ASSEMBLY, No. 940

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman ROBERT J. KARABINCHAK
District 18 (Middlesex)
Assemblywoman JOANN DOWNEY
District 11 (Monmouth)

SYNOPSIS

Authorizes use of school bus monitoring systems.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning school bus safety, amending P.L.1942, c.192, and supplementing Title 39 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.1942, c.192 (C.39:4-128.1) is amended to read as follows:

1. a. On highways having roadways not divided by safety islands or physical traffic separation installations, the driver of a vehicle approaching or overtaking a bus, which is being used for the transportation of children to or from school or a summer day camp or any school connected activity, or which is being used for the transportation of a person who has a developmental disability, and which has stopped for the purpose of receiving or discharging any child or a person who has a developmental disability, shall stop **[**such**]** the vehicle not less than 25 feet from **[**such**]** the school bus and keep **[**such**]** the vehicle stationary until **[**such**]** any child or person who has a developmental disability has entered **[**said**]** the bus or has alighted and reached the side of **[**such**]** the highway and until a flashing red light is no longer exhibited by the bus; provided, **[**such**]** the bus is designated as a school bus by one sign on the front and one sign on the rear, with each letter on **[**such signs**]** any sign at least four inches in height.

On highways having dual or multiple roadways separated by safety islands or physical traffic separation installations, the driver of a vehicle overtaking a school bus, which has stopped for the purpose of receiving or discharging any child or any person who has a developmental disability, shall stop **[**such**]** the vehicle not less than 25 feet from such school bus and keep **[**such**]** the vehicle stationary until **[**such**]** any child or person who has a developmental disability has entered **[**said**]** the bus or has alighted and reached the side of the highway and until a flashing red light is no longer exhibited by the bus.

On highways having dual or multiple roadways separated by safety islands or physical traffic separation installations, the driver of a vehicle on another roadway approaching a school bus, which has stopped for the purpose of receiving or discharging any child, or any person who has a developmental disability shall reduce the speed of his vehicle to not more than 10 miles per hour and shall not resume normal speed until the vehicle has passed the bus and has passed any child who may have alighted therefrom or be about to enter **[**said**]** the bus.

For purposes of this section, "highway" means the entire width between the boundary lines of every way whether publicly or

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

privately maintained when any part [thereof] is open to the public for purposes of vehicular travel.

Whenever a school bus is parked at the curb for the purpose of receiving children directly from a school or a summer day camp or any school connected activity or discharging children to enter a school, or a summer day camp or any school connected activity, which is located on the same side of the street as that on which the bus is parked, drivers of vehicles shall be permitted to pass [said] the bus without stopping, but at a speed not in excess of 10 miles per hour.

Whenever a school bus is parked at the curb for the purpose of receiving or discharging a person who has a developmental disability on the same side of the street as that on which the bus is parked, drivers of vehicles shall be permitted to pass the bus without stopping, but at a speed not in excess of 10 miles per hour.

The driver of a bus which is being used for the transportation of children to or from school or a summer day camp or any school connected activity, or for the transportation of a person who has a developmental disability shall continue to exhibit a flashing red light and shall not start [his] the bus until every child who may have alighted therefrom shall have reached a place of safety.

[Any] b. A person who [shall violate] violates any provision of [this act] subsection a. of this section shall be subject to (1) a fine of [not less than $100.00] $250, (2) [imprisonment for not more than 15 days or] community service for not more than 15 days in [such] the form and on [such] terms as the court shall deem appropriate, (3) or both for the first offense, and a fine [not less than $250.00, imprisonment] of $500 and community service for not [more] less than 15 days [, or both] in the form and on the terms as the court shall deem appropriate for each subsequent offense. The penalties shall be enforced and recovered pursuant to the provisions of chapter 5 of Title 39 of the Revised Statutes. There shall be a rebuttable presumption that the registered owner of the vehicle which was involved in the violation of this section was the person who committed the act. Any person who suppresses, by way of concealment or destruction, any evidence of a violation of this section or who suppresses the identity of the violator shall be subject to a fine of $100.

The Chief Administrator of the New Jersey Motor Vehicle Commission may also revoke the license to drive a motor vehicle of any person who shall have been guilty of [such] the willful violation of any of the provisions of this act as shall, in the discretion of the chief administrator, justify [such] the revocation, but the chief administrator shall, at all times, have power to validate [such] a license which has been revoked, or to grant a new license to any person whose license to drive a motor vehicle shall have been revoked pursuant to this act.

c. Notwithstanding any provision of this section to the contrary, a person who violates any provision of subsection a. of this section where the evidence of the violation is captured by a school bus monitoring system administered pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), shall be subject solely to a civil penalty of $250, which shall be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). A person found liable shall not be assessed any penalty points pursuant to the provisions of section 1 of P.L.1982, c.43 (C.39:5-30.5), and shall not be subject to automobile insurance eligibility points pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14). Notwithstanding any provisions of R.S.39:5-41 to the contrary, wherever a municipality or school district installs, operates, and maintains a school bus monitoring system, or contracts with a private vendor for a system and those services, any civil penalty imposed and collected pursuant to this subsection that is based upon recorded images captured by the school bus monitoring system shall be forwarded to the financial officer of that municipality and used for general municipal and school district purposes, including efforts to improve the monitoring and enforcement of subsection a. of this section through the utilization of a school bus monitoring system and other public education safety programs. There shall be a rebuttable presumption that the registered owner of the vehicle which was involved in the violation of this section was the operator of the vehicle at the time the violation occurred. A person who suppresses, by way of concealment or destruction, any evidence of a violation of this section or who suppresses the identity of the violator shall be subject to a fine of $100.

(cf: P.L.2012, c.20, s.2)

2. (New section) The Legislature finds and declares that:

a. Motorists who illegally pass a school bus that is stopped to pick up or discharge children dramatically increase the likelihood of accidents that endanger the safety and well-being of bus riding children.

b. The installation and use of a school bus monitoring system, which complements the efforts of local law enforcement, could serve as an effective public safety tool to keep children safer while entering, exiting, or riding a school bus.

c. It is altogether fitting and proper, and within the public interest, to authorize a program to permit municipalities and school districts operating or providing Type I or Type II school buses that transport students to contract with private vendors to provide for the installation, operation, and maintenance of school bus monitoring systems on school buses in order to assist in the enforcement of section 1 of P.L.1942, c.192 (C.39:4-128.1).

3. (New section) As used in this act:

"Recorded image" means a digital image or video recorded by a school bus monitoring system.

"School bus" means a "School Vehicle Type I" and "School Vehicle Type II" as defined in R.S.39:1-1.

"School bus monitoring system" means a system meeting the requirements set forth in section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) and having at least one camera and computer that captures and records a live digital video or image of any motor vehicle operating near a school bus.

"School district" means a local school district, regional school district, consolidated school district, county vocational school district, jointure commission, county special services school district, or educational services commission.

"Summons" means a citation alleging a violation of subsection a. of section 1 of P.L.1942, c.192 (C.39:4-128.1).

4. (New section) a. A municipality or school district which operates or provides school buses that transport students may contract with a private vendor to provide for the installation, operation, and maintenance of a school bus monitoring system on any school bus to assist in the enforcement of subsection a. of section 1 of P.L.1942, c.192 (C.39:4-128.1).

b. (1) A school bus monitoring system shall be capable of capturing and producing a video record of any occurrence that may be considered a violation of subsection a. of section 1 of P.L.1942, c.192 (C.39:4-128.1) and high resolution color digital recorded images that indicate:

(a) if the flashing light and crossing control arm of a school bus are activated, as required pursuant to section 1 of P.L.1965, c.119 (C.39:3B-1);

(b) if a motor vehicle passes a school bus while the bus is exhibiting a flashing light or crossing control arm;

(c) a sufficient portion of the rear of the motor vehicle that passes the school bus in violation of subsection a. of section 1 of P.L.1942, c.192 (C.39:4-128.1), to clearly reveal the license plate and the make and model of the motor vehicle; and

(d) the date, time, and location of the violation.

(2) A digital analog or camera system may be used as part of a school bus monitoring system provided the images of any violation are captured by the system, or a multiple-camera system, and produce a recorded image, in color, of:

(a) the school bus exhibiting a flashing light or an electronic indicator that the flashing light is activated, noted along the bottom edge of the image;

(b) the motor vehicle passing the school bus;

(c) the license plate, make, and model of the motor vehicle; and

(d) the date, time, and location of the violation, which shall specify the minute, hour, day, month, and year.

5. (New section) a. If a school district or municipality enters into a contract with a private vendor to provide for the installation, operation, and maintenance of a school bus monitoring system pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), a recorded image of a suspected violation of subsection a. of section 1 of P.L.1942, c.192 (C.39:4-128.1) captured by a school bus monitoring system shall be made available to the chief law enforcement officer of the municipality in which the violation occurred.

Each chief law enforcement officer shall assign a law enforcement officer of the municipality to review the recorded images of a suspected violation of subsection a. of section 1 of P.L.1942, c.192 (C.39:4-128.1) made available by any school bus monitoring system. In conducting the review, the law enforcement officer shall determine whether there is sufficient evidence to conclude that a violation of subsection a. of section 1 of P.L.1942, c.192 (C.39:4-128.1) occurred and shall issue, within 90 days of the date on which the violation occurred, a summons if appropriate. A summons shall not be issued for a violation occurring more than 90 days from the date of the violation.

A summons issued pursuant to this section shall be served by a law enforcement officer in accordance with the Rules of Court. Except as otherwise provided in this subsection, any recorded image produced by a school bus monitoring system shall be available for the exclusive use of any law enforcement officer for the purpose of discharging the officer's duties under subsection a. of section 1 of P.L.1942, c.192 (C.39:4-128.1).

b. Any recorded image or information produced in connection with a school bus monitoring system shall not be deemed to be a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.). A recorded image shall not be discoverable as a public record by any person, entity, or governmental agency, except upon a subpoena issued by a grand jury or a court order in a criminal matter, nor shall it be offered in evidence in any civil or administrative proceeding not directly related to a violation of subsection a. of section 1 of P.L.1942, c.192 (C.39:4-128.1).

Any recorded image or information produced in connection with a school bus monitoring system pertaining to a specific violation shall not be retained for more than 60 days after the collection of any civil penalty imposed, and shall be purged. All recorded images and information collected and not resulting in the issuance of a summons shall be purged within 95 days of the recording.

c. Except as provided in subsection d. of this section, the owner of a motor vehicle shall be liable for a summons issued for a violation of subsection a. of section 1 of P.L.1942, c.192 (C.39:4-

128.1) as evidenced by a recorded image captured by a school bus monitoring system installed and used in accordance with P.L. , c. (C.) (pending before the Legislature as this bill).

d. A lessor or owner of a motor vehicle shall not be liable for a summons issued pursuant to this section if:

(1) the lessor demonstrates that the motor vehicle was used without the lessor's express or implied consent. The lessor shall notify the clerk of the court where the case is pending by a notarized affidavit of the circumstances of the exception by providing the name and address of the motor vehicle operator or registrant;

(2) the lessee was operating or in possession of the motor vehicle at the time of the alleged violation of subsection a. of section 1 of P.L.1942, c.192 (C.39:4-128.1). The lessor at the time of the offense shall notify the clerk of the court where the case is pending by a notarized affidavit of the circumstances of the exception by providing the name and address of the lessee, after which the lessor shall not be required to attend any hearing for the offense unless directed by the court; or

(3) the owner, lessor, or lessee demonstrates that the motor vehicle was stolen at the time the violation occurred. The owner or lessee shall notify the clerk of the court where the case is pending by a notarized affidavit of the circumstances of the exception by providing a copy of the police report regarding the theft of the motor vehicle.

Any notarized affidavit submitted pursuant to this subsection shall be in a form prescribed by the Administrative Director of the Courts.

e. An owner or lessor of a motor vehicle who pays any civil penalty or fee for a violation issued in connection with a recorded image captured by a school bus monitoring system shall have the right to recover that sum from the operator of the motor vehicle in a court of competent jurisdiction.

6. (New section) a. The Commissioner of Education, the Superintendent of State Police, and the Chief Administrator of the New Jersey Motor Vehicle Commission shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to effectuate the purposes of this act, including, but not limited to, specifications and certification procedures for the school bus monitoring systems and devices that may be installed under the provisions of this act.

b. The Supreme Court of New Jersey may adopt Rules of Court as appropriate or necessary to effectuate the purposes of this act.

7. This act shall take effect on the first day of the seventh month next following enactment, but the Commissioner of Education, the Superintendent of State Police, and the Chief

Administrator of the New Jersey Motor Vehicle Commission may take any anticipatory administrative action in advance of that date as shall be necessary for the implementation of this act.

STATEMENT

This bill authorizes the use of a school bus monitoring system to enforce section 1 of P.L.1942, c.192 (C.39:4-128.1), the State law governing passing a school bus. A school bus monitoring system is defined as a system meeting certain requirements set forth in the bill and having at least one camera and computer that captures and records a digital video or image of any motor vehicle operating near a school bus.

Under current law, school buses are required to exhibit flashing red lights when the bus has stopped for the purpose of receiving or discharging any person with a developmental disability or a child. Drivers of vehicles approaching or overtaking the school bus are required to stop at least 25 feet from a school bus that has activated its flashing lights. The penalty for violating this law, for a first offense, is: 1) a fine of no less than $100; 2) imprisonment for no more than 15 days or community service; or 3) both. For subsequent offenses, the penalty is: 1) a fine of no less than $250; 2) imprisonment for no less than 15 days; or 3) both. This bill provides that the penalty for violating the law, when the violation is not evidenced by the recorded images captured by a school bus monitoring system, would be: 1) a fine of $250; 2) 15 days of community service; or 3) both, in the case of a first offense. For each subsequent offense, the penalty would be a fine of $500 and no less than 15 days of community service.

Under the bill, a civil penalty of $250 would be imposed on a person who passes a school bus in violation of current law if the violation is evidenced by the recorded images captured by a school bus monitoring system. Under these circumstances, any civil penalty imposed and collected for this violation is to be forwarded to the financial officer of the municipality in which the violation occurred and used for general municipal and school district purposes, including efforts to improve the monitoring and enforcement of this law through the utilization of a school bus monitoring system and other public education safety programs. A violation that is evidenced by the recorded images captured by a school bus monitoring system would not result in penalty points or automobile insurance eligibility points being assessed on the violator.

The bill authorizes a municipality or school district operating or providing Type I or Type II school buses that transport students to contract with a private vendor to provide for the installation, operation, and maintenance of a school bus monitoring system for enforcement purposes. The bill provides that a school bus monitoring system must be capable of capturing and producing a record of any occurrence that

may be considered illegal passing of a school bus, and include in that recorded image:

-- if the school bus is exhibiting its flashing light;

-- if a motor vehicle passes a school bus;

-- the license plate, make, and model of the violating vehicle; and

-- the date, time, and location of the violation.

The bill requires any suspected violation captured in a recorded image produced by a school bus monitoring system to be made available to the chief law enforcement officer of the municipality in which the violation occurred. A law enforcement officer is to issue a summons within 90 days of determining that a suspected violation occurred. A summons may not be issued for a violation occurring more than 90 days from date of the violation.

The bill provides that any recorded image or information produced in connection with a school bus monitoring system is not a public record under New Jersey's "Open Public Records Act," is not discoverable as a public record except upon a subpoena issued by a grand jury or a court order in a criminal matter, and is not to be offered into evidence in any civil or administrative proceeding unless directly related to illegally passing a school bus.

The bill provides that recorded images or information produced in connection with a school bus monitoring system pertaining to a specific violation are not to be retained for more than 60 days after the collection of any civil penalty imposed, and are then to be purged. All recorded images and information collected but not resulting in the issuance of a summons are to be purged within 95 days of the recording.

The bill provides that the owner of a motor vehicle is liable for a summons for illegally passing a school bus as evidenced by a recorded image captured by a school bus monitoring system. However, a lessor or owner of a motor vehicle is not liable for a summons if:

-- the lessor demonstrates that the vehicle was used without the lessor's express or implied consent, and provides the name and address of the vehicle operator or registrant;

-- the lessee was operating or in possession of the vehicle at the time of the violation and the lessor provides the name and address of the lessee; or

-- the owner, lessor, or lessee demonstrates that the vehicle was stolen at the time the violation occurred and provides a copy of the police report regarding the vehicle theft.

The bill permits the Commissioner of Education, the Superintendent of State Police, and the Chief Administrator of the New Jersey Motor Vehicle Commission to adopt rules and regulations to effectuate the purposes of the bill, including specifications and certification procedures for the school bus monitoring systems and devices that may be installed. The bill also permits the Supreme Court of New Jersey to adopt Rules of Court as appropriate or necessary to effectuate the purposes of the substitute.

The bill will take effect on the first day of the seventh month next following enactment, but permits the Commissioner of Education, the Superintendent of State Police, and the Chief Administrator of the New Jersey Motor Vehicle Commission to take anticipatory administrative actions in advance of the bill's effective date.