 use necessary technologies to ensure that photographs or recorded video images produced by the
40 school bus violation detection monitoring system shall not include a frontal view photograph or
41 video image of the motor vehicle that is in violation of the stop arm traffic control sign or images
42 that identify the operator, the passengers, or the contents of the vehicle, but no notice of liability
43 issued under this section shall be dismissed solely because a photograph or recorded video image
44 allow for the identification of the operator, passengers, or contents of a vehicle as long as a
45 reasonable effort has been made to comply with this paragraph.

46 (5) Any school bus installed with a school bus violation detection monitoring system
47 shall post warning signage indicating the use of such system. The signage shall remain on each
48 bus as long as a school bus violation detection monitoring system is in operation.

49 (6) A penalty imposed for a violation of this section shall not be considered a criminal
50 conviction and shall not be considered a moving violation of the motor vehicle laws for the
51 purpose of determining surcharges on motor vehicle premiums pursuant to Section 113B of
52 Chapter 175 although as provided in this section the violation shall be noted on the registered
53 owner or owner's driving record.

54 (7) The fines contained in this section and section 14 for a failure to stop for a school bus
55 shall be applied whether the violation is detected through the use of a school bus mounted
56 violation detection monitoring system or by a police officer on scene who issues a written
57 citation to the operator of the motor vehicle. Pursuant to the provisions of Section 2 of Chapter

58 280, all fines imposed for a violation of failing to stop for school bus in accordance with section
59 14 that is detected by a school bus violation detection monitoring system or by a police officer
60 who cites the operator in hand shall be paid over to the treasury of the city or town where the
61 offense was committed.

62 (8) Wherever an agreement under this section is to take effect upon its acceptance by a
63 municipality or district, or is to be effective in municipalities or districts accepting its provisions,
64 this acceptance shall be, except as otherwise provided, in a municipality, by vote of the
65 legislative body, subject to the charter of the municipality, or, in a district, by vote of the district
66 at a district meeting. A city or town may enter into an agreement with a private vendor or
67 manufacturer to provide a school bus violation detection monitoring system on each bus within
68 its fleet whether owned or leased, up to and including the installation, operation and maintenance
69 of such systems. Compensation paid to the manufacturer or vendor of the school bus violation
70 detection monitoring system as authorized by this section shall not be based upon the revenue
71 generated by the use of such systems. The compensation paid to the manufacturer or vendor of
72 the equipment shall be based upon the value of the equipment installed and the recurring services
73 provided in support of the school bus violation detection monitoring systems including
74 processing of evidence files, cost of the technology provided and maintenance of such
75 technology. Said agreement shall only become effective after consent by the affected local or
76 regional school department, by vote of a majority of its governing school committee.

77 (9) A city or town shall provide reimbursement of expenses to the private vendor or
78 manufacturer for the installation, operation and maintenance of the school bus violation detection
79 monitoring systems in operation and acknowledged by an agreement between the private vendor
80 and the school department that has adopted this section. Unless modified by an agreement with a

81 city or town, reimbursement shall be made from ticket revenue proceeds incurred under this
82 section only if received as currently allocated under the laws of the Commonwealth for said
83 citations so as to eliminate any cost to the city or town for installation, operation and
84 maintenance of the school bus violation detection monitoring systems in its municipality. Such
85 reimbursement shall be made to the private vendor or manufacturer within 45 days following the
86 submittal of request for cost reimbursement. Such reimbursement shall not exceed 50% of the
87 ticket revenue proceeds in any preceding period. If such violations occur on highways or roads
88 controlled by the Commonwealth, then reimbursement for installing, operating, and maintaining
89 school bus violation detection systems shall be permitted from the Commonwealth to the private
90 vendor from ticket proceeds pursuant to this section only.

91 (c) (1) An evidence file of the alleged violation and the signed affidavit shall be
92 forwarded to a trained law enforcement officer in the jurisdiction who is trained to observe and
93 detect a violation for failure to stop for a stopped school bus allowing pupils to alight or board
94 the same. The officer shall issue a citation if he or she is satisfied that a violation was committed
95 under section 14 and the vehicle committing such violation can be identified from its registration
96 plate. A certificate, or a facsimile thereof sworn to or affirmed by a police officer or other law
97 enforcement officer authorized to issue motor vehicle citations for violations of traffic laws,
98 stating that based upon inspection of the evidence file produced by a school bus violation
99 detection monitoring system, the vehicle was in violation of this section, shall be prima facie
100 evidence of the facts contained therein. Any recorded video images or still photographic images
101 produced by a school bus violation detection monitoring system evidencing the violation shall be
102 available for inspection in any proceeding to adjudicate the liability for the violation adopted
103 under this section.

104 (2) In all prosecutions of civil traffic violations based on evidence obtained from a school
105 bus violation detection monitoring system the registered owner of the motor vehicle shall be
106 primarily responsible pursuant to the provisions of this chapter except as otherwise provided in
107 this section. In the event the registered owner of the vehicle operated in violation of this chapter
108 was not the operator of the vehicle at the time of the violation the registered owner of the vehicle
109 shall either (a) assume liability for the violation by paying the fine or; (b) upon written receipt of
110 the citation provide the issuing authority within 30 days of the date of issuance, the name,
111 address and registration number {license plate} of the operator of the vehicle who was
112 responsible along with a signed affidavit acknowledging such or; (c) defend the violation
113 pursuant to the procedures established for traffic violations under this section. A vehicle owned
114 or leased to a corporation that is identified by a school bus violation detection monitoring system
115 under this section shall be primarily responsible for a violation pursuant to section 14 even if a
116 person who normally operates the vehicle for the corporation denies that he or she was operating
117 the vehicle at the time of the violation although no entry shall be made on the person's driving
118 record.

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

123 (d) (1) Upon the determination of a violation through the use of a school bus violation
124 detection monitoring system, it shall be the duty of the chief of police of the city or town, or any
125 designee of the chief, to issue the owner or owners of the vehicle a citation pursuant to the
126 provisions of Chapter 90C. The citation shall require the owner or owners to pay the fine amount

127 issued pursuant to section 14 or appear before the parking clerk not later than 30 days after the
128 date the citation was sent under the procedures established pursuant to violations under this
129 section. The citation shall be mailed to the address of the registered owner or owners as
130 contained in the registry or in records of the Department of Motor Vehicles in the jurisdiction in
131 which the vehicle is registered if other than the Commonwealth for any motor vehicle identified
132 by the school bus violation detection monitoring system as evidence of a violation of this section.
133 Citations shall be mailed by first class mail, post marked no later than 14 days after the date of
134 the alleged violation, inclusive of Sundays and holidays. In the case of any motor vehicle
135 registered under the laws of another state or country, if the address is unavailable, it shall be
136 sufficient to mail the citation to the official in the state or country having charge of the
137 registration of the motor vehicle. The citation shall be considered sufficient notice, and a
138 certificate of the chief of police or the chief's designee mailing the citation stating that it has
139 been mailed in accordance with this section shall be deemed prima facie evidence thereof and
140 shall be admissible in any judicial or administrative proceeding as to the facts contained therein.
141 It shall be sufficient to commence a prosecution. The chief or the chief's designee shall retain
142 and safely preserve a copy of the Citation and shall at a time no later than the beginning of the
143 next business day of the city or town after mailing to the owner or owners, deliver another copy
144 to the parking clerk before whom the owner or owners have been notified to appear. The parking
145 clerk shall maintain a docket of all such notices to appear. For purposes of this section, the date
146 of issuance shall be the date of mailing. The police officer issuing the citation shall certify that
147 the evidence obtained from the school bus violation detection monitoring system was sufficient
148 to demonstrate a violation of section 14. Such certification shall be sufficient in all prosecutions
149 pursuant to this section to justify the entry of a default judgment in all cases where the citation is

150 not answered within the time period permitted under this section. The citation issued by the
151 trained law enforcement officer in the jurisdiction shall contain but not be limited to the
152 following information: (i) a citation for the violation, which shall include the name and address
153 of the person or persons liable as an owner or owners of the motor vehicle for the violation of
154 this section, the registration number and state of issuance of the registration number of the
155 vehicle involved in the violation, the date, time and location of the violation, the specific
156 violation charged, the amount of the penalty for the violation, and the date by which the penalty
157 shall be paid; (ii) a copy of two or more still photographs, microphotographs, video or other
158 recorded images showing the vehicle in violation of the stop arm traffic sign; (iii) a copy of the
159 certificate or affidavit of the police officer under paragraph (1) of subsection (c); (iv) a statement
160 that recorded video images and photographic images are evidence of a violation of section 14;
161 (v) a schedule of fines for the violation as established by the Commonwealth; (vi) instructions
162 for the return of the citation notice including but not limited to the following text:— “This notice
163 and the required payment may be returned in person, by mail, or by a duly authorized agent. A
164 hearing to contest liability may be obtained upon the written request of the registered owner.
165 Failure to pay the penalty or to contest liability within 30 days of issuance of this notice is an
166 admission of liability and may result in a default judgment being entered against the owner to
167 whom the violation has been issued and/or non-renewal or suspension of the license to drive and
168 the certificate of registration of the registered owner.”; (vii) an affidavit form approved by the
169 parking clerk for the purpose of complying with paragraph (5); and (viii) a statement explaining
170 the procedure to adjudicate the violation by mail under paragraph (6) .

171 (2) Any person notified to appear before the parking clerk, as provided in this section,
172 may appear before the parking clerk, or his designee, and confess the offense charged, either

173 personally or through a duly authorized agent or by mailing to the parking clerk the notice
174 accompanied by the fine provided therein, such payment to be made only by postal note, money
175 order or check made out to the parking clerk. Payment of the penalty established shall operate as
176 a final disposition of the case.

177 (3) Except as expressly provided, all prosecutions based on evidence produced by a
178 school bus violation detection monitoring system shall follow the procedures of this section.
179 Notwithstanding the installation and use of a live digital video school bus violation detection
180 monitoring system on a school bus, a trained police officer in whose presence of motorist failing
181 to stop for a stopped school bus as required under section 14, may issue a citation at the scene to
182 the operator of such vehicle for such violation pursuant to section 14. An owner of a vehicle shall
183 not be liable for a citation as a result of a school bus violation detection monitoring system if the
184 operator of the vehicle was cited directly by a police officer at the scene of the violation.

185 (4) Should any person notified to appear hereunder fail to appear and, if a penalty is
186 provided hereunder, to pay the same, or if the person requests a hearing to contest liability, the
187 parking clerk shall forthwith schedule the matter before a person referred to in this section as a
188 hearing officer. The hearing officer shall be the parking clerk of the city or town in which the
189 violation occurred or any other person or persons that the parking clerk may designate. Written
190 notice of the date, time and place of the hearing shall be sent by first-class mail to the registered
191 owner or owners. The hearing shall be informal, the rules of evidence shall not apply and the
192 decision of the hearing officer shall be final subject to judicial review as provided by Section 14
193 of Chapter 30A. Within 21 days of the hearing, the hearing officer shall send by first class mail
194 to the registered owner or owners the decision of the hearing officer, including the reasons for
195 the outcome.

196 (5) Any owner to whom a citation has been issued shall not be liable for a violation of
197 this section (a) if the violation was necessary to allow the passage of an emergency vehicle; (b) if
198 the violation was necessary in order to protect the property or person of another; (c) if the
199 violation was incurred while participating in a funeral procession; (d) if the violation was
200 incurred during a period of time in which the motor vehicle was reported to the police
201 department of any state, city or town as having been stolen and had not been recovered before
202 the time the violation occurred; (e) if the operator of the motor vehicle was operating the motor
203 vehicle under a rental or lease agreement and the owner of the motor vehicle is a rental or leasing
204 company; (f) if the operator of the motor vehicle was convicted of the underlying violation under
205 a citation issued in accordance with Section 2 of Chapter 90C; (g) if the violation was necessary
206 to comply with an order of a law enforcement officer or of a flagger directing traffic flow; or (h)
207 if the vehicle was subject to the exceptions granted to an authorized emergency vehicle under
208 Section 7B of Chapter 89. An owner disputing a violation under this subsection shall, within 30
209 days of issuance of the notice, provide the parking clerk with an affidavit signed under the pains
210 and penalties of perjury in a form approved by the parking clerk, as provided for in clause (vii)
211 of paragraph (1) of this subsection stating (1) the reason for disputing the violation; (2) the full
212 legal name and address of the owner of the motor vehicle; (3) the names and addresses of all
213 witnesses supporting the owner's defense and the specifics of their knowledge; and where
214 applicable (4) the signed statements from witnesses. The affidavit shall be filed with the request
215 for a hearing.

216 (6) Any person notified to appear before the parking clerk, as provided in this paragraph,
217 may without waiving his right to a hearing before the parking clerk or hearing officer as provided
218 by this subsection, and also without waiving judicial review under Section 14 of Chapter 30A,

219 challenge the validity of the citation and receive a review and disposition of the violation from
220 the parking clerk or a hearing officer by mail. The owner may, upon receipt of the citation, send
221 a signed statement explaining his objections to the violation notice as well as signed statements
222 from witnesses, police officers, government officials and any other relevant parties. Photographs,
223 diagrams, maps and other documents may also be sent with the statements. Any statements or
224 materials sent to the parking clerk for review shall have attached the person's name and address
225 as well as the citation number and the date of the violation. The parking clerk or hearing officer
226 shall, within 21 days of receipt of this material, review the material and dismiss or uphold the
227 violation and notify, by mail, the owner or owners of the disposition of the written review. If the
228 outcome of the written review is adverse to the owner or owners, the parking clerk or hearing
229 officer shall explain the reasons for the outcome on the notice. The review and disposition
230 handled by mail shall be informal, the rules of evidence shall not apply, and the decision of the
231 parking clerk or hearing officer based upon the written materials shall be final, unless the owner
232 invokes the hearing provisions under this section or judicial review under Section 14 of Chapter
233 30A.

234 (7) If any person fails to appear before the hearing officer in accordance with the notice,
235 or fails to receive a favorable adjudication of the hearing from a hearing officer and fails to pay
236 the fine within 30 days of the date that the hearing officer has mailed notice of the decision of the
237 hearing officer, the parking clerk shall notify the registrar of motor vehicles, who shall place the
238 matter on record. Upon notification to the registrar of 2 or more citations under this section or
239 section 14 from the parking clerk of the city or town, or state authorities or agencies, the registrar
240 shall not issue or renew or may suspend the owner's license to operate a motor vehicle or motor
241 vehicle registration until after notification from the parking clerk of each city, agency or

242 authority, from whom the registrar received notification, that all fines, taxes and penalties owed
243 by the owner under this section have been disposed of in accordance with law. Upon such
244 notification to the registrar, an additional charge of \$20 payable to the registrar but collected by
245 the city or town, and an additional charge of \$20 payable to and collected by the city or town,
246 shall be assessed against the registered owner of the motor vehicle. It shall be the duty of the
247 parking clerk to notify the registrar forthwith that the case has been so disposed, but certified
248 receipt of full and final payment from the parking clerk of the city or town, or state agency or
249 authority issuing the violation shall also serve as legal notice to the registrar that the violation has
250 been disposed of in accordance with law. The certified receipt shall be printed in a form
251 approved by the registrar of motor vehicles.

252 (8) Upon the accumulation by an owner of 2 or more outstanding citations under this
253 section or section 14 on account of violations of any statute, ordinance, order, rule or regulation
254 relating to the operation, control or parking of motor vehicles in a particular city or town,
255 notwithstanding any notification to the registrar, the parking clerk of the city or town may notify
256 the chief of police or director of traffic and parking of the city or town that the vehicle bearing
257 the registration to which the notices have been issued shall be removed and stored or otherwise
258 immobilized by a mechanical device at the expense of the registered owner of the vehicle until
259 all fines, taxes and penalties owed by the owner either under this section, or otherwise arising out
260 of the parking or usage of the owner's motor vehicle, have been disposed of in accordance with
261 law. No vehicle shall be removed, stored, or otherwise immobilized unless the owner of the
262 motor vehicle shall have received 10 days prior notification by mail that the motor vehicle may
263 be removed, stored, or immobilized without further notification. It shall be sufficient for the
264 parking clerk to mail, postage prepaid, the notification to the last known address of the registered

265 owner. It shall be sufficient for the parking clerk, in the case of a motor vehicle registered in
266 another state or country, to mail notification to the official in the state or country having charge
267 of the registration of the motor vehicle.

268 (e)(1) Other than for purposes of enforcement of a violation of this section and section 14
269 or for purposes of an owner defending a violation of this section, recorded video images and
270 photographs taken or created under this section may only be obtained under an order by a court
271 of competent jurisdiction.

272 (2) All recorded video images and other photographic information obtained through the
273 use of school bus violation detection monitoring systems authorized in this section that do not
274 identify a violation shall be destroyed by any city, town, school department or vendor within 30
275 days of the date the image was recorded, unless otherwise ordered by a court of competent
276 jurisdiction. All photographic and other recorded information that identifies a violation shall be
277 destroyed within 1 year of final disposition of proceedings related to the enforcement or defense
278 of a violation, unless otherwise ordered by a court of competent jurisdiction. Each city, town,
279 school department, and vendor under agreement utilizing 1 or more school bus violation
280 detection monitoring systems shall file notice attested under penalties of perjury annually within
281 30 days of the close of the fiscal year with the secretary of state that these records have been
282 destroyed in accordance with this paragraph. All recorded video, audio and other photographic
283 information, however stored or retained, which is obtained through systems authorized in this
284 section are the property of the municipality under agreement with a vendor and may not be used
285 by a vendor for any other purposes; upon the expiration of any agreement authorized under this
286 section, all of said video, audio, and/or other photographic information shall be delivered within

287 30 days to the particular municipality unless otherwise ordered by a court of competent
288 jurisdiction.

289 (3) The administrator of the school bus violation detection monitoring system within any
290 city or town accepting this section shall also submit an annual report to the Massachusetts
291 Department of Transportation regarding the use and operation of the monitoring system. This
292 annual report shall contain data on the number of citations issued under this section at each
293 particular intersection, and of those citations, shall detail the number paid without a request for a
294 hearing; the number found responsible after a hearing; and the number dismissed after a hearing.
295 In addition, the report shall also include the cost to maintain each said monitoring system and the
296 amount of revenue obtained from each said monitoring system.