SPONSOR: Rep. K. Williams & Sen. Walsh
Reps. Baumbach, Dorsey Walker, Kowalko, Lambert, Morrison, Ramone, Shupe, Michael Smith; Sens. Hansen, Lockman, Mantzavinos, Sokola, Sturgeon, Townsend

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 120

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE RED CLAY CONSOLIDATED SCHOOL DISTRICT BUS SAFETY CAMERA PILOT PROGRAM.

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

Section 1. Amend Chapter 80, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8001 ~~Words and phrases~~ Definitions. --For this chapter only: [Effective Nov. 1, 2020].

(a) "Owner" means the registered owner of such vehicle on record with this or any state; provided, however, that in the event that the owner is a vehicle leasing company, the "owner", for purposes of this chapter, shall mean the person shown on the records to be the lessee of such vehicle. "Owner" does not include vehicle rental companies.

(~~a~~ b) "Red Clay Consolidated School District personnel" means an employee or contractor of Red Clay School District. "Red Clay Consolidated School District personnel" does not include any of the following:

(1) A law-enforcement officer as defined in § 9200(b) of ~~Title 11; or~~ Title 11.

(2) An employee or contractor providing educational services within a Department of Correction or Division of Youth Rehabilitative Services facility.

(~~b~~ c) "School bus safety camera system" ~~is~~ means 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 Title 21.~~ fails to stop when a school bus is stopped and displays flashing lamps to take on or discharge school children.

(~~c~~ d) "School district" means~~, for this chapter only,~~ Red Clay Consolidated School District.

§ 8002 Purpose [Effective Nov. 1, 2020].

The purpose ~~of this program~~ is to implement a pilot program that utilizes school bus safety cameras to issue civil violations to individuals ~~driving in the school district that illegally overtake and pass a school bus.~~ who fail to stop when a school bus is stopped and displays flashing lamps to take on or discharge school children. If this program is successful in helping to protect students, this may become a program that it utilized statewide. This program further funds itself with revenue from the civil violations and will create additional funds to spread public awareness of the dangers of ~~illegally~~

~~overtaking and passing school buses.~~ failing to stop when a school bus is stopped and displays flashing lamps to take on or discharge school children.

§ 8003 School bus safety camera systems [Effective Nov. 1, 2020].

(a) The school district 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 school 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, yellow and black, high-intensity, reflective conspicuity adhesive tape on the front and the back of school bus stating, "Violation for Passing When Red Lights Flashing" .

(2) While utilizing the school bus safety camera systems, the school district must make at least 1 public service announcement each year warning the public in the school district that the school bus safety camera system is being utilized by the school district and that there is at least a $100 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 the school district for the cost of installation, operation, and maintenance of the systems, requirements as listed in ~~§ 8002~~ § 8803(a) of this title, to cover additional costs related to the administration of the program, and transportation safety related costs.

(c) Liability. — The owner or operator of a vehicle approaching a school bus from the front or from the rear who has failed to ~~comply with § 4166(d)(1) of Title 21,~~ stop when a school bus is stopped and displays flashing lamps to take on or discharge school children as evidenced by information obtained from a school bus safety camera system, shall be subject to a civil or administrative assessment of $100 for a first offense, which shall increase to $500 for each subsequent offense within 10 years of the prior offense or offenses; provided, however, that the school district 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 school district, after first being applied to reimburse the private vendor or manufacturer and the school district for their costs of administering such systems. This subsection does not apply to an owner or operator of a vehicle on a roadway with 4 or more lanes approaching a school bus from the front.

(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 the school district is deemed to have submitted to the jurisdiction of the Delaware courts for purposes of this section. Notwithstanding any other provision of the Delaware Code, a summons for a civil violation of this section 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 civil violation;

(3) Civil ~~Violation~~ violation charges;

(4) Location where the civil violation occurred;

(5) Date and time of the civil violation;

(6) ~~Copies of 2 or more photographs, or microphotographs or other recorded images, taken as proof of the violation;~~ A copy of a photograph of the registration number of the motor vehicle involved in the civil violation and reference to where recorded video images taken as proof of the civil violation can be accessed by the owner of the motor vehicle;

(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 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 school district. Procedures for payment under this subsection shall be as provided by the school district.

(f) Procedures to contest the civil violation. — A person receiving the summons pursuant to this subsection may request a hearing to contest the civil violation by notifying, in writing, the school district within 20 days of the date on the summons. 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 servicing the school district. The hearing may be informal and shall be held in accordance with Justice of the Peace Court Rules. 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, or if the owner or 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 they will be considered in non-compliance. Upon receiving a record of non-compliance, 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 school district shall have authority to seek such execution, enforcement or transfer.

(h) Proof of civil violation. — Proof of a civil 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 that is Red Clay Consolidated School District personnel authorized to impose assessments pursuant to 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 section.

(i) Presumptions. — The owner of any vehicle found to be in violation of this ~~section~~ chapter shall be held prima facie responsible for such civil violation in the same manner as provided for under § 7003 of Title 21, unless the owner can furnish evidence that the vehicle was, at the time of the civil 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 section.

(2) Provides proof in court 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 this subsection.

(j) Any person found responsible for a bus safety camera violation shall have a right of appeal only in those cases in which the civil penalty imposed exceeds ~~$100~~ $500, 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.

SYNOPSIS

This Act makes changes to House Bill 202 from the 150th General Assembly creating a pilot program for the Red Clay School District to use external camera systems on their school buses to catch motorists that fail to stop when a school bus is stopped and displaying flashing lamps to take on or discharge school children and assess a civil penalty as punishment. The changes in this bill are necessary to make clear that the Act, which mirrors 21 Del. C. § 4101(d), the State's Electronic Red Light Safety Program, only creates a civil, not a criminal penalty.