

House Bill 914

By: Representatives Parsons of the 44<sup>th</sup>, Cooper of the 43<sup>rd</sup>, Ehrhart of the 36<sup>th</sup>, Reeves of the 34<sup>th</sup>, and Jones of the 53<sup>rd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 48-7-161 of the Official Code of Georgia Annotated, relating to  
2 definitions relative to setoff debt collection, to provide for the definition of debt owed and  
3 collectable through setoff of income tax refunds to include civil monetary penalties for  
4 certain traffic law violations; to amend Article 8 of Chapter 6 of Title 40 of the Official Code  
5 of Georgia Annotated, relating to school buses, so as to distinguish between violations of  
6 prohibition on overtaking a school bus as criminal and civil; to provide for notice of such  
7 violations when evidenced through a video recording device; to provide for civil proceedings  
8 to contest evidence of overtaking a school bus obtained through the use of a video recording  
9 device; to provide for default judgment against a person observed overtaking a school bus  
10 by a video recording device when such person fails to pay the required civil monetary  
11 penalty, contest such violation in court, or provide other evidence related to the offense; to  
12 provide for related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Code Section 48-7-161 of the Official Code of Georgia Annotated, relating to definitions  
16 relative to setoff debt collection, is amended by revising paragraph (3) as follows:

17 "(3) 'Debt' means:

18 (A) Any liquidated sum due and owing any claimant agency, which sum has accrued  
19 through contract, subrogation, tort, or operation of law regardless of whether there is  
20 an outstanding judgment for the sum, any sum which is due and owing any person and  
21 is enforceable by the Department of Human Services pursuant to subsection (b) of Code  
22 Section 19-11-8, or any sum of restitution or reparation due pursuant to a sentence  
23 imposed on a person convicted of a crime and sentenced to restitution or reparation and  
24 probation; ~~or~~

25 (B) Any liquidated sum that constitutes any and all court costs, surcharges, and fines  
26 for which there is an outstanding court judgment; or

27 (C) Any liquidated sum that constitutes any and all amounts owed for a civil monetary  
 28 penalty imposed for a violation of Chapter 6 of Title 40."

29 **SECTION 2.**

30 Article 8 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to  
 31 school buses, is amended by revising Code Section 40-6-163, relating to duty of driver of  
 32 vehicle meeting or overtaking school bus, reporting violations, and enforcement, as follows:

33 "40-6-163.

34 (a) Except as provided in subsection (b) of this Code section, the driver of a vehicle  
 35 meeting or overtaking from either direction any school bus stopped on the highway shall  
 36 stop before reaching such school bus when there are in operation on the school bus the  
 37 visual signals as specified in Code Sections 40-8-111 and 40-8-115, and such driver shall  
 38 not proceed until the school bus resumes motion or the visual signals are no longer  
 39 actuated. A violation of this subsection which is observed in person by a law enforcement  
 40 officer shall be considered a misdemeanor.

41 (b) The driver of a vehicle upon a highway with separate roadways need not stop upon  
 42 meeting or passing a school bus which is on a different roadway, or upon a  
 43 controlled-access highway when the school bus is stopped in a loading zone which is a part  
 44 of or adjacent to such highway and where pedestrians are not permitted to cross the  
 45 roadway.

46 (c) Every school bus driver who observes a violation of subsection (a) of this Code section  
 47 is authorized and directed to record specifically the vehicle description, license number of  
 48 the offending vehicle, and time and place of occurrence on forms furnished by the  
 49 Department of Public Safety. Such report shall be submitted within 15 days of the  
 50 occurrence of the violation to the local law enforcement agency which has law enforcement  
 51 jurisdiction where the alleged offense occurred. A violation observed and recorded in  
 52 accordance with this subsection shall be considered a misdemeanor.

53 (d)(1) As used in this subsection, the term:

54 (A) 'Owner' means the registrant of a motor vehicle, except that such term shall not  
 55 include a motor vehicle rental company when a motor vehicle registered by such  
 56 company is being operated by another person under a rental agreement with such  
 57 company.

58 (B) 'Recorded images' means images recorded by a video recording device mounted  
 59 on a school bus with a clear view of vehicles passing the bus on either side and showing  
 60 the date and time the recording was made and an electronic symbol showing the  
 61 activation of amber lights, flashing red lights, stop arms, and brakes.

62 (C) 'Video recording device' means a camera capable of recording digital images  
63 showing the date and time of the images so recorded.

64 (2) Subsection (a) of this Code section may be enforced by using recorded images as  
65 evidence of such violation and as provided in this subsection, provided that any violation  
66 observed and recorded pursuant to this subsection shall not be considered a misdemeanor  
67 and shall instead carry only civil monetary penalty.

68 (3) For the purpose of enforcement pursuant to this subsection:

69 (A) The driver of a motor vehicle shall be liable for a civil monetary penalty if such  
70 vehicle is found, as evidenced by recorded images, to have been operated in disregard  
71 or disobedience of subsection (a) of this Code section and such disregard or  
72 disobedience was not otherwise authorized by law. The amount of such ~~fine~~ civil  
73 monetary penalty shall be \$300.00 for a first offense, \$750.00 for a second offense, and  
74 \$1,000.00 for each subsequent offense in a five-year period;

75 (B) The law enforcement agency authorized to enforce the provisions of this Code  
76 section shall send by ~~regular mail~~ registered or certified mail or statutory overnight  
77 delivery addressed to the owner of the motor vehicle ~~postmarked~~ and not later than ten  
78 days after the date of the alleged violation:

79 (i) A ~~citation for~~ notice of the alleged violation, which shall include the date and time  
80 of the violation, the location of the infraction, the amount of the civil monetary  
81 penalty to be imposed, and the date by which the civil monetary penalty shall be paid;

82 (ii) An image taken from the recorded image showing the vehicle involved in the  
83 infraction;

84 (iii) A copy of a certificate sworn to or affirmed by a certified peace officer employed  
85 by a law enforcement agency authorized to enforce this Code section and stating that,  
86 based upon inspection of recorded images, the owner's motor vehicle was operated  
87 in disregard or disobedience of subsection (a) of this Code section and that such  
88 disregard or disobedience was not otherwise authorized by law;

89 (iv) A statement of the inference provided by subparagraph (D) of this paragraph and  
90 of the means specified therein by which such inference may be rebutted;

91 (v) Information advising the owner of the motor vehicle of the manner, court address,  
92 date, and time in which civil liability as alleged in the ~~citation~~ notice may be contested  
93 in court; and

94 (vi) A warning that failure to pay the civil monetary penalty or to contest liability in  
95 a timely manner shall ~~waive any right to contest liability and~~ result in a civil monetary  
96 penalty default judgment against the registered owner of the vehicle involved;

97 (C) Any person receiving a notice pursuant to subparagraph (B) of this paragraph shall  
98 have the right to contest such liability for the civil monetary penalty in magistrate court

99 or other court of competent jurisdiction for a traffic violation. Except as otherwise  
 100 provided in this subsection as to notice requirements and evidentiary standards, Chapter  
 101 11 of Title 9, known as the 'Georgia Civil Practice Act,' shall apply to any proceeding  
 102 with respect to an alleged violation of subsection (a) of this Code section. Proof that  
 103 a motor vehicle was operated in disregard or disobedience of subsection (a) of this  
 104 Code section shall be evidenced by recorded images. A copy of a certificate sworn to  
 105 or affirmed by a certified peace officer employed by a law enforcement agency and  
 106 stating that, based upon inspection of recorded images, a motor vehicle was operated  
 107 in disregard or disobedience of subsection (a) of this Code section and that such  
 108 disregard or disobedience was not otherwise authorized by law shall be prima-facie  
 109 evidence of the facts contained therein; and

110 (D) ~~Liability~~ Civil liability under this subsection shall be determined based upon  
 111 preponderance of the evidence. Prima-facie evidence that the vehicle described in the  
 112 ~~citation~~ notice issued pursuant to this subsection was operated in violation of subsection  
 113 (a) of this Code section, together with proof that the defendant was at the time of such  
 114 violation the registered owner of the vehicle, shall permit the trier of fact in its  
 115 discretion to infer that such owner of the vehicle was the driver of the vehicle at the  
 116 time of the alleged violation. Such an inference may be rebutted if the owner of the  
 117 vehicle:

118 (i) Testifies under oath in open court or submits to the court a sworn notarized  
 119 statement that he or she was not the operator of the vehicle at the time of the alleged  
 120 violation and identifies the name of the operator of the vehicle at the time of the  
 121 alleged violation; or

122 (ii) Presents to the court a certified copy of a police report showing that the vehicle  
 123 had been reported to the police as stolen prior to the time of the alleged violation.

124 (4) A violation for which a civil penalty is imposed pursuant to this subsection shall not  
 125 be considered a moving traffic violation for the purpose of points assessment under Code  
 126 Section 40-5-57. Such violation shall be deemed noncriminal, and imposition of a civil  
 127 penalty pursuant to this subsection shall not be deemed a conviction and shall not be  
 128 made a part of the operating record of the person upon whom such liability is imposed,  
 129 nor shall it be used for any insurance purposes in the provision of motor vehicle insurance  
 130 coverage.

131 (5) If a person ~~summoned by regular mail~~ who received notice pursuant to subparagraph  
 132 (B) of paragraph (3) fails to appear in the court identified in such notice on the date and  
 133 time of return set out in the citation such notice and has not paid the penalty for the  
 134 violation or filed with the court a police report or notarized statement pursuant to  
 135 subparagraph (D) of paragraph (3) of this subsection by such date, the person shall then

136 ~~be summoned a second time by certified mail with a return receipt requested. The second~~  
 137 ~~summons shall include all information required in subparagraph (B) of paragraph (3) of~~  
 138 ~~this subsection for the initial summons and shall include a new date of return. If a person~~  
 139 ~~summoned by certified mail again fails to appear on the date of return set out in the~~  
 140 ~~second citation and has failed to pay the penalty or file an appropriate document for~~  
 141 ~~rebuttal, the person summoned shall have waived the right to contest the violation and~~  
 142 ~~upon submission of evidence by law enforcement that the notice required under this~~  
 143 ~~subsection has been validly sent, the judge may issue a default judgment and such~~  
 144 ~~person~~ shall be liable for the civil monetary penalty provided in paragraph (3) of this  
 145 subsection.

146 (6) ~~Any court having jurisdiction over violations of subsection (a) of this Code section~~  
 147 ~~shall have jurisdiction over cases arising under this subsection and shall be authorized to~~  
 148 ~~impose the civil monetary penalty provided by this subsection. Except as otherwise~~  
 149 ~~provided in this subsection, the provisions of law governing jurisdiction, procedure,~~  
 150 ~~defenses, adjudication, appeal, and payment and distribution of penalties otherwise~~  
 151 ~~applicable to violations of subsection (a) of this Code section shall apply to enforcement~~  
 152 ~~under this subsection except as provided in subparagraph (A) of paragraph (3) of this~~  
 153 ~~subsection; provided, however, that A default judgment issued pursuant to paragraph (5)~~  
 154 ~~of this subsection may be appealed in any appeal from superior or state court of~~  
 155 ~~competent jurisdiction. Request for appeal shall be made by application in the same~~  
 156 ~~manner as that provided by Code Section 5-6-35. Upon issuance of a default judgment,~~  
 157 ~~provided that no appeal of such decision has been applied for, the court issuing such~~  
 158 ~~judgment may seek to collect such debt through setoff according to procedures set forth~~  
 159 ~~in Article 7 of Chapter 7 of Title 48.~~

160 (7) Recorded images made for purposes of this subsection shall not be a public record  
 161 for purposes of Article 4 of Chapter 18 of Title 50.

162 (8) A governing authority shall not impose a civil monetary penalty under this subsection  
 163 on the owner of a motor vehicle if the operator of the vehicle was arrested or issued a  
 164 ~~citation and~~ notice to appear by a peace officer for the same violation.

165 (9) A school system may enter into an intergovernmental agreement with a local  
 166 governing authority to offset expenses regarding the implementation and ongoing  
 167 operation of video recording devices serving the purpose of capturing recorded images  
 168 of motor vehicles unlawfully passing a school bus.

169 (10) Any school bus driver operating a vehicle equipped with an activated video  
 170 recording device shall be exempt from the recording provisions of subsection (c) of  
 171 ~~Code Section 40-6-163~~ this Code section."

172

**SECTION 3.**

173 All laws and parts of laws in conflict with this Act are repealed.