SPONSOR: Rep. K. Williams & Sen. Walsh
Reps. Baumbach, Bennett, Brady, Dorsey Walker, Dukes, Jaques, Q. Johnson, Kowalko, Matthews, Seigfried, D. Short, Shupe, Michael Smith; Sens. Delcollo, Hansen, Paradee, Pettyjohn, Sokola, Sturgeon, Wilson

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 111

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO SCHOOL BUS SAFETY CAMERAS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 101, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline and strike through as follows and by redesignating accordingly:

§ 101 Words and phrases.

(64) "School Bus Safety Camera System" is a camera placed on the exterior of a school bus that is designed to capture a recorded image that clearly identifies the license plate number of the motor vehicle that violates § 4166(d)(1) of this Title.

Section 2. Amend § 4166, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline and strike through as follows:

§ 4166A School Bus Safety Camera Systems.

(a) A school district or charter school may enter into an agreement with a private vendor or manufacturer to provide a school bus safety camera system on each bus utilized by the district, whether the bus is owned, contracted or leased, up to and including the installation, operation and maintenance of the systems.

(1) Any school bus utilizing the school bus safety camera system must display at a minimum, a strip of 6-inch, red and white, high-intensity, reflective conspicuity adhesive tape on the front and the back of school bus stating, "Fine for Passing When Red Lights Are Flashing".

(2) Any school district or charter school utilizing the school bus safety camera systems must make at least one public service announcement each year warning the public in the respective district that the school bus safety camera system is being utilized by the school district or charter school and that there is at least a $250 fine associated with illegally overtaking and passing a school bus utilizing the school bus safety camera system.

(b) Reimbursement — The fines collected through the implementation of school bus safety camera systems shall be used to reimburse the private vendor or manufacturer and any applicable state agency for the cost of installation, operation, maintenance of the systems, and requirements as listed in § 4166 A(a) of this section.

(c) Liability — The owner or operator of a vehicle who has failed to comply with § 4166(d)(1), as evidenced by information obtained from a school bus safety camera system, shall be subject to a civil or administrative assessment of $250 for a first offense, which shall increase by an additional $250 for each subsequent offense within 10 years of the prior offense or offenses not to exceed a total assessment of $750 for each offense within the 10 year period; provided, however, that the city or county may provide for an additional assessment not to exceed $10 if the civil or administrative assessment is not paid within 20 days, which assessment may be increased to an amount not to exceed $20 if the assessment is not paid within 45 days, and may be increased to an amount not to exceed $30 if the assessment is not paid within 90 days. Court costs or similar administrative fees not to exceed $35 may also be assessed against an owner or operator who requests a hearing to contest the violation and is ultimately found or pleads responsible for the violation or who fails to pay or contest the violation in a timely manner. No assessments and court costs other than those specified in this subsection may be imposed. A violation for which a civil assessment is imposed under this subsection shall not be classified as a criminal offense and shall not be made a 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. Assessments collected as a result of a traffic control signal monitoring system shall be paid to the city or county which controlled the monitoring system, or the General Fund for personnel, after first being applied to reimburse the private vendor or manufacturer and any applicable state agencies for their costs of administering such systems.

(d) Summons and notice of violation — Any nonresident owner or operator of any motor vehicle which is operated or driven on the public streets, roads, turnpikes or highways of this State is deemed to have submitted to the jurisdiction of the Delaware courts for purposes of this subsection. Notwithstanding any other provision of the Delaware Code, a summons for a violation of this subsection may be executed by mailing to any Delaware resident or nonresident by first class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Division of Motor Vehicles of this or any other state, as appropriate. Collection actions, including default judgment and execution, may proceed based upon jurisdiction obtained through the mailing by first class mail of a summons and subsequent court notices pursuant to this subsection. Every initial mailing shall include the:

(1) Name and address of the owner of the vehicle;

(2) Registration number of the motor vehicle involved in the violation;

(3) Violation charges;

(4) Location where the violation occurred;

(5) Date and time of the violation;

(6) Copies of 2 or more photographs, or microphotographs or other recorded images, taken as proof of the violation;

(7) Amount of the civil assessment imposed and the date by which the civil assessment should be paid;

(8) Information advising the summonsed person of the matter, time and place by which liability as alleged in the notice may be contested, and warning that the failure to pay the civil assessment or to contest liability in a timely manner is an admission of liability and may result in a judgment being entered against the summonsed person and/or the denial of the registration or the renewal of the registration of any of the owner's vehicles; and

(9) Notice of the summonsed person's ability to rebut the presumption that the summonsed person was the operator of the vehicle at the time of the alleged violation and the means for rebutting such presumption.

(e) Payment by voluntary assessment — Persons electing to pay by voluntary assessment shall make payments to the entity designated on the summons for payment. Such entity may be the Justice of the Peace Court or an entity designated by the Court, the Department of Safety and Homeland Security, or by the city or county in which the school bus was located. Procedures for payment under this subsection shall be as provided by court rule or policy directive of the Justice of the Peace Court, by regulation of the Department of Safety and Homeland Security, or by regulation, code or ordinance of the applicable city or county, and shall be in lieu of the procedures set forth in § 709 of this title.

(f) Procedures to contest the violation — A person receiving the summons pursuant to this subsection may request a hearing to contest the violation by notifying, in writing, the entity designated on the summons within 20 days of the date. Upon receipt of a timely request for a hearing a civil hearing shall be scheduled and the defendant notified of the hearing date by first class mail. A civil hearing shall be held by the Justice of the Peace Court or such other entity as designated by the Department of Safety and Homeland Security or applicable county or city. The hearing may be informal and shall be held in accordance with Justice of the Peace Court rules or policy directive, regulation of the Department of Safety and Homeland Security, or by regulation, code or ordinance of the applicable city or county. Additional administrative collection processes may be established by court rule, policy directive, regulation, code or ordinance, as applicable. Costs for such hearing shall not be assessed against the prevailing party. There shall be no right of transfer to the Court of Common Pleas.

(g) Failure to pay or successfully contest the violation — If the owner or an operator identified by the owner fails to pay the civil penalty by voluntary assessment, request a hearing within the required time or submit an affidavit stating that the owner or operator identified was not the driver, the Division of Motor Vehicles may refuse to renew the registration of the owner's vehicle operated at the time the summons was issued. If the owner or an operator identified by the owner is

found responsible at a hearing and fails to pay as ordered by the Court, or requests a hearing and fails to appear, the Division of Motor Vehicles shall suspend the license of the owner or operator.

Upon receiving a record of failure to comply, the Clerk may enter a civil traffic judgment against the owner or operator in the amount of the civil penalty, costs, and any applicable penalty amounts, giving credit for any amount paid. Such judgment may, upon motion, be transferred by the Court to the civil docket. Any judgment so transferred may be executed and enforced or transferred in the same manner as other judgments of the Court and the Division of Public Safety or its designee, or the applicable city or county shall have authority to seek such execution, enforcement or transfer.

(h) Proof of violation — Proof of a violation of this subsection shall be evidenced by information obtained from a school bus signal violation monitoring system authorized pursuant to this subsection. A certificate, or facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a school bus signal violation monitoring system shall constitute prima facie evidence of the facts contained therein, if the certificate, or facsimile thereof, is sworn to or affirmed by a technician employed by a locality authorized to impose assessments pursuant to this subsection, or a technician employed by a state agency or entity designated by a state agency for the purposes of this section. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to regulation, ordinance or other law adopted pursuant to this subsection.

(i) Presumptions — The owner of any vehicle found to be in violation of this subsection shall be held prima facie responsible for such violation in the same manner as provided for under § 7003 of this title, unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody or control of another person. Such presumption shall be rebutted if the owner does any of the following:

(1) Furnishes an affidavit by regular mail to the entity indicated on the summons that the owner was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person or company who leased, rented or otherwise had the care, custody or control of the vehicle, or attaches a certified copy of a police report showing that the vehicle or license plate or plates thereof had been reported to the police as stolen prior to the time of the alleged violation of this subsection.

(2) Provides proof in court or to the entity handling the administrative appeal process that the owner was not the operator of the vehicle at the time of the alleged violation.

A summons may be issued to a person identified by affidavit or evidence in court as the actual operator of the vehicle shown to have violated the school bus signal. There shall be a presumption that the person so identified was the driver. The presumption may be rebutted as described in subsection (i).

(j) Notwithstanding any other provision in this section, if the motor vehicle which is found by the school bus safety camera system to have failed to comply with a school bus signal is commercially licensed, then the owner of that vehicle shall be sent notice of the date, time and location of the violation with 2 photographs thereof. Within 10 days of the receipt of said notice, the owner of the vehicle shall provide the law-enforcement agency which has issued the summons with the name and address of the driver of the vehicle at the date, time and location of the violation and, within the same time period, shall provide the driver of the vehicle with the photographs of the violation. After receipt by the law-enforcement agency which has issued the summons of the name and address of the driver of the vehicle at the time of the violation, the driver of the vehicle shall be prima facie responsible for such violation in the same manner as provided for under § 7003 of this title and shall be subject to the provisions of this section. Failure of the owner of the vehicle found to be in violation of subsection (d) to provide the name and address of the driver at the time of the violation within the period prescribed shall cause the owner to be held responsible as set forth in paragraph (d)(5) of this section.

(k) Any person found responsible for a civil traffic offense shall have a right of appeal only in those cases in which the civil penalty imposed exceeds $100, upon giving bond with surety satisfactory to the judge before whom such person was found responsible, such appeal to be taken and bond given within 15 days from the time of the finding of responsible. Such appeal shall operate as a stay or supersedes all proceedings in the court below in the same manner that a certiorari from the Superior Court operates. The taking of such appeal shall constitute a waiver by the appellant of the appellant's right to a writ of certiorari in the Superior Court. Additional penalty assessments for late payment/response shall be included.

Section 3: This Act is known as the “Laura’s Act.”

SYNOPSIS

This bill allows school districts and charter schools in Delaware to utilize external camera systems on school buses to catch motorists that illegally pass school buses and punishes these motorist by issuing them a civil penalty. The purpose of this bill is to protect children as they are in the process of boarding and exiting the school bus and to spread awareness of school bus traffic safety. At least 16 states have implemented similar legislation, including Pennsylvania in 2018. This is a discretionary program that is not required, but is encouraged to be used by the Delaware school districts and charter schools.