



SENATE BILL 55: School Bus Cameras/Civil Penalties.

2017-2018 General Assembly

Committee:		Date:	June 29, 2017
Introduced by:	Sens. McInnis, Alexander	Prepared by:	Bill Patterson Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: *Senate Bill 55 would:*

- *Authorize counties to adopt ordinances imposing civil penalties for passing a stopped school bus in violation of G.S. 20-217 when the violation does not result in injury or death and is not criminally prosecuted.*
- *Encourage criminal prosecution when photos or videos recorded by an automated school bus safety camera provide evidence sufficient to support such prosecution.*
- *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 and provide them upon request to the Child Fatality Task Force and the General Assembly.*

[As introduced, this bill was identical to H72, as introduced by Reps. Hanes, Lambeth, which is currently in House Judiciary I.]

CURRENT LAW:

Passing a Stopped School Bus:

G.S. 20-217 requires motor vehicle drivers approaching a properly marked school bus on an undivided highway to stop and remain stopped when the bus stops to pick up or discharge passengers with its mechanical stop signal or flashing red lights displayed, until the stop signal has been withdrawn, the flashing red lights have been turned off, and the bus has started to move.

A driver who violates this prohibition without striking any person is guilty of a Class 1 misdemeanor and subject to a minimum fine of \$500. A driver who willfully violates this prohibition and strikes someone is guilty of a Class I felony and subject to a minimum fine of \$1,250, unless the person struck dies, in which case the violation is a Class H felony subject to a minimum fine of \$2,500.

Upon a second conviction for a misdemeanor violation in a three-year period, the violator's drivers license will be revoked for one year. Conviction of a Class I felony violation will result in a two year license revocation, and conviction of a Class H felony violation will result in a three year revocation. A

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second felony violation conviction or a third misdemeanor violation conviction within any period of time results in permanent revocation.

In addition, the Division of Motor Vehicles will not renew the registration of a person who has not paid any fine or cost imposed for violation of G.S. 20-217.

Automated camera and video recording systems may be used to detect and prosecute violations of this law, and photographs and videos from such systems shall be admitted as evidence if consistent with the North Carolina Rules of Evidence.

BILL ANALYSIS:

Section 1 of the bill would authorize a county to adopt an ordinance permitting the issuance of citations and imposition of civil penalties for violations of G.S. 20-217 that do not result in injury or death, utilizing automated school bus safety cameras.

The authorized ordinance would have to provide that:

- Any citation issued for violation of the ordinance must be received by the registered owner of the vehicle within 60 days of the date of violation.
- The registered owner would be held responsible for the violation unless it is established that the citation was not timely received by the owner or that the vehicle was under someone else's care, custody, or control at the time of the violation.
- The owner can contest the citation within 30 days of its receipt by making a written request for a hearing supported by an affidavit stating the basis for the challenge.
- To be valid, a citation must contain: a statement of the date, time and location of the violation; the amount of the penalty imposed and the date by which it must be paid; an image of the violating vehicle; a statement or electronically generated affirmation of a law enforcement officer, employed by a law enforcement agency that has contractually agreed to provide this service, that the recorded image shows a violation of the ordinance by the vehicle; information on how to contest the citation; and an explanation of the consequences of failing to pay the penalty or contest the citation within the time required.
- The citation must 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.
- Violation of the ordinance is a noncriminal violation for which a civil penalty can be assessed and does not result in assignment of points for driver's license or insurance purposes.
- For each person criminally charged with violating G.S. 20-217, the charging law enforcement agency must provide the county's citation processing office with written notice containing the name and address of person criminally charged and the date of the violation.
- After receiving notice from a charging law enforcement agency, the county shall not impose a civil penalty against the person charged that arises out of the same facts as those for which that person was charged. The county must also fully refund any civil penalty received from a person who is criminally charged with violating G.S. 20-217, together with interest at the legal rate from the date of payment of the penalty.

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- A person making a timely request for a hearing to contest a citation must be given a nonjudicial administrative hearing and has a right of appeal to district court from any adverse decision reached at the hearing.
- The civil penalty for violation of the ordinance is \$400 for the first offense, \$750 for the second offense, and \$1,000 for any subsequent offense. (By law, the clear proceeds of all collected penalties would go to the county's local school administrative agency.¹)
- Failure to pay the civil penalty or request for a hearing within 30 days of receiving the citation is a waiver of the right to contest liability and will result in imposition of a late penalty of \$100 in addition to the civil penalty.
- The county will notify the Division of Motor Vehicles of any registered owner of a motor vehicle who receives a citation and fails to pay it when due and the Division will refuse to register that owner's motor vehicle in accordance with G.S. 20-54(11) (as amended in Section 3 of the bill).

Automated school bus safety cameras would be required to be identified with conspicuous warning signs on the bus complying with a statewide standard adopted by the State Board of Education.

Criminal prosecution would be encouraged for violation of G.S. 20-217 whenever photos or videos recorded by an automated school bus safety camera provide evidence sufficient to support such prosecution.

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.

Section 2 would authorize an interlocal agreement between a local board of education, board of county commissioners, and law enforcement agency 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. (Pursuant to G.S. 153A-246(b)(4)c., as enacted under Section 1 of the bill, citations can

¹ Under Article IX, Sec. 7 of the N.C. Constitution, the clear proceeds of all collected civil penalties must be used exclusively for maintaining free public schools. How the money gets to the schools depends on whether it is collected by a State agency or by a county. The clear proceeds of all civil penalties collected by State agencies go into the State Civil Penalty and Forfeiture Fund established by Article 31A of Chapter 115C of the General Statutes. Each county receives a proportionate distribution from the fund on a per pupil basis for disbursement to its local school administrative agency. By contrast, the clear proceeds of all civil penalties collected by a county do not go to the Civil Penalty and Forfeiture Fund, but instead remain in the county to be disbursed directly to the county's local school administrative agency. In calculating the amount of the "clear proceeds" that must be paid to the schools, only the actual costs of collection may be deducted. State agencies may deduct the actual costs of collection not to exceed 20% of the amount collected. G.S. 115C-457.2. Counties may deduct the actual costs of collection not to exceed 10% of the amount collected. G.S. 115C-437.

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be issued only for violations that are confirmed by review of the recorded image or video by a law enforcement officer employed by an agency that is a party to the interlocal agreement.)

Section 2 also requires photographs and videos recorded by an automated school bus safety camera capturing violations of G.S. 20-217 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 the 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.

Legislative Analysis Division Staff Attorneys Drupti Chauhan and Kara McCraw substantially contributed to this summary.