

SENATE No. 1865

The Commonwealth of Massachusetts

PRESENTED BY:

Marc R. Pacheco

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 adoption of the accompanying bill:

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

PETITION OF:

NAME:

Marc R. Pacheco

DISTRICT/ADDRESS:

First Plymouth and Bristol

SENATE No. 1865

By Mr. Pacheco, a petition (accompanied by bill, Senate, No. 1865) of Marc R. Pacheco for legislation relative to the safety of school children embarking and disembarking school buses. Transportation.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1695 OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

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 SECTION 1. Section 14 of Chapter 90 of the General Laws is hereby amended by
2 inserting after section 14B the following section:- Section 14C. (a) As used in this section, the
3 following words shall have the following meanings:

4 “School bus violation detection monitoring system”, a camera system that shall monitor
5 and detect motor vehicles overtaking or passing school buses when said buses are stopped and
6 displaying front and rear alternating flashing red signal lamps as provided in section 7B, and
7 which has been stopped to allow pupils to alight from or board the same.

8 “School bus violation detection monitoring system” shall be a system with 2 or more
9 camera sensors and computers that produce live digital and recorded video and 2 or more film or

10 digital photographic still images of each motor vehicle at the time it is used or operated in a
11 manner that is in violation of section 14.

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

15 “Violation”, the failure of an operator of a motor vehicle to fully stop when approaching a
16 school bus which has stopped to allow pupils to alight from or board the same and deployed its
17 stop arm traffic control sign.

18 (b) (1) Notwithstanding any general or special law to the contrary, a city or town may
19 install and operate live digital video school bus violation detection monitoring systems for the
20 purposes of enforcing violations against the registered owner of a motor vehicle whose vehicle
21 failed to stop for a school bus when required to do so pursuant to this section. Such systems
22 shall be limited to monitor and detect violations of motorists failing to stop for a school bus.

23 (2) All systems installed for use under this section shall produce an evidence file that
24 includes a live digital video image viewable remotely, a recorded image of the license plate and
25 shall be able to record the date, time and location of the vehicle committing the violation.

26 (3) Recorded video images and still photographic images shall record the rear or front of
27 the motor vehicle, with at least 1 photographic image and 1 recorded video image clearly
28 recording the motor vehicle immediately before the violation and at least 1 photographic image
29 and 1 recorded video image recording the motor vehicle committing the violation. At least 1
30 photographic image and 1 recorded video image shall clearly identify the license plate of the
31 motor vehicle.

32 (4) To the extent practicable, a school bus violation detection monitoring system shall use
33 necessary technologies to ensure that photographs or recorded video images produced by the
34 school bus violation detection monitoring system shall not include a frontal view photograph or
35 video image that identifies the operator, the passengers, or the contents of the vehicle; provided,
36 however, no notice of liability issued under this section shall be dismissed solely because a
37 photograph or recorded video image allow for the identification of the operator, passengers, or
38 contents of a vehicle as long as a reasonable effort has been made to comply with this paragraph.

39 (5) A school bus installed with a school bus violation detection monitoring system shall
40 post warning signage indicating the use of such system. The signage shall remain on each bus as
41 long as a school bus violation detection monitoring system is in operation.

42 (6) A penalty imposed for a violation of this section shall not be considered a criminal
43 conviction and shall not be considered a surchargeable offense pursuant to section 113B of
44 chapter 175; provided, however, the violation shall be noted on the registered owner's driving
45 record.

46 (7) The fines contained in this section for a failure to stop for a school bus shall be
47 applied whether the violation is detected through the use of a school bus violation detection
48 monitoring system or by a police officer on scene who issues a written citation to the operator of
49 the motor vehicle. Pursuant to the provisions of section 2 of chapter 280, all fines imposed for a
50 violation of failing to stop for school bus that is detected by a school bus violation detection
51 monitoring system or by a police officer who cites the operator in hand shall be paid over to the
52 treasury of the city or town where the offense was committed.

53 (8) A city or town may enter into an agreement with a private vendor or manufacturer,
54 pursuant to the provisions of chapter 30B, to provide a school bus violation detection monitoring
55 system and evidence file processing services on each bus within its fleet whether owned or
56 leased, up to and including the installation, operation, monitoring, evidence file preparation and
57 maintenance of such systems. An agreement pursuant to this section shall take effect upon its
58 acceptance by a municipality or district, such acceptance shall be in a municipality, by a vote of
59 the legislative body, subject to the charge of the municipality, or, in a district, by a vote of the
60 district at a district meeting. Compensation paid to the manufacturer or vendor of the school bus
61 violation detection monitoring system shall not be based upon the revenue generated by the use
62 of such systems. The compensation paid to the manufacturer or vendor of the equipment shall be
63 based upon the value of the equipment installed and the recurring services provided in support of
64 the school bus violation detection monitoring systems including processing of evidence files,
65 cost of the technology provided and maintenance of such technology.

66 (9) A city or town shall provide reimbursement of expenses to the private vendor or
67 manufacturer for the installation, operation and maintenance of the school bus violation detection
68 monitoring systems in operation and acknowledged by an agreement between the private vendor
69 and the city or town. Unless modified by an agreement with a city or town, reimbursement shall
70 be made from ticket revenue proceeds incurred under this section only if received as currently
71 allocated under the laws of the Commonwealth for said citations so as to eliminate any cost to
72 the city or town for installation, operation and maintenance of the school bus violation detection
73 monitoring systems in its municipality. Such reimbursement shall be made to the private vendor
74 or manufacturer within 45 days following the submittal of request for cost reimbursement.

75 (c) (1) An evidence file of the alleged violation shall be forwarded to the chief of police
76 of the municipality, or a designee of the chief, who is trained to observe and detect a violation of
77 this section. The officer shall issue a citation if satisfied that a violation was committed and the
78 vehicle committing such violation can be identified from its registration plate. A certificate, or a
79 facsimile thereof, sworn to or affirmed by a police officer or other law enforcement officer
80 authorized to issue motor vehicle citations, stating that based upon inspection of the evidence file
81 produced by a school bus violation detection monitoring system, the vehicle was in violation of
82 this section, shall be prima facie evidence of the facts contained therein. A recorded video
83 images or still photographic images produced by a school bus violation detection monitoring
84 system evidencing the violation shall be available for inspection in any proceeding to adjudicate
85 the liability for a violation pursuant to this section.

86 (2) In all proceedings of violations pursuant to this section, the registered owner of the
87 motor vehicle shall be primarily responsible, except as otherwise provided in this section. In the
88 event the registered owner of the vehicle operated in violation of this section was not the
89 operator of the vehicle at the time of the violation, the registered owner of the vehicle shall
90 assume liability for the violation by paying the fine or defend the violation pursuant to the
91 procedures established for violations pursuant to this section. A vehicle owned or leased to a
92 corporation that is identified by a school bus violation detection monitoring system shall be
93 primarily responsible for a violation pursuant to this section even if a person who normally
94 operates the vehicle for the corporation denies operating the vehicle at the time of the violation;
95 provided, however, no entry shall be made on the person's driving record.

96 (3) A penalty imposed may, if so provided in writing, be increased by up to 33 1/3% if
97 the penalty remains unpaid in excess of 45 days after a citation has been issued consistent with

98 the procedures established in this section and there has been no request for a hearing under
99 paragraph (3) of subsection (d).

100 (d) (1) Upon the determination of a violation through the use of a school bus violation
101 detection monitoring system, the chief of police of the city or town, or a designee of the chief,
102 shall issue to the registered owner of the vehicle a citation. The citation shall include, but not be
103 limited to, the following information: (i) the name and address of the registered owner of the
104 motor vehicle; the registration number and state of issuance of the registration number of the
105 vehicle involved in the violation; the date, time and location of the violation; the specific
106 violation charged; the amount of the penalty for the violation; and the date by which the penalty
107 shall be paid; (ii) a copy of 2 or more still photographs or microphotographs showing the vehicle
108 committing the violation; (iii) a copy of the certificate or affidavit of the police officer under
109 paragraph (1) of subsection (c); (iv) a statement that recorded video images and photographic
110 images are evidence of a violation of section 14; (v) instructions for the return of the citation
111 notice including, but not limited to the following text:- “This notice and the required payment
112 may be returned in person, by mail, or by a duly authorized agent. A hearing to contest liability
113 may be obtained upon the written request of the registered owner. Failure to pay the penalty or to
114 contest liability within 30 days of issuance of this notice is an admission of liability and may
115 result in a default judgment being entered against the owner to whom the violation has been
116 issued and non-renewal or suspension of the license to drive and the certificate of registration of
117 the registered owner.”; (vii) a statement explaining the procedure to adjudicate the violation by
118 mail under paragraph (6); and (viii) a statement explaining the procedure for the violator to
119 access and view the digital video or other recorded images showing the vehicle in violation. The
120 citation shall require the registered owner to pay the fine amount issued pursuant to this section

121 or appear before the parking clerk not later than 30 days after the date the citation was mailed to
122 the registered owner. Citations shall be mailed by first class mail, post marked no later than 14
123 days after the date of the alleged violation, inclusive of Sundays and legal holidays. The citation
124 shall be mailed to the address of the registered owner on record with the registry of motor
125 vehicles, or, in the case of a motor vehicle registered under the laws of another state or
126 jurisdiction, at the address of the registered owner on record with the official in the state or other
127 jurisdiction having charge of the registration of the vehicle. If the address is unavailable in the
128 case of a motor vehicle registered under the laws of another state or jurisdiction, the chief of
129 police, or a designee, shall mail the citation to the official in the state or other jurisdiction having
130 charge of the registration of the vehicle. The citation shall be considered sufficient notice, and a
131 certificate of the chief of police, or a designee, mailing the citation stating that it has been mailed
132 in accordance with this section shall be deemed prima facie evidence thereof and shall be
133 admissible in any judicial or administrative proceeding as to the facts contained therein.

134 The chief of police, or designee, shall retain and safely preserve a copy of the citation and
135 shall at a time no later than the beginning of the next business day after mailing to the registered
136 owner, deliver a copy of the citation to the parking clerk. The parking clerk shall maintain a
137 docket of all issued citations. The date of issuance shall be the date of mailing. The police
138 officer issuing the citation shall certify that the evidence obtained from the school bus violation
139 detection monitoring system was sufficient to demonstrate a violation of this section. Such
140 certification shall be sufficient in all proceedings pursuant to this section to justify the entry of a
141 default judgment in all cases where the citation is not answered within the time period permitted
142 under this section.

143 (2) A person issued a citation may pay the fine by appearing before the parking clerk, or
144 his designee, and admit to the violation, either personally, through a duly authorized agent, or by
145 mailing to the parking clerk the fine. Payment of the penalty established shall operate as a final
146 disposition of the case.

147 (3) If the person requests a hearing to contest liability of the citation, the parking clerk
148 shall forthwith schedule the matter before a hearing officer. The hearing officer shall be the
149 parking clerk, or a designee, of the city or town in which the violation occurred. Written notice
150 of the date, time and place of the hearing shall be sent by first-class mail to the registered owner.
151 The hearing shall be informal, the rules of evidence shall not apply and the decision of the
152 hearing officer shall be final subject to judicial review as provided by section 14 of chapter 30A.
153 Within 21 days of the hearing, the hearing officer shall send by first class mail to the registered
154 owner the decision of the hearing officer, including the reasons for the outcome.

155 (4) A person issued a citation may, without waiving his right to a hearing before the
156 parking clerk or hearing officer, and also without waiving judicial review under section 14 of
157 chapter 30A, challenge the validity of the citation and receive a review and disposition of the
158 violation from the parking clerk or a hearing officer by mail. The registered owner may, upon
159 receipt of the citation, send a signed statement explaining his objections to the violation notice as
160 well as signed statements from witnesses, police officers, government officials and any other
161 relevant parties. Photographs, diagrams, maps and other documents may also be sent with the
162 statements. Any statements or materials sent to the parking clerk for review shall include the
163 name and address of the person as well as the citation number and the date of the violation. The
164 parking clerk or hearing officer shall, within 21 days of receipt of this material, review the
165 material and dismiss or uphold the violation and notify, by mail, the registered owner of the

166 disposition of the written review. If the outcome of the written review is adverse to the
167 registered owner, the parking clerk or hearing officer shall include the reasons for the outcome
168 on the notice. The review and disposition handled by mail shall be informal, the rules of
169 evidence shall not apply, and the decision of the parking clerk or hearing officer based upon the
170 written materials shall be final, unless the owner invokes the hearing provisions under this
171 section or judicial review under section 14 of chapter 30A.

172 (5) A person who violates this section shall be punished by a fine of not less than \$250;
173 and for a second offense by a fine of not less than \$500 nor more than \$1,000; and for a third or
174 subsequent offense by a fine of not less than \$1,000 nor more than \$2,000.

175 (6) If a person fails to pay the fine or fails to receive a favorable adjudication of the
176 hearing from a hearing officer and fails to pay the fine within 30 days of the date that the hearing
177 officer has mailed notice of the decision of the hearing officer, the parking clerk shall notify the
178 registrar of motor vehicles, who shall place the matter on record. Upon notification to the
179 registrar of 2 or more citations under this section from the parking clerk of the city or town, the
180 registrar shall not issue or renew or may suspend the license to operate a motor vehicle of the
181 registered owner or motor vehicle registration of the registered owner until after notification
182 from the parking clerk of each city or town, from whom the registrar received notification, that
183 all fines, taxes and penalties owed by the owner under this section have been disposed of in
184 accordance with law. Upon such notification to the registrar, an additional charge of \$20 payable
185 to the registrar but collected by the city or town, and an additional charge of \$20 payable to and
186 collected by the city or town, shall be assessed against the registered owner of the motor vehicle.
187 It shall be the duty of the parking clerk to notify the registrar forthwith that the case has been so
188 disposed; provided, however, certified receipt of full and final payment from the parking clerk of

189 the city or town issuing the violation shall also serve as legal notice to the registrar that the
190 violation has been disposed of in accordance with law. The certified receipt shall be printed in a
191 form approved by the registrar of motor vehicles.

192 (7) Upon the accumulation by a registered owner of 2 or more outstanding citations
193 under this section on account of violation of this section, the parking clerk of the city or town
194 may notify the chief of police or director of traffic and parking of the city or town that the
195 vehicle bearing the registration to which the notices have been issued shall be removed and
196 stored or otherwise immobilized by a mechanical device at the expense of the registered owner
197 of the vehicle until all fines, taxes and penalties owed by the owner either under this section, or
198 otherwise arising out of the parking or usage of the owner's motor vehicle, have been disposed
199 of in accordance with law. No vehicle shall be removed, stored, or otherwise immobilized unless
200 the registered owner of the motor vehicle shall have received 10 days prior notification by mail
201 that the motor vehicle may be removed, stored, or immobilized without further notification. It
202 shall be sufficient for the parking clerk to mail, postage prepaid, the notification to the last
203 known address of the registered owner. It shall be sufficient for the parking clerk, in the case of a
204 motor vehicle registered in another state or jurisdiction, to mail notification to the official in the
205 state or jurisdiction having charge of the registration of the motor vehicle.

206 (8) Except as expressly provided, all proceedings based on evidence produced by a
207 school bus violation detection monitoring system shall follow the procedures of this section.
208 Notwithstanding the installation and use of a live digital video school bus violation detection
209 monitoring system on a school bus, a trained police officer, in whose presence a motorist fails to
210 stop for a stopped school bus as required under section 14, may issue a citation at the scene to the
211 operator of such vehicle for such violation pursuant to section 14. An owner of a vehicle shall

212 not be liable for a citation as a result of a school bus violation detection monitoring system if the
213 operator of the vehicle was cited directly by a police officer at the scene of the violation

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

232 (e)(1) Other than for purposes of enforcement of a violation of this section or for
233 purposes of a registered owner defending a violation of this section, recorded video images and

234 photographs taken or created under this section may only be obtained under an order by a court
235 of competent jurisdiction.

236 (2) All recorded video images and other photographic information obtained through the
237 use of school bus violation detection monitoring systems authorized in this section that do not
238 identify a violation shall be destroyed by a city, town, school department or vendor within 30
239 days of the date the image was recorded, unless otherwise ordered by a court of competent
240 jurisdiction. All photographic and other recorded information that identifies a violation shall be
241 destroyed within 1 year of final disposition of proceedings related to the enforcement or defense
242 of a violation, unless otherwise ordered by a court of competent jurisdiction. Each city, town,
243 school department, and vendor under agreement utilizing 1 or more school bus violation
244 detection monitoring systems shall file notice attested under penalties of perjury annually within
245 30 days of the close of the fiscal year with Massachusetts Department of Transportation that such
246 records have been destroyed in accordance with this paragraph. All recorded video, audio and
247 other photographic information, however stored or retained, which is obtained through a school
248 bus violation detection monitoring system are the property of the municipality under agreement
249 with a vendor and shall not be used by a vendor for any other purposes. Upon the expiration of
250 an agreement authorized under this section, all of such video, audio, and other photographic
251 information shall be delivered within 30 days to the particular municipality, unless otherwise
252 ordered by a court of competent jurisdiction.

253 (3) The administrator of the school bus violation detection monitoring system within any
254 city or town accepting this section shall submit an annual report to the Massachusetts
255 Department of Transportation regarding the use and operation of the school bus violation
256 detection monitoring system. The report shall include, but not be limited to, the following: data

257 on the number of citations issued under this section; the number of citations paid without a
258 request for a hearing; the number of citations found responsible after a hearing; the number of
259 citations dismissed after a hearing; the cost to maintain each school bus violation detection
260 monitoring system; and the amount of revenue obtained from each such monitoring system.