

BILL ANALYSIS

Senate Research Center

C.S.S.B. 2060
By: Lucio
Transportation & Homeland Security
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Pick-ups and drop-offs are the most dangerous times of the day for the estimated 1.4 million Texas children who ride a bus to school.

This bill seeks to use technologies that increase the overall safety of children entering, riding, and exiting school buses, while providing new revenue streams to the city and school district. This bill is permissive and simply gives school districts the option to utilize this technology. The decision will be made at the local level. Currently, five school districts around the state are looking at this option.

C.S.S.B. 2060 relates to the authority of a school district to implement a school bus monitoring system that records images of vehicles that pass a stopped school bus and provides for the imposition of penalties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 545.066, Transportation Code, by adding Subsection (g), to authorize an image recorded by the monitoring system authorized by Section 547.701(b)(3) (relating to monitoring system capabilities) to be used in the administrative adjudication of a violation under this section if the image is otherwise admissible, clearly shows the vehicle, including the license plate attached to the vehicle, at the time the offense is alleged to have occurred, and is accompanied by an affidavit executed by a peace officer stating that the image is authentic and that establishes probable cause that a violation occurred.

SECTION 2. Amends Chapter 545, Transportation Code, by adding Subchapter J, as follows:

SUBCHAPTER J. SCHOOL BUS MONITORING SYSTEM

Sec. 545.451. **APPLICABILITY OF SUBCHAPTER.** Provides that this subchapter applies only to a county that has a population of more than 325,000 and that is located adjacent to an international border and a county that has a population of more than 550,000.

Sec. 545.452. **DEFINITIONS.** Defines "owner of a motor vehicle," "recorded image," and "school bus monitoring system."

Sec. 545.453. **AUTHORITY TO PROVIDE FOR PENALTY.** (a) Authorizes the board of trustees of a school district by resolution to impose a financial penalty on the registered owner of a vehicle that is operated in a manner that violates Section 545.066 (Passing a School Bus; Offense) within the school district.

(b) Sets forth the requirements of the resolution adopted under this section.

(c) Provides that except as provided by Subchapter J, an image recorded by the monitoring system authorized by Section 547.701(b)(3) that is not used in the

prosecution of an offense under this section is required to be destroyed by the owner of the school bus; or by Section 545.066(g), an image recorded by the monitoring system authorized by Section 547.701(b)(3) is prohibited from being sold or distributed to another person.

(d) Authorizes penalties collected under this section to be used by a school district only to cover certain costs.

Sec. 545.454. **INSTALLATION AND OPERATION OF SCHOOL BUS MONITORING SYSTEM.** Authorizes a school district that implements a school bus monitoring system and adopts a resolution imposing a penalty under this subchapter to contract for the administration and enforcement of the system; install and operate the system or contract for the installation or operation of the system; enter into an interlocal agreement with a municipality or county in which the school district is located regarding administrative adjudication hearings required by a resolution adopted under this subchapter; or enter into an interlocal agreement with another school district regarding the administration, enforcement, installation, or operation of the system.

Sec. 545.455. **GENERAL SURVEILLANCE PROHIBITED; OFFENSE.** (a) Requires a school district to operate a monitoring system authorized by Section 547.701(b)(3) only for the purpose of detecting a violation or suspected violation of Section 545.066 within the school district.

(b) Provides that a person commits an offense if the person uses a school bus monitoring system to produce a recorded image other than in the manner and for the purpose specified by a resolution adopted under Section 545.453.

(c) Provides that an offense under this section is a Class A misdemeanor.

Sec. 545.456. **EFFECT ON OTHER ENFORCEMENT.** (a) Provides that the implementation of a school bus monitoring system by a school district under this subchapter does not preclude the application or enforcement within the school district of Section 545.066 in the manner prescribed by Chapter 543 (Arrest and Prosecution of Violators), or prohibit a peace officer from arresting a violator of Section 545.066 as provided by Chapter 543 or from issuing the violator a citation and notice to appear as provided by that chapter.

(b) Prohibits a school district from imposing a penalty under this subchapter on the owner of a motor vehicle if the operator of the vehicle was arrested or issued a citation and notice to appear by a peace officer for the same violation of Section 545.066 recorded by the school bus monitoring system.

Sec. 545.457. **NOTICE OF VIOLATION; CONTENTS.** (a) Provides that the imposition of a penalty under this subchapter is initiated by the mailing of a notice of violation to the owner of the motor vehicle against whom the school district seeks to impose the penalty.

(b) Requires the designated department, agency, or office of the school district or the entity with which the school district enters into an interlocal agreement under Section 545.454(3) (relating to an interlocal agreement with a municipality or county), not later than the 30th day after the date the violation is alleged to have occurred, to mail the notice of violation to the owner of the motor vehicle at the owner's address as shown on the registration records of the Texas Department of Transportation (TxDOT), or if the vehicle is registered in another state or country, the owner's address as shown on the motor vehicle registration records of the department or agency of the other state or country analogous to TxDOT.

(c) Sets forth the required content of the notice of violation.

(d) Provides that a notice of violation is presumed to have been received on the fifth day after the date the notice is mailed.

Sec. 545.458. PRESUMPTION. (a) Provides that it is presumed that the owner of the motor vehicle committed the violation alleged in the notice of violation mailed to the person if the motor vehicle depicted in a recorded image taken by a school bus monitoring system belongs to the owner of the motor vehicle.

(b) Provides that if, at the time of the violation alleged in the notice of violation, the motor vehicle depicted in a recorded image taken by a school bus monitoring system was owned by a person in the business of selling, renting, or leasing motor vehicles or by a person who was not the person named in the notice of violation, the presumption under Subsection (a) is rebutted on the presentation of evidence establishing that the vehicle was at that time being test driven by another person, being rented or leased by the vehicle's owner to another person, or owned by a person who was not the person named in the notice of violation.

(c) Requires that the presentation of evidence under Subsection (b) by a person who is in the business of selling, renting, or leasing motor vehicles or did not own the vehicle at the time of the violation, notwithstanding Section 545.459, be made by affidavit, through testimony at the administrative adjudication hearing under Section 545.459, or by a written declaration under penalty of perjury. Authorizes the affidavit or written declaration to be submitted by mail to the school district or the entity with which the school district contracts under Section 545.454(1) (relating to contract for the administration and enforcement of the system).

(d) Prohibits a penalty, if the presumption established by Subsection (a) is rebutted under Subsection (b), from being imposed on the owner of the vehicle or the person named in the notice of violation, as applicable.

(e) Requires the owner of the vehicle, if at the time of the violation alleged in the notice of violation, the motor vehicle depicted in the recorded image taken by the school bus monitoring system was owned by a person in the business of renting or leasing motor vehicles and the vehicle was being rented or leased to an individual, to provide to the school district or the entity with which the school district contracts under Section 545.454(1) the name and address of the individual who was renting or leasing the motor vehicle depicted in the recorded image and a statement of the date and times during which that individual was renting or leasing the vehicle. Requires the owner to provide the information required by this subsection not later than the 30th day after the date the notice of violation is received. Provides that if the owner provides the required information, it is presumed that the individual renting or leasing the motor vehicle committed the violation alleged in the notice of violation and authorizes the school district or contractor to send a notice of violation to that individual at an address provided by the owner of the motor vehicle or from motor vehicle registration records.

Sec. 545.459. ADMINISTRATIVE ADJUDICATION HEARING. (a) Authorizes a person who receives a notice of violation under this subchapter to contest the imposition of the penalty specified in the notice of violation by filing a written request for an administrative adjudication hearing. Requires that the request for a hearing be filed on or before the date specified in the notice of violation, which is prohibited from being earlier than the 30th day after the date the notice of violation was mailed.

(b) Requires the school district, on receipt of a timely request for an administrative adjudication hearing, to notify the person of the date and time of the hearing.

(c) Authorizes an administrative adjudication hearing under this subchapter to be conducted by any justice of the peace court in a county where the alleged violation of Section 545.066 within the school district occurred. Provides that for purpose of establishing jurisdiction for justice of the peace courts to conduct administrative adjudication hearings under this subchapter only a violation of this subchapter is a case under Article 4.11(a) (relating to requiring justices of the

peace to have original jurisdiction in certain criminal cases), Code of Criminal Procedure.

(d) Requires that the issues be proven by a preponderance of the evidence in an administrative adjudication hearing.

(e) Authorizes that the reliability of the school bus monitoring system used to produce the recorded image of the motor vehicle involved in the violation be attested to by affidavit of an officer or employee of the school district or the entity with which the school district contracts under Section 545.454(1) who is responsible for inspecting and maintaining the system.

(f) Provides that an affidavit of a peace officer that alleges a violation based on an inspection of the applicable recorded image is admissible in the administrative adjudication hearing and evidence of the facts contained in the affidavit.

(g) Requires the hearing officer, at the conclusion of the administrative adjudication hearing, to enter a finding of a liability for the penalty or a finding of no liability for the penalty. Requires that a finding under this subsection be in writing and be signed and dated by the hearing officer.

(h) Requires that a finding of liability for a penalty specify the amount of the penalty for which the person is liable. Prohibits a penalty for the violation from being imposed against the person if the hearing officer enters a finding of no liability.

(i) Authorizes a finding of liability or a finding of no liability entered under this section to be filed with a person designated by the board of trustees of a school district and to be recorded on microfilm or microfiche or using data processing techniques.

Sec. 545.460. IMPOSITION OF PENALTY NOT A CONVICTION. Provides that the imposition of a penalty under this subchapter is not a conviction and is prohibited from being considered a conviction for any purpose.

Sec. 545.461. FAILURE TO PAY PENALTY. (a) Provides that if the owner of the motor vehicle fails to timely pay the amount of the penalty imposed against the owner an arrest warrant is prohibited from being issued for the owner and the imposition of the penalty is prohibited from being recorded on the owner's driving record.

(b) Requires that the notice of Subsection (a) be included in the notice of violation required by Section 545.456.

SECTION 3. Amends Section 547.701(b), Transportation Code, to authorize a school bus to be equipped with a monitoring system that is capable of taking live or recorded photographic, electronic, video, or digital images of vehicles that pass the bus when the bus is operating a visual signal as required by this section; conforms to regulations adopted under Section 34.002 (Safety Standards), Education Code; and is capable of producing a live or recorded visual image of a person inside the bus that may be viewed from another location or of taking photographic, electronic, video, or digital images of a person inside the bus.

SECTION 4. Provides that Section 545.451 of this Act expires September 1, 2013.

SECTION 5. Effective date: September 1, 2009.