

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

**SESSION LAW 2017-188
SENATE BILL 55**

AN ACT TO AUTHORIZE THE USE OF PHOTOGRAPHIC OR VIDEO EVIDENCE FOR
THE CIVIL ENFORCEMENT OF VIOLATIONS FOR PASSING A STOPPED SCHOOL
BUS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-246. Use of photographs or videos recorded by automated school bus safety cameras.

(a) Definitions. – The following definitions apply in this section:

(1) Automated school bus safety camera. – As defined in G.S. 115C-242.1.

(2) Officials or agents. – This term includes a local board of education located within the county or a private vendor contracted with under G.S. 115C-242.1.

(3) School bus. – As used in G.S. 20-217.

(b) Civil Enforcement. – A county may adopt an ordinance for the civil enforcement of G.S. 20-217 by means of an automated school bus safety camera installed and operated on any school bus located within that county. An ordinance adopted pursuant to this section shall not apply to any violation of G.S. 20-217 that results in injury or death. Notwithstanding the provisions of G.S. 14-4, in the event that a county adopts an ordinance pursuant to this section, a violation of the ordinance shall not be an infraction. An ordinance authorized by this subsection shall provide all of the following:

(1) The notice of the violation shall be given in the form of a citation and shall be received by the registered owner of the vehicle no more than 60 days after the date of the violation.

(2) The registered owner of a vehicle shall be responsible for a violation unless the vehicle was, at the time of the violation, in the care, custody, or control of another person or unless the citation was not received by the registered owner within 60 days after the date of the violation.

(3) A person wishing to contest a citation shall, within 30 days after receiving the citation, deliver to the officials or agents of the county that issued the citation a written request for a hearing accompanied by an affidavit stating the basis for contesting the citation, including, as applicable:

a. The name and address of the person other than the registered owner who had the care, custody, or control of the vehicle.

b. A statement that the vehicle involved was stolen at the time of the violation, with a copy of any insurance report or police report supporting this statement.

c. A statement that the citation was not received within 60 days after the date of the violation, and a statement of the date on which the citation was received.



- d. A copy of a criminal pleading charging the person with a violation of G.S. 20-217 arising out of the same facts as those for which the citation was issued.
- (4) The citation shall include all of the following:
- a. The date and time of the violation, the location of the violation, the amount of the civil monetary penalty imposed, and the date by which the civil monetary penalty shall be paid or contested.
 - b. An image taken from the recorded image showing the vehicle involved in the violation.
 - c. A copy of a statement or electronically generated affirmation of a law enforcement officer employed by a law enforcement agency with whom an agreement has been reached pursuant to G.S. 115C-242.1(c) stating that, based upon inspection of the recorded images, the owner's motor vehicle was operated in violation of the ordinance adopted pursuant to this subsection.
 - d. Instructions explaining the manner in which, and the time within which, liability under the citation may be contested pursuant to subdivision (3) of this subsection.
 - e. A warning that failure to pay the civil monetary penalty or to contest liability in a timely manner shall waive any right to contest liability and shall result in a late penalty of one hundred dollars (\$100.00), in addition to the civil monetary penalty.
 - f. In citations issued to the registered owner of the vehicle, a warning that failure to pay the civil monetary penalty or to contest liability in a timely manner shall result in refusal by the Division of Motor Vehicles to register the motor vehicle, in addition to imposition of the civil monetary penalty and late penalty.
- (5) Violations of the ordinance shall be deemed a noncriminal violation for which a civil penalty shall be assessed and for which no points authorized by G.S. 20-16(c) and no insurance points authorized by G.S. 58-36-65 shall be assigned to the registered owner or driver of the vehicle. The amount of such penalty shall be four hundred dollars (\$400.00) for the first offense, seven hundred fifty dollars (\$750.00) for the second violation, and one thousand dollars (\$1,000) for each subsequent violation of the ordinance.
- (6) If a registered owner provides an affidavit that the vehicle was, at the time of the violation, in the care, custody, or control of another person or company, the identified person or company may be issued a citation complying with the requirements of subdivision (4) of this subsection.
- (7) The citation shall be processed by officials or agents of the county and shall be served by any method permitted for service of process pursuant to G.S. 1A-1, Rule 4 of the North Carolina Rules of Civil Procedure, or by first-class mail to the address of the registered owner of the vehicle provided on the motor vehicle registration or, as applicable, to the address of the person identified in an affidavit submitted by the registered owner of the vehicle.
- (8) If the person to whom a citation is issued makes a timely request for a hearing pursuant to subdivision (3) of this subsection, a summons shall be issued by any method permitted for service of process pursuant to G.S. 1A-1, Rule 4 of the North Carolina Rules of Civil Procedure, directing the person to appear at the place and time specified in the summons in order to contest the citation at an administrative hearing.

- (9) A citation recipient who, within 30 days after receiving the citation, fails either to pay the civil penalty or to request a hearing to contest the citation shall have waived the right to contest responsibility for the violation and shall be subject to a late penalty of one hundred dollars (\$100.00) in addition to the civil penalty assessed under this subsection.
- (10) The county shall institute a nonjudicial administrative hearing to hear contested citations or penalties issued or assessed under this section. The decision on a contested citation shall be rendered in writing within five days after the hearing and shall be served upon the person contesting the citation by any method permitted for service of process pursuant to G.S. 1A-1, Rule 4 of the North Carolina Rules of Civil Procedure. If the decision is adverse to the person contesting the citation, the decision shall contain instructions explaining the manner and the time within which the decision may be appealed pursuant to subdivision (11) of this subsection.
- (11) A person may appeal to the district court division of the General Court of Justice from any adverse decision on a contested citation by filing notice of appeal in the office of the clerk of superior court. Enforcement of an adverse decision shall be stayed pending the outcome of a timely appeal. Except as otherwise provided in this subdivision, appeal shall be in accordance with the procedure set forth in Article 19 of Chapter 7A of the General Statutes applicable to appeals from the magistrate to the district court. For purposes of calculating the time within which any action must be taken to meet procedural requirements of the appeal, the date upon which the person contesting the citation is served with the adverse decision shall be deemed to be the date of entry of judgment.
- (12) In the event a person is charged in a criminal pleading with a violation of G.S. 20-217, all of the following shall apply:
- a. The charging law enforcement agency shall provide written notice to the county office responsible for processing civil citations pursuant to subdivision (7) of subsection (b) of this section containing the name and address of the person charged with violation of G.S. 20-217 and the date of the violation.
 - b. After receiving notice pursuant to this subdivision that a person has been charged in a criminal pleading with a violation of G.S. 20-217, the county shall not impose a civil penalty against that person arising out of the same facts as those for which the person was charged in the criminal pleading.
 - c. The county shall issue a full refund of any civil penalty payment received from a person who was charged in a criminal pleading with a violation of G.S. 20-217 if the civil penalty arose out of the same facts as those for which that person was charged in the criminal pleading, together with interest at the legal rate as provided by G.S. 24-1 from the date the penalty was paid until the date of refund.
- (13) If a citation is not contested pursuant to subdivision (3) of this subsection, payment of the civil penalty is due within 30 days after receipt of the citation. If the citation is contested, and the result of the administrative hearing held pursuant to subdivision (10) of this subsection is a decision adverse to the citation recipient, then payment is due within 30 days after receipt of the adverse decision, unless the citation recipient appeals the adverse decision pursuant to subdivision (11) of this subsection. If the adverse decision is appealed, and if the final decision on appeal is adverse to

the citation recipient, then payment of the civil penalty is due within 30 days after the citation recipient receives notice of the final adverse decision on appeal.

(14) If the registered owner of a motor vehicle who receives a citation fails to pay the civil penalty when due, the Division of Motor Vehicles shall refuse to register the motor vehicle for the owner in accordance with G.S. 20-54(11). The county may establish procedures for providing notice to the Division of Motor Vehicles and for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.

(15) The county shall provide each law enforcement agency within its jurisdiction with the name and address of the county official to whom written notice of persons charged with violation of G.S. 20-217 should be given pursuant to subdivision (12) of this subsection.

(c) Notice. – An automated school bus safety camera installed on a school bus must be identified by appropriate warning signs conspicuously posted on the school bus. All warning signs shall be consistent with a statewide standard adopted by the State Board of Education in conjunction with local boards of education that install and operate automated school bus safety cameras on their school buses.

(d) Application. – Nothing in this section shall be construed to do any of the following:

(1) Require the installation and operation of automated school bus safety cameras on a school bus.

(2) Prohibit the use and admissibility of any photograph or video recorded by an automated school bus safety camera in any criminal proceeding alleging a violation of G.S. 20-217.

(3) Prohibit the imposition of penalties, including the assignment of points authorized by G.S. 20-16(c) and insurance points authorized by G.S. 58-36-65, on any registered owner or driver of the vehicle convicted of a misdemeanor or felony violation of G.S. 20-217.

(e) Criminal Prosecution Encouraged. – The General Assembly of North Carolina encourages criminal prosecution for violation of G.S. 20-217 whenever photographs or videos recorded by an automated school bus safety camera provide evidence sufficient to support such prosecution."

SECTION 2. Article 17 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-242.1. Installation and operation of automated school bus safety camera.

(a) Definition. – An "automated school bus safety camera" is a device that is affixed to a school bus, as that term is used in G.S. 20-217, that is synchronized to automatically record photographs or video of a vehicle at the time the vehicle is detected for a violation of (i) G.S. 20-217 or (ii) an ordinance adopted under G.S. 153A-246.

(b) Installation and Operation. – Automated school bus safety cameras may be installed and operated on any school bus operated by a local board of education within a county that has adopted an ordinance under G.S. 153A-246 as follows:

(1) A local board of education may install and operate automated school bus safety cameras without contracting with a private vendor.

(2) A local board of education may enter into a service contract to install and operate automated school bus safety cameras with a private vendor. Contracts shall be let in accordance with the provisions of G.S. 143-129 applicable to purchases of apparatus, supplies, materials, or equipment. The maximum length of any contract entered into under this subdivision shall be three years. A contract entered into under this subdivision may contain an

option to renew or extend the contract for only one additional term not to exceed three years.

- (3) Upon request by one or more local boards of education, the State Board of Education shall enter into a contract for a statewide service or contracts for regional services to install and operate automated school bus safety cameras with a private vendor. These contracts shall be let in accordance with the provisions of Article 3 of Chapter 143 of the General Statutes.

(c) Interlocal Agreements. – Any local board of education, board of county commissioners, and law enforcement agency may enter into an interlocal agreement pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes that is necessary and proper to effectuate the purpose and intent of this section and G.S. 153A-246. Any agreement entered into pursuant to this subsection may include provisions on cost-sharing and reimbursement to which the local board of education, board of county commissioners, or law enforcement agency freely and voluntarily agree for the purposes of effectuating this section and G.S. 153A-246.

(d) Evidence in Criminal Proceeding. – Any photographs or videos recorded by an automated school bus safety camera that capture a violation of G.S. 20-217 shall also be provided to the investigating law enforcement agency for use as evidence in any proceeding alleging a violation of G.S. 20-217."

SECTION 3. G.S. 20-54 reads as rewritten:

"§ 20-54. Authority for refusing registration or certificate of title.

The Division shall refuse registration or issuance of a certificate of title or any transfer of registration upon any of the following grounds:

- ...
- (11) The Division has been notified (i) pursuant to G.S. 20-217(g2) that the owner of the vehicle has failed to pay any fine imposed pursuant to ~~G.S. 20-217~~G.S. 20-217 or (ii) pursuant to G.S. 153A-246(b)(14) that the owner of the vehicle has failed to pay a civil penalty due under G.S. 153A-246.

...."

SECTION 4. G.S. 20-217 reads as rewritten:

"§ 20-217. Motor vehicles to stop for properly marked and designated school buses in certain instances; evidence of identity of driver.

...

(h) ~~Automated camera and video recording systems~~Automated school bus safety cameras, as defined in G.S. 115C-242.1, may be used to detect and prosecute violations of this section. Any photograph or video recorded by a camera or video recording system an automated school bus safety camera shall, if consistent with the North Carolina Rules of Evidence, be admissible as evidence in any proceeding alleging a violation of subsection (a) of this section. Failure to produce a photograph or video recorded by an automated school bus safety camera shall not preclude prosecution under this section."

SECTION 5. A county that adopts an ordinance as provided in G.S. 153A-246, as enacted by this act, shall maintain records of all violations of that ordinance for which a civil penalty is assessed. Upon request, the county shall provide at least five years of those records to the North Carolina Child Fatality Task Force and the North Carolina General Assembly.

SECTION 6. Within 90 days of the enactment of this act, the State Board of Education shall develop a model request for proposals and a model contract that may be used by the local boards of education in letting contracts in accordance with the provisions of G.S. 115C-242.1(b)(2), as enacted by Section 2 of this act. The State Board of Education and the Department of Public Instruction shall provide technical assistance to a local board of education on this process upon a request by the local board.

SECTION 7. Section 3 of this act is effective one year after it becomes law and shall apply to the registration of any motor vehicle whose owner's failure to pay a civil penalty due under G.S. 153A-246 is reported by a county to the Division of Motor Vehicles on or after the effective date of this act. The remainder of this act is effective when it becomes law. The 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 of this act, entered into a contract with a private vendor to install and operate automated school bus safety cameras.

In the General Assembly read three times and ratified this the 30th day of June, 2017.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 2:39 p.m. this 25th day of July, 2017