

OFFERED BY COUNCILORS ENRIQUE J. PEPÉN AND JOHN FITZGERALD



CITY OF BOSTON IN CITY COUNCIL

ORDINANCE TO ESTABLISH A SCHOOL BUS VIOLATION DETECTION MONITORING SYSTEM

WHEREAS, School buses should be respected by all parties using the road and yet their stop signs continue to be disregarded as little enforcement is currently available; *and*

WHEREAS, Across the Commonwealth, school districts have launched school bus camera pilots such as nearby Peabody that recorded over 850 vehicles illegally passing school buses within the first 5 weeks of the school year.

WHEREAS, School bus stop enforcement should be regarded as a community concern not just to those utilizing the school bus. Drivers must be held accountable for unsafe behavior that could result in the fatality of school children

WHEREAS, The City of Boston should do all it can to ensure the safety of its children, parents, and commuters by locally adopting state law M.G.L c. 40 Section 70 and M.G.L. c. 90 Section 14 to capture and impose consequences on to those that violate the school buses; ***NOW, THEREFORE BE IT***

Ordained by the City of Boston, as follows:

Section 1.

That the City of Boston Code Municipal, Chapter VII, Section 7 is hereby amended by the addition of subsection 5:

7-7.5 Use of School Bus Violation Detection Monitoring System Devices.

7-7.5.1 Purpose

For the purpose of this Section is to create better safety enforcement for school buses when their stops signs are violated. The following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITATION. A notice upon which a Police Officer shall record an occurrence involving all automobile law violations by the person cited. Each **CITATION** shall be numbered consecutively and shall be in such form and such parts as determined jointly by the Administrative Justice of the District Court Department and the registrar.

MOTOR VEHICLE. Shall have the meaning provided in M.G.L. Chapter 90, Section 1, “motor vehicles”.

OPERATOR. Shall have the meaning provided in M.G.L. Chapter 90, Section 1.

OWNER. Shall have the meaning provided in M.G.L. Chapter 90, Section 1.

REGISTRAR. The registrar of motor vehicles.

SCHEDULED ASSESSMENT. The amount of the civil assessment for a particular civil motor vehicle infraction, as established jointly by the Chief Justice of the District Court Department and the registrar. A *Scheduled Assessment* shall not exceed the maximum assessment or fine established by law for each such violation. A schedule of such assessments shall be visibly posted in each Office of the Registry of Motor Vehicles and in the Clerk-Magistrate’s Office of each District Court.

SCHOOL BUS VIOLATION DETECTION MONITORING SYSTEM. Shall have the same meaning provided in M.G.L. Chapter 90, Section 14C.

STOP ARM TRAFFIC CONTROL SIGN. Shall have the same meaning provided in M.G.L. Chapter 90, Section 14C.

7-7.5.2 Installation and Operation of School Bus Violation Detection Monitoring System Devices

- (a) Pursuant to M.G.L. Chapter 90 section 14C, the city shall install a school bus violation detection monitoring system to every school bus regularly employed in the transportation of children to schools in the city, solely to enforce the provisions of M.G.L. Chapter 90 section 14 and 14C, and shall impose penalties pursuant to this section. Such systems shall be installed on the stop arm traffic control sign, as defined in M.G.L Chapter 90, Section 14C. This Section shall not apply to those vehicles owned or leased by the Massachusetts Bay Transportation Authority.
- (b) No school bus violation detection monitoring system shall be utilized in such a manner as to take a frontal view photograph of the motor vehicle that is in violation of the traffic control signal or to take a rear view photograph of the vehicle above the bottom of the rear window.
- (c) A school bus with a school bus violation detection monitoring system shall post signage indicating the use of said system. The signage shall remain on each school bus while a school bus violation detection monitoring system is in operation.

7-7.5.3 Implementation and Administration

- (a) The Executive Director of Transportation for Boston Public Schools shall supervise and coordinate the implementation and administration of school bus violation detection monitoring systems. Upon detection, the Executive Director of Transportation for Boston

Public Schools and the delivery of the photographic materials to the Boston Police Department.

- (b) The City may enter into an agreement with a private vendor or manufacturer to provide a school bus violation detection monitoring system on each bus within its fleet whether the school bus is owned or leased, including the installation, operation and maintenance of such systems. Said agreement shall only become effective after a vote of a majority of the School Committee.

7-7.5.4 Record Keeping of Photographic Evidence Obtained

- (a) Photographic and other recorded evidence obtained through the use of automated enforcement devices deployed as a means of promoting traffic safety authorized herein within the city shall be destroyed within one year of final disposition of any recorded event.
- (b) No photographs, microphotographs or other recorded images taken in conformance with this act shall be discoverable in any judicial or administrative proceeding other than a proceeding held pursuant to this Section; and no photographs, microphotographs or other recorded images taken in conformance with this Section shall be admissible in any judicial or administrative proceeding other than in a proceeding to adjudicate liability for such violation of this Section.
- (c) Other than for purposes of enforcement of a violation of this Section or for purposes of an owner defending a violation of this Section, no private entity or individual may obtain photographs, microphotographs or other recorded images or records taken pursuant to this Section.

7-7.5.5 Inspection of Evidence: Citations and Penalties

- (a) An evidence file of an alleged violation pursuant to section 14C shall be forwarded to the Boston Police Department. After inspection of photographs, microphotographs or other recorded images produced by system The officer shall issue a citation in the manner provided in M.G.L. Chapter 90 section 14 and 14C and M.G.L. Chapter 90C on the owner of a motor vehicle for failure by the operator thereof to comply with the laws, codes, regulations, ordinances, rules and/or other forms of legislation governing the behavior of the operator of a motor vehicle.
- (b) It shall be the duty of the Boston Police Department to deliver the citation to the registered owner or owners of any motor vehicle identified in any photographs, microphotographs, streaming video or other recorded images produced by such device as evidence of a violation pursuant to this Section. Such citation shall contain, but not be limited to, the following information: a copy of the aforementioned recorded images showing the vehicle in violation of the stop arm traffic control sign; the registration number and state of issuance of said registration number of the vehicle; the date, time and intersection location of the violation; the specific violation charged; a schedule of fines for such violation as established by the city or town; instructions for the return of the

notice; and text as follows: “This notice may be returned personally, by mail, or by an Agent authorized in writing. A hearing before a magistrate of the district court may be obtained upon the written request of the registered owner in writing. Failure to obey this notice within 20 days of issuance will result in the non-renewal or suspension of the license to drive and/or the certificate of registration of the registered owner”.

- (i) In the case of a citation involving a motor vehicle registered under the laws of the commonwealth, such citation shall be mailed within 14 days of the violation, exclusive of Sundays and holidays, to the address of the registered owner or owners as listed in the records of the registrar of motor vehicles. In the case of any motor vehicle registered under the laws of another state or country, such notice of citation shall be mailed within 21 days of the violation, exclusive of Sundays and holidays, to the address of the registered owner or owners as listed in the records of the official in such state or country having charge of the registration of such motor vehicle. If said address is unavailable, it shall be sufficient for the Boston Police Department to mail the notice of citation to the official in such state or country having charge of the registration of such motor vehicle.
- (ii) Any motor vehicle owner to whom a citation has been issued pursuant to this act may admit responsibility for such violation and pay the fine provided therein. Payment shall be made by mailing both payment and citation to the registrar at the address indicated on the citation or by appearing before the registrar during normal business hours, either personally or through a duly authorized Agent. Payment by mail shall be made only by money order, credit card or check made out to the registrar. Payment of the established fine and any applicable penalties shall operate as a final disposition of the case. Payment of the fine by one motor vehicle owner shall be satisfaction of the fine as to all other motor vehicle owners of the same motor vehicle for the same violation.
- (iii) Any owner to whom a citation has been issued may within 20 days of the mailing of said citation request a hearing to contest liability, by making a signed request on the back of the citation and mailing such citation to the registrar at the address indicated on the citation, or by appearing before the registrar during regular business hours, personally or through a duly authorized Agent. Upon receipt of hearing request, in accordance with M.G.L. Chapter 90C, Section 3, the registrar shall notify the Clerk-Magistrate in the District Court in judicial district in which the violation occurred of such request for a hearing. The Clerk-Magistrate shall send written notice of the date, time and place of said hearing by first class mail to each registered owner and the Police Officer who issued the citation. The hearing shall be conducted by a Clerk-Magistrate or justice in accordance with M.G.L.

Chapter 90C, Section 3. If, at the conclusion of the hearing, the violator is found responsible, the Clerk-Magistrate or justice shall order the violator to pay an assessment to the registrar, which shall not exceed the scheduled assessment for the infraction.

- (c) Any owner to whom a citation has been issued shall not be liable for a violation under the provisions of this Section:
- (i) If the violation was necessary to allow the passage of an emergency vehicle;
 - (ii) If the violation was necessary in order to protect the property or person of another;
 - (iii) If the violation was incurred while participating in a funeral procession;
 - (iv) If the violation was incurred during a period of time in which the motor vehicle was reported to the Police Department of any state, city or town as having been stolen and had not been recovered prior to the time the violation occurred;
 - (v) If the operator of the motor vehicle was operating the motor vehicle under a rental or lease agreement and the owner of the motor vehicle is a rental or leasing company and has complied with the provisions of M.G.L. Chapter 90, Section 20E; and
 - (vi) If the violation was necessary to comply with any other law or regulation governing the operation of a motor vehicle at the intersection.
- (d) An owner disputing a citation under this Section shall, within 20 days, provide the registrar with the citation with a signed request for a hearing on the back and a signed affidavit stating:
- 1. The reason for disputing the violation;
 - 2. The full legal name and address of the owner of the motor vehicle;
 - 3. The full legal name and address of the operator of the motor vehicle at the time the violation occurred;
 - 4. The names and addresses of all witnesses supporting the owner's defense and the specifics of their knowledge; and
 - 5. Where applicable, signed statements from witnesses.
- (f) The consequences for an owner to whom a citation has been issued who fails to pay the fine provided for in said notice in accordance with this section, or fails to appear for a requested hearing in accordance with this section, or fails to receive a favorable adjudication of said citation at a hearing, or fails to pay the assessment or fine imposed by the Clerk- Magistrate or justice in division (D)(6) above, are as follows: Upon notification of such failure to the registrar, the registrar shall notify the violator that after the expiration of 30 days from the date of the mailing of notification until the fine or assessment and any applicable late fees are paid, the registrar shall not issue or renew or

may suspend such owner's license to operate a motor vehicle and/or motor vehicle registration.

- (1) For each violation the owner or owners of a vehicle shall be fined the maximum scheduled assessment for the infraction of a red light violation.
 - (2) All penalties may be increased by up to 33% if said fine remains unpaid in excess of 30 days after a citation has been issued.
 - (3) A penalty imposed for a violation shall not be deemed a criminal conviction.
- (g) The compensation paid to the manufacturer or vendor of the school bus violation detection monitoring system deployed as a means of promoting traffic safety as authorized herein shall not be based upon the number of traffic citations issued or any portion or percentage of the fine generated by such citations. The compensation paid to such manufacturer or vendor of the equipment shall be based upon the value of such equipment and the services provided or rendered in support of the school bus violation detection monitoring system.

7-7.5.6 Annual Report

The administrator of the school bus violation detection monitoring system within any city, town or district accepting this section shall submit an annual report to the Massachusetts Department of Transportation regarding the use and operation of each system. The report shall contain:

- (a) Data on the number of citations issued under this section at each particular intersection, and of those citations, shall detail:
 - (i) The number paid without a request for a hearing;
 - (ii) The number found responsible after a hearing; and
 - (iii) The number dismissed after a hearing; and
 - (iv) The cost to maintain each system and the amount of revenue obtained from each 95 system.

7-7.5.7 Severability

If any of the provisions of this Section, or the application of such provision to any persons or circumstances, shall be held invalid, the remainder thereof, or the application of such provision to persons or circumstances other than those wherein it is held invalid, shall not be affected thereby.

Section 2.

The provisions of this ordinance shall be effective immediately upon passage.

Filed on: February 5, 2025