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Bill Analysis

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Primary Sponsors: Sen. Gavarone

Margaret E. Marcy, Attorney

SUMMARY

School bus cameras

- Expressly authorizes cameras to be installed on school buses to provide an image, images, or video of a person illegally passing a school bus.
- Requires the Department of Public Safety, with the advice of the Superintendent of Public Instruction, to adopt rules related to the construction, design, and equipment of the school bus cameras.

Civil enforcement

- Creates a civil enforcement scheme to be used when a school bus camera captures the license plate of a vehicle illegally passing a stopped school bus, but the driver of the vehicle cannot be identified.
- Requires a law enforcement officer to do one of the following after receiving a report that someone has illegally passed a stopped school bus:
 - Issue a criminal citation if the driver of the vehicle can be identified;
 - Issue a ticket for a civil violation to the vehicle owner, if the driver cannot be identified, provided that the school bus owner has installed school bus cameras on all actively operated buses and the camera captures the necessary information for the ticket; or
 - Issue a warning to the vehicle owner if the driver cannot be identified, but the requirements to issue a civil ticket are not met.
- Specifies that a law enforcement agency may issue a criminal citation or a civil ticket, but not both, for a single instance of illegally passing a stopped school bus.
- Establishes the parameters for the civil enforcement scheme, including:

- Requirements for what an image captured by a school bus camera must display in order for a law enforcement agency to issue a civil penalty (e.g., the vehicle's license plate and the time and date of the violation);
 - Requirements for what information a civil penalty ticket must include (e.g., the name and address of the registered owner and a copy of the recorded image);
 - Procedures for a law enforcement agency to follow when mailing a civil penalty ticket (e.g., the agency has 30 days to mail the ticket);
 - Procedures that a ticket recipient must follow to respond to the ticket, including paying, contesting, and providing an affidavit attesting that the ticket recipient was not the person who committed the violation; and
 - Procedures a court must follow when conducting a hearing for a contested civil penalty ticket.
- Specifies that the fine for the civil violation is \$300, to be distributed as follows:
 - \$25 to the local jurisdiction issuing the ticket;
 - \$25 to the newly created School Bus Safety and Education Fund; and
 - \$250 to the entity responsible for operation of the school bus. That entity may pay, at most, \$150 of that amount (60%) to the company installing and managing the cameras (if there is a company doing so).
 - Creates the School Bus Safety and Education Fund, managed by the Superintendent of Public Instruction, with funds used for student safety on buses and public awareness of bus safety laws.

School bus safety designations

- Designates August as "School Bus Safety Awareness Month."
- Names the bill the "School Bus Safety Act."

DETAILED ANALYSIS

School bus cameras

Current law neither specifically authorizes nor prohibits the use of a camera placed on a school bus to capture an image or video of a driver passing the bus while it is stopped and loading or unloading passengers. However, there is a provision stating that certain traffic camera laws do not apply to traffic cameras placed on buses for this purpose. Thus, it appears that school bus drivers may use these cameras.¹

¹ R.C. 4511.0913, not in the bill.

The bill expressly authorizes school bus cameras and requires the Department of Public Safety, with the advice of the Superintendent of Public Instruction, to adopt rules relating to the construction, design, and equipment of cameras that can provide an image, images, or video solely for purposes of capturing a driver who illegally passes a stopped school bus.²

Civil enforcement

Background

Under current law, a driver must stop for a school bus when both of the following apply:

1. The driver meets or overtakes the school bus, from either direction; and
2. The school bus is picking up or dropping off a school child, a child attending a Head Start Program, or a person attending programs offered by a community board of mental health or a county board of developmental disabilities.³

The driver must stop at least ten feet from the bus. The driver may not proceed until either the bus moves, or the school bus driver signals the driver to proceed. A driver who violates this requirement may be fined up to \$500, and the court may impose a Class 7 driver's license suspension (not to exceed one year).⁴

Under current law, a school bus driver or any other witness to a driver illegally passing a stopped school bus may report the license plate number, description of the vehicle, and description of the driver to a law enforcement agency. A law enforcement agency that receives this report, must investigate the allegation to attempt to determine the driver at the time of the alleged violation. If the agency can determine the driver, the agency has probable cause (based on the license plate number) to issue a criminal citation to the driver. If the agency cannot determine the driver, the agency must send a warning to the owner of the vehicle.⁵

Law enforcement action

The bill creates a civil enforcement scheme to be used when a school bus camera captures the license plate of a vehicle illegally passing a stopped school bus, but the driver of the vehicle cannot be identified. A school bus driver may include the image, images, or video from the school bus camera installed on the driver's school bus to corroborate the driver's report that a person illegally passed the driver's stopped school bus. When a law enforcement agency receives the report, the agency must still conduct an investigation to attempt to determine the driver at the time of the alleged violation. The bill authorizes the agency to use

² R.C. 4511.751 and 4511.76.

³ R.C. 4511.75, not in the bill. If the highway is four or more lanes of divided traffic, however, drivers travelling in the opposite direction of the school bus are not required to stop for the stopped bus.

⁴ R.C. 4511.75(F) and 4510.02(A)(7), not in the bill.

⁵ R.C. 4511.751.

any sufficiently clear images and video captured by the school bus camera to enhance that investigation.⁶

After the investigation, the law enforcement agency must take one of three courses of action:

1. Issue a criminal citation if the driver of the vehicle can be identified (as under current law);
2. Issue a ticket for a civil violation to the vehicle owner, provided the school bus owner has installed school bus cameras on all actively operated buses and the camera captures the necessary information for the ticket (under the bill's new civil penalty scheme); or
3. Issue a warning to the vehicle owner if the driver cannot be identified, but the requirements to issue a civil ticket are not met (similar to current law).⁷

A law enforcement agency may send a criminal citation or a civil ticket, but not both, for a single instance of illegally passing a stopped school bus.⁸

Civil tickets

In order to issue a civil ticket (as opposed to a warning) when the driver of the vehicle cannot be identified, the image, images, or video captured by the school bus camera must capture all of the following:

1. The violation (illegally passing the stopped school bus);
2. The date and time of the violation; and
3. The letters, numbers, and state name on the license plate of the vehicle involved.⁹

The law enforcement agency may use any lawful means to identify the registered owner of the vehicle. (A registered owner includes a person who is leasing or renting a vehicle.) Within 30 days of the violation, the agency may send a civil ticket by regular mail to the registered owner and, without unnecessary delay, file a certified copy of the ticket with the local municipal or county court with jurisdiction over the civil action. The certified copy of the ticket, including any images or video captured by the school bus camera, are prima facie evidence of the facts contained therein, and are admissible evidence in a civil action or proceeding related to the issued ticket.¹⁰

Any civil ticket for illegally passing a school bus must contain the following information:

1. The name and address of the registered owner;

⁶ R.C. 4511.751(B) and (C).

⁷ R.C. 4511.751(D) and (E).

⁸ R.C. 4511.751(F).

⁹ R.C. 4511.753(A).

¹⁰ R.C. 4511.753.

2. The letters and numbers from the license plate;
3. A statement that the person is charged with illegally passing a stopped school bus;
4. A statement that a camera on the school bus recorded the violation;
5. The date and time of the violation;
6. A copy of the recorded images;
7. The amount of the civil penalty imposed (\$300), the date when it is to be paid, and the address of the municipal court or county court with jurisdiction where the payment is to be sent;
8. A signed statement by a local law enforcement officer indicating that, based on an inspection of the recorded images, the vehicle was involved in the violation (this statement may be signed electronically);
9. Information on how to proceed after receiving the ticket; and
10. A warning that failure to exercise one of the available options is an admission of liability and waives the opportunity to contest the violation.¹¹

Ticket recipient action

After receiving a civil ticket, the registered owner may take any of the following actions within 30 days:

1. Pay the ticket;
2. In conjunction with the person who was driving the vehicle at the time of the violation, send an affidavit to the municipal court or county court with jurisdiction identifying the driver of the vehicle (with contact details) or send an affidavit that the car was stolen at the time of the violation (with the police report);
3. If the owner is a leasing or renting dealer, notify the municipal court or county court with jurisdiction of the name and address of the lessee or renter at the time of the violation;¹²
4. If the owner is a commercial motor vehicle and the ticket is issued to the corporate entity, send an affidavit to the municipal court or county court with jurisdiction of the name and address of the employee driver at the time of the violation; or
5. Contest the ticket and request a court hearing to review it.¹³

¹¹ R.C. 4511.754.

¹² A leasing or renting dealer is prohibited from simply paying the ticket and then passing along the costs to the lessee or renter.

¹³ R.C. 4511.755.

If an affidavit indicates that another person was driving the vehicle at the time of the violation, the court must notify the law enforcement agency, and a civil ticket must be sent to the correct driver. If a hearing is requested, the court must hold a hearing to determine liability, make the determination on the day of the hearing, and issue a written decision. Failure of any party named on a ticket to request a hearing within 30 days of the issuance of the ticket constitutes a waiver of the right to contest the ticket and an admission of liability.¹⁴

Standard for hearing decision

At a hearing concerning a ticket issued under the bill, the court must issue a written decision imposing liability for the violation if the court finds both of the following by a preponderance of the evidence:

1. The alleged violation occurred; and
2. The person named in the ticket is the person who was operating the vehicle at the time of the violation. As indicated above, the fact that a person is the registered owner of the vehicle involved in the violation is prima facie evidence that the person was operating the vehicle at the time of violation.

The court must issue a written decision that a person named in the ticket is not liable for the violation if the court finds either of the following by a preponderance of the evidence:

1. The person named in the ticket was not operating the vehicle at the time of the violation; or
2. The alleged violation did not occur.

Failure to appear at a hearing, constitutes an admission of liability. In all cases, the court must charge applicable court costs and fees to the party that does not prevail at the hearing.¹⁵

Civil penalty distribution

As indicated above, the civil penalty for illegally passing a stopped school bus is \$300. The penalty must be distributed as follows:

1. \$25 to the local jurisdiction issuing the ticket;
2. \$25 to the newly created School Bus Safety and Education Fund (see below); and
3. \$250 to the entity responsible for operation of the school bus.

The entity responsible for operation of the school bus may pay, at most, \$150 of the \$250 (60%) to the company installing and managing the cameras for the entity (if there is a company doing so). The bill specifies that the 60/40 distribution requirement does **not** mean

¹⁴ R.C. 4511.755 and 4511.756.

¹⁵ R.C. 4511.753 and 4511.756.

that the entity must enter into a contract with an outside company to install or manage the school bus cameras.¹⁶

The School Bus Safety and Education Fund

The bill creates the School Bus Safety and Education Fund to receive a portion of each civil penalty issued from illegally passing a stopped school bus. The Superintendent of Public Instruction must use the money in the fund to enhance school bus safety and raise public awareness of the laws governing school bus safety. All investment earnings of the fund must be credited back to the fund.¹⁷

School bus safety designations

“School Bus Safety Awareness Month”

The bill designates August as “School Bus Safety Awareness Month.” The month is so designated in order to increase public awareness of the need to properly stop when a stopped school bus is loading and unloading passengers.¹⁸

“School Bus Safety Act”

The bill is officially named the “School Bus Safety Act.”¹⁹

HISTORY

| Action | Date |
|------------|----------|
| Introduced | 01-26-21 |

S0023-I-134/ks

¹⁶ R.C. 4511.757(A).

¹⁷ R.C. 4511.757(B).

¹⁸ R.C. 5.501.

¹⁹ Section 3.