

HOUSE No. 3043

The Commonwealth of Massachusetts

PRESENTED BY:

Paul J. Donato

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act concerning the safety of school children embarking and disembarking school buses.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Paul J. Donato</i>	<i>35th Middlesex</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>John J. Binienda</i>	<i>17th Worcester</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Joseph F. Wagner</i>	<i>8th Hampden</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>

HOUSE No. 3043

By Mr. Donato of Medford, a petition (accompanied by bill, House, No. 3043) of Paul J. Donato and others for legislation to authorize the installation and operate digital video violation detection monitoring systems to detect drivers failing to stop for school buses . Transportation.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act concerning the safety of school children embarking and disembarking school buses.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 An Act concerning the safety of school children embarking and disembarking school
2 buses.

3 Be it enacted by the Senate and House of Representatives in General Court
4 assembled, and by the authority of the same, as follows:

5

6 SECTION 1. Section 14 of Chapter 90 of the General Laws is hereby amended by
7 inserting after section 14B the following section:-

8 Section 14C. (a) In addition to other monitoring devices lawfully authorized to be
9 installed in school buses and notwithstanding any general or special law to the contrary, any city
10 or town within the Commonwealth is hereby authorized to install and operate digital video
11 school bus violation detection monitoring systems for purpose of enforcing violations against the
12 owner of a motor vehicle whose vehicle failed to stop for a school bus when required to do so by
13 the provisions of Section 14. Such systems shall be limited to monitor and detect violations of
14 motorists failing to stop for a school bus.

15 (b) (1) As used in this section, the following words shall have the following meanings:

16 "School bus violation detection monitoring system" an automated camera system that
17 shall monitor and detect motor vehicles overtaking or passing school buses when said buses are
18 stopped and displaying front and rear alternating flashing red signal lamps as provided in section
19 seven B, and which has been stopped to allow pupils to alight from or board the same. It shall be

20 a system which produces two or more digital photographs and/or videos of each motor vehicle at
21 the time it is used or operated in a manner that is in violation of Section 14 of Chapter 90.

22 “Stop arm traffic control sign” a stop sign mounted on a mechanical arm installed on a
23 school bus which is deployed when a school bus is stopped to allow pupils to alight from or
24 board the same and notify motorists when it they are required to stop and when they can proceed.

25 “Violation” the failure of an operator of a motor vehicle to comply with the laws, codes,
26 regulations, by-laws, ordinances, rules or other forms of legislation governing the traffic control
27 requirements for school buses stopped to allow pupils to alight from or board same for which a
28 school bus violation detection monitoring system is installed and in operation. (2) All systems
29 installed for use under this section shall produce an evidence file that includes a recorded video
30 of the violation viewable remotely, at least one image clearly recording the motor vehicle prior to
31 the violation and at least one image recording the motor vehicle during the violation, a recorded
32 image of the license plate with the date, time and location of the vehicle committing the
33 violation. An affidavit shall be signed by a person trained to observe and detect such violations
34 who observes the violation via recorded video provided by the school bus violation detection
35 monitoring system. Where a school bus is not equipped with a stop arm, such recorded video
36 images and still photographic images must record the rear of the motor vehicle, with at least 1
37 photographic image and one recorded video image clearly recording the motor vehicle
38 immediately before the violation of the red flashing lights and at least 1 photographic image and
39 one recorded video image recording the motor vehicle passing the stopped school bus.
40 Additionally at least 1 photographic image and 1 recorded video image must clearly identify the
41 license plate of the motor vehicle.

42 (3) Recorded video images and still photographic images must record the rear of the
43 motor vehicle, with at least 1 photographic image and one recorded video image clearly
44 recording the motor vehicle immediately before the violation of the stop arm traffic control sign
45 and at least 1 photographic image and one recorded video image recording the motor vehicle
46 passing the stopped school bus with the stop arm traffic control sign deployed in violation of the
47 stop arm traffic control sign. Additionally, at least 1 photographic image and 1 recorded video
48 image must clearly identify the license plate of the motor vehicle.

49 (4) No traffic control signal violation monitoring system shall be utilized in such a
50 manner as to take a frontal view photograph of the motor vehicle that is in violation of the traffic
51 control signal , but no notice of liability issued under this section shall be dismissed solely
52 because a photograph or recorded video image allow for the identification of the operator,
53 passengers, or contents of a vehicle as long as a reasonable effort has been made to comply with
54 this paragraph.

55 (5) Any school bus installed with a school bus violation detection monitoring system
56 shall post warning signage indicating the use of such system. The signage shall remain on each
57 bus as long as a school bus violation detection monitoring system is in operation.

58 (6) A penalty imposed for a violation of this section shall not be considered a criminal
59 conviction and shall not be considered a moving violation of the motor vehicle laws for the
60 purpose of determining surcharges on motor vehicle premiums pursuant to Section 113B of
61 Chapter 175 although as provided in this section the violation shall be noted on the registered
62 owner or owners' driving record.

63 (7) The fines contained in this section and section 14 for a failure to stop for a school bus
64 shall be applied whether the violation is detected through the use of a school bus mounted
65 violation detection monitoring system or by a police officer on scene who issues a written
66 citation to the operator of the motor vehicle. Pursuant to the provisions of Section 2 of Chapter
67 280, all fines imposed for a violation of failing to stop for school bus in accordance with section
68 14 that is detected by a school bus violation detection monitoring system or by a police officer
69 who cites the operator in hand shall be paid over to the treasury of the city or town where the
70 offense was committed.

71 (8) Wherever an agreement under this section is to take effect upon its acceptance by a
72 municipality or district, or is to be effective in municipalities or districts accepting its provisions,
73 this acceptance shall be, except as otherwise provided, in a municipality, by vote of the
74 legislative body, subject to the charter of the municipality, or, in a district, by vote of the district
75 at a district meeting. A city or town may enter into an agreement with a private vendor or
76 manufacturer to provide a school bus violation detection monitoring system on each bus within
77 its fleet whether owned or leased, up to and including the installation, operation and maintenance
78 of such systems. Compensation paid to the manufacturer or vendor of the school bus violation
79 detection monitoring system as authorized by this section shall not be based upon the revenue
80 generated by the use of such systems. The compensation paid to the manufacturer or vendor of
81 the equipment shall be based upon the value of the equipment installed and the recurring services
82 provided in support of the school bus violation detection monitoring systems including
83 processing of evidence files, cost of the technology provided and maintenance of such
84 technology. Said agreement shall only become effective after consent by the affected local or
85 regional school department, by vote of a majority of its governing school committee.

86 (9) A city or town shall provide reimbursement of expenses to the private vendor or
87 manufacturer for the installation, operation and maintenance of the school bus violation detection
88 monitoring systems in operation and acknowledged by an agreement between the private vendor
89 and the school department that has adopted this section. Such reimbursement shall be made to
90 the private vendor or manufacturer within 45 days following the submittal of request for cost
91 reimbursement. If such violations occur on highways or roads controlled by the Commonwealth,
92 then reimbursement for installing, operating, and maintaining school bus violation detection

93 systems shall be permitted from the Commonwealth to the private vendor from ticket proceeds
94 pursuant to this section only.

95

96 (c) (1) An evidence file of the alleged violation shall be forwarded to a trained law
97 enforcement officer in the jurisdiction who is trained to observe and detect a violation for failure
98 to stop for a stopped school bus allowing pupils to alight or board the same. The officer shall
99 issue a citation if he or she is satisfied that a violation was committed under section 14 and the
100 vehicle committing such violation can be indentified from its registration plate. An electronic
101 certificate, or a facsimile thereof sworn to or affirmed by a police officer or other law
102 enforcement officer authorized to issue motor vehicle citations for violations of traffic laws,
103 stating that based upon inspection of the evidence file produced by a school bus violation
104 detection monitoring system, the vehicle was in violation of this section, shall be prima facie
105 evidence of the facts contained therein. Any recorded video images or still photographic images
106 produced by a school bus violation detection monitoring system evidencing the violation shall be
107 available for inspection in any proceeding to adjudicate the liability for the violation adopted
108 under this section.

109 (2) In all prosecutions of civil traffic violations based on evidence obtained from a school
110 bus violation detection monitoring system the registered owner of the motor vehicle shall be
111 primarily responsible pursuant to the provisions of this chapter except as otherwise provided in
112 this section. In the event the registered owner of the vehicle operated in violation of this chapter
113 was not the operator of the vehicle at the time of the violation the registered owner of the vehicle
114 shall either (a) assume liability for the violation by paying the fine or; (b) upon written receipt of
115 the citation provide the issuing authority within 30 days of the date of issuance, the name,
116 address and registration number {license plate} of the operator of the vehicle who was
117 responsible along with a signed affidavit acknowledging such or; (c) defend the violation
118 pursuant to the procedures established for traffic violations under this section. A corporation
119 owning or leasing a vehicle that is identified by a school bus violation detection monitoring
120 system under this section shall be primarily responsible for a violation pursuant to section 14
121 even if a person who normally operates the vehicle for the corporation denies that he or she was
122 operating the vehicle at the time of the violation although no entry shall be made on the person's
123 driving record.

124 (3) A penalty imposed may, if so provided in writing, be increased by up to 33 1/3% if
125 the penalty remains unpaid in excess of 30 days after a citation has been issued consistent with
126 the procedures established in this section and there has been no request for a hearing under
127 paragraph (3) of subsection (d).

128 (d) (1) Upon the determination of a violation through the use of a school bus violation
129 detection monitoring system, it shall be the duty of the chief of police of the city or town, or any

130 designee of the chief, to issue the owner or owners of the vehicle a citation pursuant to the
131 provisions of Chapter 90C. The citation shall require the owner or owners to pay the fine
132 amount issued pursuant to section 14 or appear before the parking clerk not later than 30 days
133 after the date the citation was sent under the procedures established pursuant to violations under
134 this section. The citation shall be mailed to the address of the registered owner or owners as
135 contained in the registry or in records of the Department of Motor Vehicles in the jurisdiction in
136 which the vehicle is registered if other than the Commonwealth for any motor vehicle identified
137 by the school bus violation detection monitoring system as evidence of a violation of this section.
138 Citations shall be mailed by first class mail, post marked no later than 30 days after the date of
139 the alleged violation, inclusive of Sundays and holidays. In the case of any motor vehicle
140 registered under the laws of another state or country, if the address is unavailable, it shall be
141 sufficient to mail the citation to the official in the state or country having charge of the
142 registration of the motor vehicle. The citation shall be considered sufficient notice, and a
143 certificate of the chief of police or the chief's designee mailing the citation stating that it has
144 been mailed in accordance with this section shall be deemed prima facie evidence thereof and
145 shall be admissible in any judicial or administrative proceeding as to the facts contained therein.
146 It shall be sufficient to commence a prosecution. The chief or the chief's designee shall retain
147 and safely preserve a copy of the Citation and shall at a time no later than the beginning of the
148 next business day of the city or town after mailing to the owner or owners, deliver another copy
149 to the parking clerk before whom the owner or owners have been notified to appear. The parking
150 clerk shall maintain a docket of all such notices to appear. For purposes of this section, the date
151 of issuance shall be the date of mailing. The police officer issuing the citation shall certify that
152 the evidence obtained from the school bus violation detection monitoring system was sufficient
153 to demonstrate a violation of section 14. Such certification shall be sufficient in all prosecutions
154 pursuant to this section to justify the entry of a default judgment in all cases where the citation is
155 not answered within the time period permitted under this section.

156 The citation issued by the trained law enforcement officer in the jurisdiction shall contain
157 but not be limited to the following information:

158 (i) a citation for the violation, which shall include the name and address of the person or
159 persons liable as an owner or owners of the motor vehicle for the violation of this section, the
160 registration number and state of issuance of the registration number of the vehicle involved in the
161 violation, the date, time and location of the violation, the specific violation charged, the amount
162 of the penalty for the violation, and the date by which the penalty shall be paid;

163 (ii) a copy of two or more still photographs, microphotographs, video or other recorded
164 images showing the vehicle in violation of the stop arm traffic sign;

165 (iii) a copy of the electronic certificate of the police officer under paragraph (1) of
166 subsection (c);

167 (iv) a statement that recorded video images and photographic images are evidence of a
168 violation of section 14;

169 (v) a schedule of fines for the violation as established by the Commonwealth;

170 (vi) instructions for the return of the citation notice including but not limited to the
171 following text:—

172 “This notice and the required payment may be returned in person, by mail, electronically,
173 or by a duly authorized agent. A hearing to contest liability may be obtained upon the written
174 request of the registered owner. Failure to pay the penalty or to contest liability within 30 days of
175 issuance of this notice is an admission of liability and may result in a default judgment being
176 entered against the owner to whom the violation has been issued and/or non-renewal or
177 suspension of the license to drive and the certificate of registration of the registered owner.”;

178 (vii) an affidavit form approved by the parking clerk for the purpose of complying with
179 paragraph (5);and

180 (viii) a statement explaining the procedure to adjudicate the violation by mail under
181 paragraph (6) .

182 (2) Any person notified to appear before the parking clerk, as provided in this section,
183 may appear before the parking clerk, or his designee, and confess the offense charged, either
184 personally or through a duly authorized agent or by mailing to the parking clerk the notice
185 accompanied by the fine provided therein, such payment to be made only by postal note, money
186 order, via electronic means or check made out to the parking clerk. Payment of the penalty
187 established shall operate as a final disposition of the case.

188 (i) a fee may be imposed for the electronic processing of the payment of the civil penalty
189 imposed for a violation.

190 (3) Except as expressly provided, all prosecutions based on evidence produced by a
191 school bus violation detection monitoring system shall follow the procedures of this section.
192 Notwithstanding the installation and use of a digital video school bus violation detection
193 monitoring system on a school bus, a trained police officer in whose presence of motorist failing
194 to stop for a stopped school bus as required under section 14, may issue a citation at the scene to
195 the operator of such vehicle for such violation pursuant to section 14. An owner of a vehicle
196 shall not be liable for a citation as a result of a school bus violation detection monitoring system
197 if the operator of the vehicle was cited directly by a police officer at the scene of the violation.

198 (4) Should any person notified to appear hereunder fail to appear and, if a penalty is
199 provided hereunder, to pay the same, or if the person requests a hearing to contest liability, the
200 parking clerk shall forthwith schedule the matter before a person referred to in this section as a
201 hearing officer. The hearing officer shall be the parking clerk of the city or town in which the

202 violation occurred or any other person or persons that the parking clerk may designate. Written
203 notice of the date, time and place of the hearing shall be sent by first-class mail to the registered
204 owner or owners. The hearing shall be informal, the rules of evidence shall not apply and the
205 decision of the hearing officer shall be final subject to judicial review as provided by Section 14
206 of Chapter 30A. Within 21 days of the hearing, the hearing officer shall send by first class mail
207 to the registered owner or owners the decision of the hearing officer, including the reasons for
208 the outcome.

209 (5) Any owner to whom a citation has been issued shall not be liable for a violation of
210 this section (a) if the violation was necessary to allow the passage of an emergency vehicle; (b) if
211 the violation was incurred while participating in a funeral procession; (c) if the violation was
212 incurred during a period of time in which the motor vehicle was reported to the police
213 department of any state, city or town as having been stolen and had not been recovered before
214 the time the violation occurred; (d) (e) if the operator of the motor vehicle was convicted of the
215 underlying violation under a citation issued in accordance with Section 2 of Chapter 90C; (f) if
216 the violation was necessary to comply with an order of a law enforcement officer or of a flagger
217 directing traffic flow; or (g) if the vehicle was subject to the exceptions granted to an authorized
218 emergency vehicle under Section 7B of Chapter 89. An owner disputing a violation under this
219 subsection shall, within 30 days of issuance of the notice, provide the parking clerk with an
220 affidavit signed under the pains and penalties of perjury in a form approved by the parking clerk,
221 as provided for in clause (vii) of paragraph (1) of this subsection stating (1) the reason for
222 disputing the violation; (2) the full legal name and address of the owner of the motor vehicle; (3)
223 the names and addresses of all witnesses supporting the owner's defense and the specifics of
224 their knowledge; and where applicable (4) the signed statements from witnesses. The affidavit
225 shall be filed with the request for a hearing.

226 (6) It is a defense in a proceeding to enforce an ordinance adopted under this section if
227 the owner provides to the city or town, or agent for the municipality an affidavit signed under
228 the penalties of perjury which: (1) establishes that, at the time of the alleged violation, the owner
229 was engaged in the business of renting or leasing motor vehicles under written agreements; (2)
230 establishes that, at the time of the alleged violation, the motor vehicle was in the care, custody or
231 control of a person other than the owner or an employee of the owner of the motor vehicle under
232 a written agreement for the rental or lease of the motor vehicle for a period of not more than
233 sixty days; and (3) provides to the city or town, court or agent for the municipality the name and
234 address of the person who was renting or leasing the motor vehicle at the time of the alleged
235 violation.

236 (7) If the owner of a motor vehicle meets the requirements of section (6) of this section,
237 the city or town, court or agent for the local municipality shall mail, or electronically transfer, a
238 notice of the violation to the person identified as having the care, custody or control of the motor
239 vehicle at the time of the violation. The proof required under said subsection (6) of this section
240 creates a rebuttable presumption that the person having the care, custody or control of the motor

241 vehicle at the time of the violation was the operator of the motor vehicle at the time of the
242 violation. The notice required under this subsection shall contain the following: (1) The
243 information described in subsection (3)(d)(1)(i) of this section; (2) a statement that the person
244 receiving the notice was identified by the owner of the motor vehicle as the person having the
245 care, custody or control of the motor vehicle at the time of the violation; and (3) a statement that
246 a person may offer a defense as described in this subsection, or in subsection (5) or (6) of this
247 section.

248 (8) A designated employee or local police officer is not liable for any loss while acting
249 within the scope of the employment of the designated employee or local police officer under this
250 section or an ordinance adopted under this section.

251 (9) Any person notified to appear before the parking clerk, as provided in this paragraph,
252 may without waiving his right to a hearing before the parking clerk or hearing officer as provided
253 by this subsection, and also without waiving judicial review under Section 14 of Chapter 30A,
254 challenge the validity of the citation and receive a review and disposition of the violation from
255 the parking clerk or a hearing officer by mail. The owner may, upon receipt of the citation, send
256 a signed statement explaining his objections to the violation notice as well as signed statements
257 from witnesses, police officers, government officials and any other relevant parties.
258 Photographs, diagrams, maps and other documents may also be sent with the statements. Any
259 statements or materials sent to the parking clerk for review shall have attached the person's name
260 and address as well as the citation number and the date of the violation. The parking clerk or
261 hearing officer shall, within 21 days of receipt of this material, review the material and dismiss
262 or uphold the violation and notify, by mail, the owner or owners of the disposition of the written
263 review. If the outcome of the written review is adverse to the owner or owners, the parking clerk
264 or hearing officer shall explain the reasons for the outcome on the notice. The review and
265 disposition handled by mail shall be informal, the rules of evidence shall not apply, and the
266 decision of the parking clerk or hearing officer based upon the written materials shall be final,
267 unless the owner invokes the hearing provisions under this section or judicial review under
268 Section 14 of Chapter 30A.

269 (10) If any person fails to appear before the hearing officer in accordance with the
270 notice, or fails to receive a favorable adjudication of the hearing from a hearing officer and fails
271 to pay the fine within 30 days of the date that the hearing officer has mailed notice of the
272 decision of the hearing officer, the parking clerk shall notify the registrar of motor vehicles, who
273 shall place the matter on record. Upon notification to the registrar of 1 or more citations under
274 this section or section 14 from the parking clerk of the city or town, or state authorities or
275 agencies, the registrar shall not issue or renew or may suspend the owner's license to operate a
276 motor vehicle or motor vehicle registration until after notification from the parking clerk of each
277 city, agency or authority, from whom the registrar received notification, that all fines, taxes and
278 penalties owed by the owner under this section have been disposed of in accordance with law.
279 Upon such notification to the registrar, an additional charge of \$20 payable to the registrar but

280 collected by the city or town, and an additional charge of \$20 payable to and collected by the city
281 or town, shall be assessed against the registered owner of the motor vehicle. It shall be the duty
282 of the parking clerk to notify the registrar forthwith that the case has been so disposed, but
283 certified receipt of full and final payment from the parking clerk of the city or town, or state
284 agency or authority issuing the violation shall also serve as legal notice to the registrar that the
285 violation has been disposed of in accordance with law. The certified receipt shall be printed in a
286 form approved by the registrar of motor vehicles.

287 (e)(1) Other than for purposes of enforcement of a violation of this section and section
288 14 or for purposes of an owner defending a violation of this section, recorded video images and
289 photographs taken or created under this section may only be obtained under an order by a court
290 of competent jurisdiction.

291 (2) All recorded video images and other photographic information obtained through the
292 use of school bus violation detection monitoring systems authorized in this section that do not
293 identify a violation shall be destroyed by any city, town, school department or vendor within 30
294 days of the date the image was recorded, unless otherwise ordered by a court of competent
295 jurisdiction. All photographic and other recorded information that identifies a violation shall be
296 destroyed within 30 days of final disposition of proceedings related to the enforcement or
297 defense of a violation, unless otherwise ordered by a court of competent jurisdiction. All
298 recorded video, audio and other photographic information, however stored or retained, which is
299 obtained through systems authorized in this section are the property of the municipality under
300 agreement with a vendor and may not be used by a vendor for any other purposes; upon the
301 expiration of any agreement authorized under this section, all of said video, audio, and/or other
302 photographic information shall be delivered within 30 days to the particular municipality unless
303 otherwise ordered by a court of competent jurisdiction.