

Intro. Res. No. 1812-2019

Laid on Table 9/4/2019

Introduced by Legislators Sunderman, Muratore, Gonzalez, Gregory, Flotteron, Hahn, Anker, Berland, Krupski, Fleming, Calarco, Lindsay, Cilmi, Kennedy, Trotta, McCaffrey, Donnelly and Spencer

**RESOLUTION NO. 995 -2019, ADOPTING LOCAL LAW
NO. 35 -2019, A LOCAL LAW TO IMPLEMENT A SCHOOL BUS
PHOTO VIOLATION MONITORING SYSTEM**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on September 4, 2019, a proposed local law entitled, "**A LOCAL LAW TO IMPLEMENT A SCHOOL BUS PHOTO VIOLATION MONITORING SYSTEM**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 35 -2019, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO IMPLEMENT A SCHOOL BUS PHOTO
VIOLATION MONITORING SYSTEM**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that New York State has authorized counties to opt into a school bus photo violation monitoring program which will allow the County to install cameras on the exterior of school buses in participating school districts and impose monetary liability on vehicles that fail to stop behind or in front of a school bus while the school bus stop arms are extended, including traffic travelling in both directions on divided highways.

This Legislature also finds and determines that cars that fail to stop when a school bus operator engages the bus stop arms pose a threat to the safety of the children entering and exiting the bus.

This Legislature further finds and determines that it is difficult to ticket drivers who disregard school bus stop arms without video evidence of the violation, as there are usually no members of law enforcement witnessing the violation.

This Legislature determines that this school bus photo violation monitoring program will not only help to keep children safe when entering and exiting the school bus, but will also act as a deterrent to those who debate passing a school bus while the stop arms are engaged.

Therefore, the purpose of this law is to implement a demonstration program to impose monetary liability on the owner of a vehicle for failure of the operator to stop when a school bus has its stop arms extended in Suffolk County through the installation and monitoring of external school bus cameras.

Section 2. Definitions.

As used in this law, the following terms shall have the meanings indicated:

MOTOR VEHICLE – Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except (a) electrically-driven mobility assistance devices operated or driven by a person with a disability, (a-1) electric personal assistive mobility devices operated outside a city with a population of one million or more, (b) vehicles which run only upon rails or tracks, (c) snowmobiles as defined in article forty-seven of NEW YORK VEHICLE AND TRAFFIC LAW, and (d) all terrain vehicles as defined in article forty-eight-B of NEW YORK VEHICLE AND TRAFFIC LAW.

OWNER – A person, other than a lien holder, having the property in or title to a vehicle or vessel. The term includes a person entitled to the use and possession of a vehicle or vessel subject to a security interest in another person and also includes any lessee or bailee of a motor vehicle or vessel having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days.

VEHICLE - Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

Section 3. Demonstration Program Established.

- A. There is hereby established in the County of Suffolk a demonstration program which imposes monetary liability for failure of a motor vehicle operator to comply with school bus red visual signals and stop arm.
- B. To carry out the demonstration program, the County is authorized to enter into agreements with the school districts for the installation, maintenance, and use of school bus photo violation monitoring systems as well as proper handling and custody of data received by the school bus cameras, subject to the provisions of section 1174-a NEW YORK VEHICLE AND TRAFFIC LAW. Under this demonstration program, each school district located within the County of Suffolk that would like to utilize the program must enter into an agreement with the County.
- C. Once a school district has entered into an agreement with the County, cameras shall be installed to the external portion of school buses owned or operated by that school district or privately owned and operated for compensation under a contract with such school district.
- D. To the extent practicable, such demonstration program shall use necessary technologies to produce photographs that do not include images that identify the driver, passengers, contents of the vehicles, pedestrians, and cyclists. However, no notice of liability issued pursuant to this law shall be dismissed solely because a photograph or photographs allowed for identification of persons or contents within the vehicle.

Section 4. Costs Associated with Program.

- A. The total costs to the school district of the installation, maintenance, and use of school bus photo violation monitoring systems pursuant to Section 1174-a of NEW YORK VEHICLE AND TRAFFIC LAW shall be borne entirely by the County of Suffolk.
- B. On or before September 1st of each year, the school district shall determine and certify to the County the total cost to the district of installing, maintaining and using such systems for the school year ending the preceding June 30th. Additionally, the district shall include a certified statement of costs associated with proper handling and custody of the photographs, micrographs, videotapes, other recorded images or data produced by such systems, and for the forwarding of such photographs, micrographs, videotapes, or other recorded images or data produced by such systems to the County.
- C. On or before December 1st of each year, Suffolk County shall pay to the district such costs so certified to it on or before the preceding September 1st.
- D. Not later than twenty days after each such payment is submitted or is due, the district shall submit to the Director of the County Budget Office and the Chairperson of the Suffolk County Budget and Finance Committee a copy of all certified costs, the amounts received from the County to date, as well as any outstanding amount due.
- E. In the event there is an outstanding amount by the 20th day after payment was due, the demonstration program shall be suspended until the County makes such payment required to the school district, provided, however that any notice of liability prior to such date shall not be voided. The district shall notify the Director of the County Budget Office and the Chair of the Budget and Finance committee of such suspension within twenty-four (24) hours.
- F. The district shall notify the Director of the County Budget Office and the Chair of the Budget and Finance Committee of receipt of payment on the demonstration program within seven (7) days of its receipt.

Section 5. Use of Data Captured.

- A. Any image captured by a school bus photo violation monitoring system shall be inadmissible in any disciplinary proceeding convened by any school district or any school bus contractor thereof, and any proceeding initiated by the department involving licensure privileges of school bus operators.
- B. Any school bus photo violation monitoring device mounted on a school bus shall be directed outwardly from such school bus to capture images of vehicles operated in violation of Section 1174 of NEW YORK VEHICLE AND TRAFFIC LAW and images produced by such a device shall not be used for any other purposes.
- C. Any participating school district shall be prohibited from accessing any photographs, microphotographs, videotapes, or other recorded images or data from school bus photo violation monitoring systems but shall provide, pursuant to an agreement with Suffolk County, for the proper handling and custody of such photographs, microphotographs, images, and data produced by such systems and for the forwarding of the above to the applicable County department for the purposes of determining whether a motor vehicle

was operated in violation of Section 1174 of NEW YORK VEHICLE AND TRAFFIC LAW and imposing monetary liability on the owner of such vehicle.

- D. The agreement between the County and the school district shall provide that photographs, micrographs, videotapes, other recorded images, and data produced by the school bus photo violation monitoring systems shall be destroyed ninety (90) days after final disposition of a notice of liability issued pursuant to this law. All photographic images of motor vehicles which do not depict or result in liability for violation of section 1174-a of NEW YORK VEHICLE AND TRAFFIC LAW shall be destroyed by the appropriate school district and law enforcement agency within two (2) days of the determination that a non-violation occurred.

Section 6. Owner Liability.

In any school district in which school bus safety cameras are installed and operated pursuant to 1174-b of NEW YORK VEHICLE AND TRAFFIC LAW, the owner of a motor vehicle, upon issuance of a simplified traffic information by a police officer, shall be liable for a civil penalty of \$250 if such vehicle was used or operated with the permission of the owner, express or implied, in violation of 1174 of NEW YORK VEHICLE AND TRAFFIC LAW and such violation is evidenced by information obtained from a school bus safety camera; provided, however, that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle has been convicted of the underlying violation of 1174 of NEW YORK VEHICLE AND TRAFFIC LAW.

Section 7. Notice of Liability.

- A. A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner of a vehicle for a violation of Section 1174-a of NEW YORK VEHICLE AND TRAFFIC LAW.
- B. A notice of liability shall contain the name and address of the person alleged to be liable as an owner for the violation, the registration number of the vehicle involved in such a violation, the location where such violation took place, the date and time of such violation, and the identification number of the camera which recorded the violation or other document locator number. Further, the notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice and that a failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.
- C. The notice shall be prepared and mailed by the County of Suffolk or by any other entity authorized to do so by the County.

Section 8. Penalties.

- A. An owner of a vehicle liable for a violation of Section 1174 of NEW YORK VEHICLE AND TRAFFIC LAW, in accordance with Section 4 of this law, shall be liable for a monetary penalty of Two Hundred and Fifty (\$250) Dollars for the first violation. An owner of a vehicle shall be liable for a penalty of Two Hundred and Seventy-Five (\$275) Dollars for any second violation within eighteen (18) months. An owner of a vehicle shall

be liable for a penalty of Three Hundred (\$300) Dollars for the third and any subsequent violations committed within eighteen (18) month period.

- B. Any individual who is in receipt of a notice of liability and who fails to respond to said notice within thirty (30) days shall be subject to an additional penalty of Twenty-Five (\$25.00) Dollars per initial notice not answered.
- C. An imposition of liability under this law shall not be deemed a conviction and shall not be made part of the operating record of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.
- D. All fines and penalties collected pursuant to this law shall be deposited with the Suffolk County Comptroller.
- E. The net proceeds of any penalty, after expenses of administration and operating costs of the cameras, collected by a traffic violations bureau or court pursuant to this section shall be expended for programs related to improving traffic safety and/or school district safety in Suffolk County.
- F. School districts and the County are authorized to accept grants for the implementation of this section and may allow for a warning period of up to twenty-one (21) days from the time the first school bus safety cameras are installed in the district before monetary penalties are imposed on violations occurring from such camera.

Section 9. Certificate as Prima Facie Evidence.

A certificate, sworn to or affirmed by a technician employed by the County of Suffolk in which the charged violation occurred, or facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or any other recorded images produced by a school bus photo violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotapes, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability of such violation.

Section 10. Adjudication.

Adjudication of the liability imposed upon owners by this law shall be conducted by the County Traffic and Parking Violations Agency.

Section 11. Defenses.

- A. An owner of a vehicle shall have a valid defense to an allegation of liability under this law if the vehicle in question had been reported to a police department or agency as having been stolen prior to the time the violation occurred, and had not been recovered prior to the time the violation occurred. For the purposes of asserting this defense, it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the court having jurisdiction.
- B. An owner of a vehicle who is a lessor of a vehicle to which a notice of liability is issued shall not be liable for the violation, provided that he or she sends the court having

jurisdiction a copy of the rental, lease, or other such contract covering such vehicle on the day of the violation, with the name and address of the lessee clearly legible, within thirty-seven (37) days after receiving notice of such violation. Failure to send such information within the thirty-seven (37) day time period shall render the owner liable for the penalty prescribed in this law. When the lessor complies with the provisions of this paragraph, the lessee of such vehicle on the date of the violation shall be deemed to be the owner of such vehicle for the purposes of this law and shall be subject to liability for violation of Section 1174 of NEW YORK VEHICLE AND TRAFFIC LAW and shall be sent a notice of liability.

- C. No owner of a vehicle shall be subject to a monetary fine under this law, if the operator of such vehicle was operating the vehicle without consent of the owner at the time of the violation. However, there shall be a presumption that the operator of such vehicle was operating the vehicle with consent at the time the violation occurred.
- D. It shall be a defense that such school bus stop-arms were malfunctioning at the time of the alleged violation.

Section 12. Indemnification.

If the owner of a vehicle liable for a violation of Section 1174 of NEW YORK VEHICLE AND TRAFFIC LAW pursuant to this law was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

Section 13. Annual Reporting.

The County Executive is hereby authorized and empowered to designate the appropriate department or agency to prepare and submit an annual report on or before June 1st of each year the program is in operation in accordance with 1174-a of the NEW YORK VEHICLE AND TRAFFIC LAW of the results of the use of the school bus photo violation monitoring system to the Governor, the temporary President of the New York State Senate, the Speaker of the Assembly, each member of the County Legislature, and the Clerk of the County Legislature.

Section 14. Applicability.

This law shall apply to all actions in school districts that have agreements with the County for any school year commencing on or after September 1st, 2020.

Section 15. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 16. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(26) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as routine or continuing administration and management not including new programs or major reordering of priorities that may affect the environment. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 17. Effective Date.

This law shall take effect on January 1st, 2020.

[] Brackets denote deletion of existing language
___ Underlining denotes addition of new language

DATED: November 26, 2019

APPROVED BY:

/s/ Dennis M. Cohen
Chief Deputy County Executive of Suffolk County

Date: December 13, 2019

After a public hearing duly held on December 11, 2019
Filed with the Secretary of State on December 27, 2019