

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 679

(Senator Brinkley, *et al.*)

Judicial Proceedings

Environmental Matters

Vehicle Laws - Overtaking and Passing School Vehicles - School Bus Monitoring
Cameras

This bill authorizes a law enforcement agency, in consultation with a local board of education, to place school bus monitoring cameras on local school buses if authorized by the governing body of the local jurisdiction after notice and a public hearing. Local law enforcement agencies may issue warnings or citations to vehicle owners or drivers for failing to stop for a school vehicle that has stopped with its alternately flashing red lights operating in accordance with the Maryland Vehicle Law. The maximum fine for a citation is \$250.

Fiscal Summary

State Effect: General fund revenues increase significantly due to penalties collected by the District Court in contested cases and to the extent that a local government generates penalty revenue in excess of 10% of its total revenues in any year. District Court caseloads may increase significantly due to the exclusive jurisdiction and significant penalties established by the bill; general fund expenditures may increase significantly to the extent the increase in caseloads cannot be handled with existing resources. Transportation Trust Fund (TTF) revenues increase due to additional actions taken by the Motor Vehicle Administration (MVA) against the registration of a vehicle owned by someone who fails to pay a fine under the bill.

Local Effect: Local school system expenditures increase in any jurisdiction that, as authorized under the bill, equips its local school system buses with monitoring cameras. Revenues increase by a significantly greater amount for these jurisdictions due to the fine revenue collected by the local government. Local law enforcement operations are affected in any jurisdiction that implements the bill, and expenditures may increase to the extent that implementation cannot be handled with existing resources.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: A “recorded image” is an image recorded by a school bus monitoring camera on two or more photographs, microphotographs, electronic images, a videotape, or any other medium, which clearly identifies the registration plate number on the rear of the motor vehicle. A “school bus monitoring camera” is a camera placed on a school bus that is designed to capture a recorded image of a driver of a motor vehicle committing a violation of the provisions of the Maryland Vehicle Law governing traffic in the presence of a stopped school vehicle.

Unless a driver receives a citation from a police officer at the time of the violation, a person who receives a citation by mail may pay the specified civil penalty to the county with jurisdiction or may elect to stand trial in District Court, which is granted exclusive jurisdiction in proceedings for civil infractions under the bill. In a contested case, the penalty must be paid to the District Court.

In addition to other required information, the mailed citation must include a copy of the recorded image of the vehicle and a signed statement by a technician employed by the issuing law enforcement agency. The citation must also be mailed within two weeks of the violation.

A recorded image of a motor vehicle produced by a school bus monitoring camera is admissible in a proceeding without authentication. A certificate alleging that the violation occurred, that is sworn to or affirmed by an agent or employee of an agency, is evidence of the facts contained therein and is also admissible in any proceeding. Adjudication of liability is to be based on a preponderance of the evidence standard. The District Court may consider the defenses specified in the bill, including that the vehicle was stolen or that the owner was not operating the vehicle at the time of the violation. For violations involving certain trucks, tractors, trailers, and buses, the person named in the citation may satisfy the burden of proof that he or she was not operating the vehicle at the time of the violation by providing a sworn letter containing the name, address, and driver’s license number of the person who was operating the vehicle at the time.

A citation issued under the bill may not be considered in the provision of vehicle insurance, is not a moving violation for which points may be assessed, and may not be placed on the driving record of the owner or driver of the vehicle. However, it may be treated as a parking violation for purposes of enforcement. Thus, if the fine is not paid and the violation is not contested, MVA may refuse to register, reregister, or suspend the registration of the motor vehicle.

From the fines collected by a local government, the jurisdiction may recover the costs of implementing school bus monitoring cameras and must spend any remaining balance for public safety, including pedestrian safety programs. However, if after recovering implementation costs, the balance of revenues generated exceeds 10% of the local jurisdiction's total revenues for the fiscal year, then any remaining amount above 10% must be remitted to the Comptroller and deposited in the general fund.

Current Law: If a school vehicle has stopped on a roadway and is operating its standard alternately flashing red lights, the driver of any other vehicle must stop at least 20 feet from the school vehicle and may not proceed until the school vehicle resumes motion or its flashing lights are deactivated. This does not apply to a vehicle on a separate roadway of a divided highway. If a school bus operator witnesses a violation, the operator may report the violation to a law enforcement agency with information to identify the vehicle and operator. The violation is a misdemeanor and carries a fine of up to \$1,000, or \$570 if prepaid. In addition, three points are assessed for failure to stop. Failure to remain stopped carries only two points; however, the prepaid penalty increases to \$610 and three points if the violation contributes to an accident.

If the identity of the operator of the vehicle cannot be established, the law enforcement agency must nevertheless issue a warning stating that a report of a violation was made that described the owner's vehicle as involved in the violation, but that there is insufficient evidence for the issuance of a citation.

Background: A 2006 study in the *Journal of the American Academy of Pediatrics* estimated that, between 2001 and 2003, there were about 4,000 injuries involving school children boarding, exiting, or approaching a school bus nationwide. And according to the National Highway Traffic Safety Administration, between 1998 and 2008, 1,564 people died in school transportation-related accidents nationwide, although it is unknown how many fatalities involved nonschool bus crashes, or how many involved illegally passing or overtaking a school bus. However, 149 of the fatalities involved school-aged pedestrians, with one-quarter of these accidents caused by another vehicle.

According to the Maryland State Department of Education (MSDE), the transportation directors for school districts of all 23 counties and Baltimore City have expressed interest in installing camera systems with outside recording capability on school buses when funds become available. MSDE also advises that it conducted a one-day survey of school bus drivers to determine the prevalence of overtaking violations. The results of that survey were released in February 2011 and show that there were 7,028 reported violations during the day of the survey. Survey respondents included 65% of school bus drivers in the State. Of these reported violations, 56.9% were the result of oncoming vehicles passing the bus from the opposite direction; 37.9% of violations were from vehicles passing on the driver side of the bus; and only 5.2% were from vehicles passing on the side of the bus with the passenger door.

State Fiscal Effect: General fund revenues increase significantly to the extent that several jurisdictions implement school bus monitoring programs and people contest citations issued in the jurisdictions. The bill states that fine revenue be paid to the county with jurisdiction in an uncontested case or to the District Court following a contested citation case. The bill charges the District Court with the responsibility to develop the uniform citation, and the Chief Judge, in consultation with local law enforcement agencies, is tasked with developing procedures for the issuance of citations and the collection of civil penalties under the bill. Therefore, while it is unknown how fine revenue will be allocated, it is presumed that penalties collected following contested cases will be deposited in the general fund. General fund revenues may increase further to the extent that the bill results in an increase in fine revenue for a jurisdiction that exceeds 10% of its total revenues in any fiscal year. Finally, general fund revenues may also increase due to the collection of court costs on the issuance of a citation under the bill.

It is possible that, if automated enforcement becomes widespread under the bill, police enforcement may decrease substantially, particularly if necessary to shift resources at local law enforcement agencies to implement the bill. If this occurs, it would minimally offset the expected increase in general fund revenues under the bill. This would result due to a decline in assessment of the larger penalty that may currently be assessed for those who illegally overtake a school bus and replacement by the smaller fine under the bill.

District Court caseloads may increase significantly under the bill, and general fund expenditures may increase to the extent that the additional cases cannot be handled with existing resources. The bill grants exclusive jurisdiction to the District Court for adjudication of violations under the bill. Due to the \$250 maximum fine established by the bill, a potentially significant number of individuals who are issued a citation may seek a trial. While there is limited experience with speed monitoring system implementation in Maryland, it is estimated that roughly 5% to 15% of citations may be contested. However, speed monitoring system penalties are limited to \$40 per citation.

By contrast, the bill's penalty of up to \$250 may result in drivers contesting citations at a rate closer to the current violation for overtaking a school bus; between fiscal 2007 and 2010 an average of 78% of such violations resulted in a trial. And while it is unknown what the average fine issued under the bill may be, Legislative Services advises that the significantly enhanced enforcement capabilities of automated enforcement will likely result in many times more violations under the bill than under current law. Thus, due to the potentially significant number of additional violations and the significant penalties, District Court caseloads are likely to increase significantly.

TTF revenue may also increase minimally due to additional actions taken by MVA against the registration of a vehicle owned by someone who fails to pay a fine under the bill. A violation is to be treated as a parking violation for purposes of handling nonpayment of citations under the bill. Currently, an unpaid parking citation may result in notification by the local government with jurisdiction to MVA. On notification, MVA may not register or transfer the registration of a vehicle whose owner has failed to pay a parking citation, resulting in the imposition of an administrative flag on the registration. In order to have the flag removed from the vehicle's registration, the owner must have paid the parking citation, including late fines, and pay MVA a \$30 fee. In addition, MVA may suspend the vehicle's registration, which to be restored, requires a payment of \$30 to MVA.

Local Fiscal Effect: Local school system expenditures increase in any jurisdiction that, as authorized under the bill, equips its local school system buses with monitoring cameras. While the cost to procure a school bus monitoring system and install it on a bus in conformance with the bill's requirements is unknown, MSDE advises that there are currently about 560 school bus monitoring systems in use by four counties: 390 in Prince George's County; 133 in Montgomery County; 20 in Frederick County; and 17 in Kent County. MSDE has estimated the cost per system at \$2,300; however, this includes three cameras for monitoring the interior of buses. Therefore, the cost is expected to be less to equip each bus with only the minimum monitoring system required by the bill. Overall, costs may reasonably be expected to increase by roughly \$50,000 for the smallest counties to equip each school bus with a monitoring system, or well over \$1 million for the largest counties. These estimates are exclusive of any additional personnel or other equipment costs necessary to implement the bill.

Local government revenues increase significantly for jurisdictions that implement school bus monitoring due to the collection of fines in uncontested cases. Legislative Services advises that the increase in revenues will likely far exceed any increase in local expenditures to equip school buses.

Additional Information

Prior Introductions: Similar legislation was considered during the 2010 session, SB 1001 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken on it. Its cross file, HB 1376, received a hearing in the House Environmental Matters Committee, but no further action was taken on it.

Cross File: None.

Information Source(s): Charles, Frederick, Garrett, and Howard counties; Maryland State Department of Education; Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Association of Boards of Education; Maryland Department of Transportation; National Highway Traffic Safety Administration; Department of Legislative Services

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