



SENATE BILL 298: School Bus Cameras/Civil Penalties

2015-2016 General Assembly

Committee:	House Judiciary III, if favorable, Finance	Date:	August 25, 2015
Introduced by:	Sens. Alexander, McInnis	Prepared by:	Bill Patterson
Analysis of:	PCS to Fourth Edition S298-CSTG		Committee Counsel

SUMMARY: *Senate Bill 298 would:*

- *Allow counties to adopt ordinances imposing civil penalties for passing a stopped school bus in violation of G.S. 20-217 when the violation is not criminally prosecuted*
- *Authorize local boards of education to install and operate automated school bus safety cameras themselves, or to contract with vendors for the installation and operation of the cameras*
- *Require the State Board of Education, upon request of local boards, to enter into regional or statewide contracts with private vendors to install and operate the cameras, and to develop a model request for proposals and contract for use by local boards*
- *Authorize interlocal agreements between local boards of education, boards of county commissioners and law enforcement agencies as necessary to effectuate the purpose and intent of the act*
- *Direct each county adopting such an ordinance to maintain records of all violations to be provided upon request to the Child Fatality Task Force and the General Assembly*

The PCS: sets the civil penalty at \$400 for a first violation, \$750 for a second violation, and \$1,000 for any subsequent violations; clarifies when payment of a civil penalty is due; specifies additional procedures counties must follow when imposing civil penalties; expresses a public policy preference for criminal prosecution when photos or videos recorded by the school bus safety camera permit identification of the driver; removes provisions prohibiting challenges to citations from being decided by persons employed by the county, school system, or school bus camera vendor and requiring the Administrative Office of the Courts to make annual reports to the Child Fatality Task Force and the General Assembly; and makes other technical and clarifying changes to the bill.

[As introduced, this bill was identical to H536, as introduced by Reps. Hanes, Lambeth, Tine, which is currently in House Judiciary III, if favorable, Finance.]

CURRENT LAW: G.S. 20-217 requires motor vehicles to stop for school buses that are displaying their mechanical stop signals or flashing red lights while stopped for the purposes of receiving or discharging passengers. For purposes of G.S. 20-217, the term "school bus" includes a public school bus transporting children or school personnel, a public school bus transporting senior citizens under G.S. 115C-243, or a privately owned bus transporting children. For G.S. 20-217 to apply the school bus must have a plainly visible sign containing the words "school bus" upon the front and rear of the bus. Automated camera and video recording systems may be used to detect and prosecute violations of this law and photographs and videos from such systems can be admitted as evidence if consistent with the North Carolina Rules of Evidence.



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BILL ANALYSIS:

Section 1 of the bill would enact a new G.S. 153A-246, authorizing counties to adopt an ordinance for the civil enforcement of a violation of G.S. 20-217 utilizing automated school bus safety cameras.

An ordinance adopted pursuant to this section would have to include provisions implementing the following requirements:

- The notice of violation would be given in the form of a citation that must be received by the registered owner of the vehicle within 60 days of the date of violation.
- The registered owner would be responsible for the violation unless the citation was not received within 60 days of the violation or the vehicle was under someone else's care, custody, or control at the time of the violation. In that event a citation could be issued to the other person.
- A citation recipient could contest it within 30 days of receiving it by making a written request for a hearing supported by an affidavit stating the basis for the challenge.
- The citation would have to include a statement of the date, time and location of the violation, the amount of the penalty imposed and date by which it must be paid, an image of the violating vehicle, a county employee's or law enforcement officer's affirmation that the recorded images showed a violation of the ordinance by the vehicle, information concerning how to contest the citation, and an explanation of the consequences of failing to pay the penalty or contest the citation in a timely manner.
- Violation of the ordinance would be a noncriminal violation for which a civil penalty could be assessed. Violation of the ordinance would not result in assignment of points for driver's license or insurance purposes.
- No civil penalty would be imposed on a person who is charged with a criminal violation of G.S. 20-217 arising out of the same facts.
- The civil penalty would be \$400 for the first offense, \$750 for the second offense, and \$1,000 for any subsequent offense.
- The citation would be processed by officials or agents of the county and served by first class mail or by any means permitted under Rule 4 of the North Carolina Rules of Civil Procedure.
- A person making a timely request for a hearing to contest a citation would be given a nonjudicial administrative hearing, and would have a right of appeal to district court from any adverse decision reached at the hearing.
- Failure to pay the civil penalty or request for a hearing within 30 days of receiving the citation would be a waiver of the right to contest liability and would result in imposition of a late penalty of \$100 in addition to the civil penalty.
- If the registered owner of a motor vehicle who receives a citation fails to pay it when due, the county would notify the Division of Motor Vehicles and DMV would refuse to register that owner's motor vehicle.

Section 1 would also declare as a matter of public policy that criminal prosecution is the preferred method of enforcement when the identity of a driver violating G.S. 20-217 can be ascertained by the photos or videos recorded by a school bus safety camera, and would require each bus equipped with an automated school bus safety camera to be identified by appropriate warning signs posted on the school

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bus that comply with a statewide standard adopted by the State Board of Education (SBE) in conjunction with the local boards of education.

Section 2 would authorize a local board of education in a county with an ordinance adopted pursuant to Section 1 to install and operate automated school bus safety cameras on any school bus operated by that local board by one of the following means:

- A local board could install and operate the cameras itself without contracting with a private vendor.
- A local school board could contract with a private vendor to install and operate the cameras for a contract term of up to three years, with an option to renew the contract for one additional three-year term. The contract would have to be awarded under State law bidding procedures applicable to purchases of apparatus, supplies, materials or equipment.
- Upon request by one or more local boards, the State Board of Education could enter into a contract with a private vendor to install and operate automated school bus safety cameras on a statewide or regional basis.

A local board of education, board of county commissioners, and law enforcement agency would be permitted to enter into an interlocal agreement furthering the purpose of the ordinance and the installation and operation of the automated school bus safety cameras, including provisions for cost-sharing and reimbursements.

Photographs and videos recorded by an automated school bus safety camera that capture violations of G.S. 20-217 would be required to be provided to investigating law enforcement agencies for use as evidence in prosecuting such violations.

Section 3 would amend G.S. 20-54 to direct the Division of Motor Vehicle to refuse vehicle registration if notified by a county that the owner of the vehicle has failed to pay the civil penalty imposed under the county ordinance.

Section 4 would amend G.S. 20-217 to provide that failure to produce a photograph or video recorded by an automated school bus safety camera does not preclude criminal prosecution under G.S. 20-217 and to make other conforming changes.

Section 5 would require a county that adopts a civil ordinance authorized by Section 1 to maintain records of all violations of the ordinance for which a civil penalty is assessed and, upon request, provide at least 5 years of those records to the NC Child Fatality Task Force and the NC General Assembly.

Section 6 would require the State Board of Education to develop a model request for proposals and a model contract that may be used by local boards in letting contracts for the installation and operation of the automated school bus safety cameras, and would require the State Board and the Department of Public Instruction to provide technical assistance to a local board regarding this process if requested to do so.

EFFECTIVE DATE: Section 3 of this act becomes effective one year after the act becomes law, and would apply to registration of motor vehicles whose owners' failure to pay the civil penalty is reported to the DMV on or after the effective date of the act. The remainder of this act is effective when it becomes law. The contract requirements in G.S. 115C-242.1(b)(2), as enacted by Section 2 of this act, shall not apply to a local board of education that, prior to the effective date, entered into a contract with a private vendor to install and operate automated school bus safety cameras.

Drupti Chauhan and Kara McCraw, counsel to Senate Committee on Education/Higher Education, substantially contributed to this summary.