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SENATE BILL 298
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PROPOSED HOUSE COMMITTEE SUBSTITUTE S298-PCS45408-TG-38

Short Title: School Bus Cameras/Civil Penalties.

(Public)

Sponsors:

Referred to:

March 18, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE USE OF PHOTOGRAPHIC OR VIDEO EVIDENCE FOR
3 THE CIVIL ENFORCEMENT OF VIOLATIONS FOR PASSING A STOPPED SCHOOL
4 BUS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 12 of Chapter 153A of the General Statutes is amended by
7 adding a new section to read:

8 "§ 153A-246. Use of photographs or videos recorded by automated school bus safety
9 cameras.

10 (a) Definitions. – The following definitions apply in this section:

11 (1) Automated school bus safety camera. – As defined in G.S. 115C-242.1.

12 (2) Officials or agents. – This term includes a local board of education located
13 within the county or a private vendor contracted with under
14 G.S. 115C-242.1.

15 (3) School bus. – As used in G.S. 20-217.

16 (b) Civil Enforcement. – A county may adopt an ordinance for the civil enforcement of
17 G.S. 20-217 by means of an automated school bus safety camera installed and operated on any
18 school bus located within that county. Notwithstanding the provisions of G.S. 14-4, in the event
19 that a county adopts an ordinance pursuant to this section, a violation of the ordinance shall not
20 be an infraction. An ordinance authorized by this subsection shall provide all of the following:

21 (1) The notice of the violation shall be given in the form of a citation and shall
22 be received by the registered owner of the vehicle no more than 60 days after
23 the date of the violation.

24 (2) The registered owner of a vehicle shall be responsible for a violation unless
25 the vehicle was, at the time of the violation, in the care, custody, or control
26 of another person or unless the citation was not received by the registered
27 owner within 60 days after the date of the violation.

28 (3) A person wishing to contest a citation shall, within 30 days after receiving
29 the citation, deliver to the officials or agents of the county that issued the
30 citation a written request for a hearing accompanied by an affidavit stating
31 the basis for contesting the citation, including, as applicable:

32 a. The name and address of the person other than the registered owner
33 who had the care, custody, or control of the vehicle.



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- 1 b. A statement that the vehicle involved was stolen at the time of the
2 violation, with a copy of any insurance report or police report
3 supporting this statement.
- 4 c. A statement that the citation was not received within 60 days after
5 the date of the violation, and a statement of the date on which the
6 citation was received.
- 7 d. A copy of a criminal pleading charging the person with a violation of
8 G.S. 20-217 arising out of the same facts as those for which the
9 citation was issued.
- 10 (4) The citation shall include all of the following:
- 11 a. The date and time of the violation, the location of the violation, the
12 amount of the civil monetary penalty imposed, and the date by which
13 the civil monetary penalty shall be paid or contested.
- 14 b. An image taken from the recorded image showing the vehicle
15 involved in the violation.
- 16 c. A copy of a statement or electronically generated affirmation of a
17 county employee, or a law enforcement officer employed by a law
18 enforcement agency with whom an agreement has been reached
19 pursuant to G.S. 115C-242.1(c), stating that, based upon inspection
20 of the recorded images, the owner's motor vehicle was operated in
21 violation of the ordinance adopted pursuant to this subsection.
- 22 d. Instructions explaining the manner in which and the time within
23 which liability under the citation may be contested pursuant to
24 subdivision (3) of this subsection.
- 25 e. A warning that failure to pay the civil monetary penalty or to contest
26 liability in a timely manner shall waive any right to contest liability
27 and shall result in a late penalty of one hundred dollars (\$100.00), in
28 addition to the civil monetary penalty.
- 29 f. In citations issued to the registered owner of the vehicle, a warning
30 that failure to pay the civil monetary penalty or to contest liability in
31 a timely manner shall result in refusal by the Division of Motor
32 Vehicles to register the motor vehicle, in addition to imposition of
33 the civil monetary penalty and late penalty.
- 34 (5) Violations of the ordinance shall be deemed a noncriminal violation for
35 which a civil penalty shall be assessed and for which no points authorized by
36 G.S. 20-16(c) and no insurance points authorized by G.S. 58-36-65 shall be
37 assigned to the registered owner or driver of the vehicle. The amount of such
38 penalty shall be four hundred dollars (\$400.00) for the first offense, seven
39 hundred fifty dollars (\$750.00) for the second violation, and one thousand
40 dollars (\$1,000) for each subsequent violation of the ordinance.
- 41 (6) If a registered owner provides an affidavit that the vehicle was, at the time of
42 the violation, in the care, custody, or control of another person or company,
43 the identified person or company may be issued a citation complying with
44 the requirements of subdivision (4) of this subsection.
- 45 (7) The citation shall be processed by officials or agents of the county and shall
46 be served by any method permitted for service of process pursuant to
47 G.S. 1A-1, Rule 4 of the North Carolina Rules of Civil Procedure or by
48 first-class mail to the address of the registered owner of the vehicle provided
49 on the motor vehicle registration or, as applicable, to the address of the
50 person identified in an affidavit submitted by the registered owner of the
51 vehicle.

- 1 (8) If the person to whom a citation is issued makes a timely request for a
2 hearing pursuant to subdivision (3) of this subsection, a summons shall be
3 issued by any method permitted for service of process pursuant to
4 G.S. 1A-1, Rule 4 of the North Carolina Rules of Civil Procedure, directing
5 the person to appear at the place and time specified in the summons in order
6 to contest the citation at an administrative hearing.
- 7 (9) A citation recipient who, within 30 days after receiving the citation, fails
8 either to pay the civil penalty or to request a hearing to contest the citation
9 shall have waived the right to contest responsibility for the violation and
10 shall be subject to a late penalty of one hundred dollars (\$100.00) in addition
11 to the civil penalty assessed under this subsection.
- 12 (10) The county shall institute a nonjudicial administrative hearing to hear
13 contested citations or penalties issued or assessed under this section. The
14 decision on a contested citation shall be rendered in writing within five days
15 after the hearing and shall be served upon the person contesting the citation
16 by any method permitted for service of process pursuant to G.S. 1A-1, Rule
17 4 of the North Carolina Rules of Civil Procedure. If the decision is adverse
18 to the person contesting the citation, the decision shall contain instructions
19 explaining the manner and the time within which the decision may be
20 appealed pursuant to subdivision (11) of this subsection.
- 21 (11) A person may appeal to the district court division of the General Court of
22 Justice from any adverse decision on a contested citation by filing notice of
23 appeal in the office of the clerk of superior court. Enforcement of an adverse
24 decision shall be stayed pending the outcome of a timely appeal. Except as
25 otherwise provided in this subdivision, appeal shall be in accordance with
26 the procedure set forth in Article 19 of Chapter 7A of the General Statutes
27 applicable to appeals from the magistrate to the district court. For purposes
28 of calculating the time within which any action must be taken to meet
29 procedural requirements of the appeal, the date upon which the person
30 contesting the citation is served with the adverse decision shall be deemed to
31 be the date of entry of judgment.
- 32 (12) A civil penalty shall not be imposed under this subsection against a person
33 who is charged in a criminal pleading with a violation of G.S. 20-217 arising
34 out of the same facts as those for which the civil penalty would be imposed.
- 35 (13) If a citation is not contested pursuant to subdivision (3) of this subsection,
36 payment of the civil penalty is due within 30 days after receipt of the
37 citation. If the citation is contested, and the result of the administrative
38 hearing held pursuant to subdivision (10) of this subsection is a decision
39 adverse to the citation recipient, then payment is due within 30 days after
40 receipt of the adverse decision, unless the citation recipient appeals the
41 adverse decision pursuant to subdivision (11) of this subsection. If the
42 adverse decision is appealed, and if the final decision on appeal is adverse to
43 the citation recipient, then payment of the civil penalty is due within 30 days
44 after the citation recipient receives notice of the final adverse decision on
45 appeal.
- 46 (14) If the registered owner of a motor vehicle who receives a citation fails to pay
47 the civil penalty when due, the Division of Motor Vehicles shall refuse to
48 register the motor vehicle for the owner in accordance with G.S. 20-54(11).
49 The county may establish procedures for providing notice to the Division of
50 Motor Vehicles and for the collection of these penalties and may enforce the
51 penalties by civil action in the nature of debt.

1 (c) When Criminal Prosecution Is Preferred Method of Enforcement. – The General
2 Assembly of North Carolina hereby declares as a matter of public policy that criminal
3 prosecution is the preferred method of enforcement whenever photographs or videos recorded
4 by an automated school bus safety camera that recorded the violation of G.S. 20-217 permit the
5 identity of the person operating the motor vehicle to be ascertained in a manner sufficient to
6 support prosecution.

7 (d) Notice. – An automated school bus safety camera installed on a school bus must be
8 identified by appropriate warning signs conspicuously posted on the school bus. All warning
9 signs shall be consistent with a statewide standard adopted by the State Board of Education in
10 conjunction with local boards of education that install and operate automated school bus safety
11 cameras on their school buses.

12 (e) Application. – Nothing in this section shall be construed to do any of the following:

13 (1) Require the installation and operation of automated school bus safety
14 cameras on a school bus.

15 (2) Prohibit the use and admissibility of any photograph or video recorded by an
16 automated school bus safety camera in any criminal proceeding alleging a
17 violation of G.S. 20-217.

18 (3) Prohibit the imposition of penalties, including the assignment of points
19 authorized by G.S. 20-16(c) and insurance points authorized by
20 G.S. 58-36-65, on any registered owner or driver of the vehicle convicted of
21 a misdemeanor or felony violation of G.S. 20-217."

22 **SECTION 2.** Article 17 of Chapter 115C of the General Statutes is amended by
23 adding a new section to read:

24 **"§ 115C-242.1. Installation and operation of automated school bus safety camera.**

25 (a) Definition. – An "automated school bus safety camera" is a device that is affixed to
26 a school bus, as that term is used in G.S. 20-217, that is synchronized to automatically record
27 photographs or video of a vehicle at the time the vehicle is detected for a violation of (i)
28 G.S. 20-217 or (ii) an ordinance adopted under G.S. 153A-246.

29 (b) Installation and Operation. – Automated school bus safety cameras may be installed
30 and operated on any school bus operated by a local board of education within a county that has
31 adopted an ordinance under G.S. 153A-246 as follows:

32 (1) A local board of education may install and operate automated school bus
33 safety cameras without contracting with a private vendor.

34 (2) A local board of education may enter into a service contract to install and
35 operate automated school bus safety cameras with a private vendor.
36 Contracts shall be let in accordance with the provisions of G.S. 143-129
37 applicable to purchases of apparatus, supplies, materials, or equipment. The
38 maximum length of any contract entered into under this subdivision shall be
39 three years. A contract entered into under this subdivision may contain an
40 option to renew or extend the contract for only one additional term not to
41 exceed three years.

42 (3) Upon request by one or more local boards of education, the State Board of
43 Education shall enter into a contract for a statewide service or contracts for
44 regional services to install and operate automated school bus safety cameras
45 with a private vendor. These contracts shall be let in accordance with the
46 provisions of Article 3 of Chapter 143 of the General Statutes.

47 (c) Interlocal Agreements. – Any local board of education, board of county
48 commissioners, and law enforcement agency may enter into an interlocal agreement pursuant to
49 Part 1 of Article 20 of Chapter 160A that is necessary and proper to effectuate the purpose and
50 intent of this section and G.S. 153A-246. Any agreement entered into pursuant to this
51 subsection may include provisions on cost-sharing and reimbursement to which the local board

1 of education, board of county commissioners, or law enforcement agency freely and voluntarily
2 agree for the purposes of effectuating this section and G.S. 153A-246.

3 (d) Evidence in Criminal Proceeding. – Any photographs or videos recorded by an
4 automated school bus safety camera that capture a violation of G.S. 20-217 shall also be
5 provided to the investigating law enforcement agency for use as evidence in any proceeding
6 alleging a violation of G.S. 20-217."

7 **SECTION 3.** G.S. 20-54 reads as rewritten:

8 "**§ 20-54. Authority for refusing registration or certificate of title.**

9 The Division shall refuse registration or issuance of a certificate of title or any transfer of
10 registration upon any of the following grounds:

11 ...

12 (11) The Division has been notified (i) pursuant to G.S. 20-217(g2) that the
13 owner of the vehicle has failed to pay any fine imposed pursuant to
14 ~~G.S. 20-217~~G.S. 20-217 or (ii) pursuant to G.S. 153A-246(b)(14) that the
15 owner of the vehicle has failed to pay a civil penalty due under
16 G.S. 153A-246."

17 **SECTION 4.** G.S. 20-217 reads as rewritten:

18 "**§ 20-217. Motor vehicles to stop for properly marked and designated school buses in**
19 **certain instances; evidence of identity of driver.**

20 ...

21 (h) ~~Automated camera and video recording systems~~Automated school bus safety
22 cameras, as defined in G.S. 115C-242.1, may be used to detect and prosecute violations of this
23 section. Any photograph or video recorded by a camera or video recording system an automated
24 school bus safety camera shall, if consistent with the North Carolina Rules of Evidence, be
25 admissible as evidence in any proceeding alleging a violation of subsection (a) of this section.
26 Failure to produce a photograph or video recorded by an automated school bus safety camera
27 shall not preclude prosecution under this section."

28 **SECTION 5.** A county that adopts an ordinance as provided in G.S. 153A-246, as
29 enacted by this act, shall maintain records of all violations of that ordinance for which a civil
30 penalty is assessed. Upon request, the county shall provide at least five years of those records to
31 the North Carolina Child Fatality Task Force and the North Carolina General Assembly.

32 **SECTION 6.** Within 90 days of the enactment of this act, the State Board of
33 Education shall develop a model request for proposals and a model contract that may be used
34 by the local boards of education in letting contracts in accordance with the provisions of
35 G.S. 115C-242.1(b)(2), as enacted by Section 2 of this act. The State Board of Education and
36 the Department of Public Instruction shall provide technical assistance to a local board of
37 education on this process upon a request by the local board.

38 **SECTION 7.** Section 3 of this act is effective one year after it becomes law and
39 shall apply to the registration of any motor vehicle whose owner's failure to pay a civil penalty
40 due under G.S. 153A-246 is reported by a county to the Division of Motor Vehicles on or after
41 the effective date of this act. The remainder of this act is effective when it becomes law. The
42 requirements in G.S. 115C-242.1(b)(2), as enacted by Section 2 of this act, shall not apply to a
43 local board of education that, prior to the effective date of this act, entered into a contract with a
44 private vendor to install and operate automated school bus safety cameras.