

Amend CSHB 2730 (Senate committee printing) by adding the following ARTICLE, appropriately numbered, and renumbering ARTICLES as necessary:

ARTICLE ____ . SCHOOL BUS MONITORING SYSTEM

SECTION ____ . Section 545.066, Transportation Code, is amended by adding Subsection (g) to read as follows:

(g) An image recorded by the monitoring system authorized by Section 547.701(b)(3) may be used in the administrative adjudication of a violation under this section if the image:

(1) is otherwise admissible;

(2) clearly shows the vehicle, including the license plate attached to the vehicle, at the time the offense is alleged to have occurred; and

(3) 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 ____ . Chapter 545, Transportation Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. SCHOOL BUS MONITORING SYSTEM

Sec. 545.451. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county that has a population of more than 325,000 and that is located adjacent to:

(1) an international border; and

(2) a county that has a population of more than 550,000.

Sec. 545.452. DEFINITIONS. In this subchapter:

(1) "Owner of a motor vehicle" means the owner of a motor vehicle as shown on the motor vehicle registration records of the Texas Department of Transportation or the analogous department or agency of another state or country.

(2) "Recorded image" means a live or recorded photographic, electronic, video, or digital image that depicts a motor vehicle.

(3) "School bus monitoring system" means a system authorized by Section 547.701(b)(3).

Sec. 545.453. AUTHORITY TO PROVIDE FOR PENALTY. (a) The board of trustees of a school district by resolution may impose a

financial penalty on the registered owner of a vehicle that is operated in a manner that violates Section 545.066 within the school district.

(b) The resolution adopted under this section must:

(1) provide for a penalty of not less than \$1 or more than \$250;

(2) authorize an attorney employed by the school district or an attorney with whom the school district contracts to bring suit to collect the penalty;

(3) provide for notice of the violation to the registered owner of the motor vehicle that committed the violation;

(4) provide that a person against whom the school district seeks to impose a penalty is entitled to an administrative adjudication hearing;

(5) designate the department, agency, or office of the school district responsible for the enforcement and administration of the resolution or provide that the entity with which the school district enters into an interlocal agreement of understanding under Section 545.454(3) is responsible for the enforcement and administration of the resolution;

(6) provide regulations for the use of live or recorded images recorded by the school bus monitoring system; and

(7) provide for other procedures that the board determines are necessary for the imposition of any penalty authorized by this section.

(c) Except as otherwise provided:

(1) by this subchapter, 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 shall be destroyed by the owner of the school bus; or

(2) by Section 545.066(g), an image recorded by the monitoring system authorized by Section 547.701(b)(3) may not be sold or distributed to another person.

(d) Penalties collected under this section may be used by a school district only to cover the cost of:

(1) installing, operating, and maintaining the school bus monitoring system;

- (2) collecting a penalty imposed under this section;
- (3) developing and implementing a program that promotes student safety; or
- (4) complying with Section 547.701(e) relating to three point seatbelts for school buses.

Sec. 545.454. INSTALLATION AND OPERATION OF SCHOOL BUS MONITORING SYSTEM. A school district that implements a school bus monitoring system and adopts a resolution imposing a penalty under this subchapter may:

- (1) contract for the administration and enforcement of the system;
- (2) install and operate the system or contract for the installation or operation of the system;
- (3) 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
- (4) 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) A school district shall 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) 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) An offense under this section is a Class A misdemeanor.

Sec. 545.456. EFFECT ON OTHER ENFORCEMENT. (a) The implementation of a school bus monitoring system by a school district under this subchapter does not:

- (1) preclude the application or enforcement within the school district of Section 545.066 in the manner prescribed by Chapter 543; or
- (2) 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) A school district may not impose 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) 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) Not later than the 30th day after the date the violation is alleged to have occurred, 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) shall mail the notice of violation to the owner of the motor vehicle at:

(1) the owner's address as shown on the registration records of the Texas Department of Transportation; or

(2) 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 the Texas Department of Transportation.

(c) The notice of violation must contain:

(1) a description of the violation alleged;

(2) the location where the violation occurred;

(3) the date and time of the violation;

(4) the name and address of the owner of the vehicle involved in the violation;

(5) the registration number displayed on the license plate of the vehicle involved in the violation;

(6) a copy of a recorded image of the violation that includes a depiction of the registration number displayed on the license plate of the vehicle involved in the violation;

(7) the amount of the penalty for which the owner is liable;

(8) the number of days the person has in which to pay or contest the imposition of the penalty;

(9) a statement that the owner of the vehicle in the notice of violation may elect to pay the penalty instead of appearing at the time and place of the administrative adjudication hearing; and

(10) information that informs the owner of the vehicle named in the notice of violation:

(A) of the owner's right to contest the imposition of the penalty against the person in an administrative adjudication hearing;

(B) that imposition of the penalty may be contested by submitting a written request for an administrative adjudication hearing before the expiration of the period specified under Subdivision (8); and

(C) that failure to pay the penalty or to contest liability for the penalty in a timely manner is an admission of liability.

(d) 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) 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) 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:

(1) being test driven by another person;

(2) being rented or leased by the vehicle's owner to another person; or

(3) owned by a person who was not the person named in the notice of violation.

(c) Notwithstanding Section 545.459, 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 must be made by affidavit, through testimony at the administrative adjudication hearing under Section 545.459, or by a written declaration under penalty of perjury. The affidavit or written declaration may be submitted by mail to the school district or the entity with which the school district contracts under Section 545.454(1).

(d) If the presumption established by Subsection (a) is rebutted under Subsection (b), a penalty may not be imposed on the owner of the vehicle or the person named in the notice of violation, as applicable.

(e) 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, the owner of the motor vehicle shall 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. The owner shall provide the information required by this subsection not later than the 30th day after the date the notice of violation is received. 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 the school district or contractor may 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) A person who receives a notice of violation under this subchapter may contest the imposition of the penalty specified in the notice of violation by filing a written request for an administrative adjudication hearing. The request for a hearing must be filed on or before the date specified in the notice of violation, which may not

be earlier than the 30th day after the date the notice of violation was mailed.

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

(c) An administrative adjudication hearing under this subchapter may 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. 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), Code of Criminal Procedure.

(d) In an administrative adjudication hearing, the issues must be proven by a preponderance of the evidence.

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

(f) An affidavit of a peace officer that alleges a violation based on an inspection of the applicable recorded image is:

(1) admissible in the administrative adjudication hearing; and

(2) evidence of the facts contained in the affidavit.

(g) At the conclusion of the administrative adjudication hearing, the hearing officer shall enter a finding of liability for the penalty or a finding of no liability for the penalty. A finding under this subsection must be in writing and be signed and dated by the hearing officer.

(h) A finding of liability for a penalty must specify the amount of the penalty for which the person is liable. If the hearing officer enters a finding of no liability, a penalty for the violation may not be imposed against the person.

(i) A finding of liability or a finding of no liability entered under this section may:

(1) be filed with a person designated by the board of trustees of the school district; and

(2) be recorded on microfilm or microfiche or using data processing techniques.

Sec. 545.460. IMPOSITION OF PENALTY NOT A CONVICTION. The imposition of a penalty under this subchapter is not a conviction and may not be considered a conviction for any purpose.

Sec. 545.461. FAILURE TO PAY PENALTY. (a) If the owner of the motor vehicle fails to timely pay the amount of the penalty imposed against the owner:

(1) an arrest warrant may not be issued for the owner; and

(2) the imposition of the penalty may not be recorded on the owner's driving record.

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

SECTION _____. Subsection (b), Section 547.701, Transportation Code, is amended to read as follows:

(b) A school bus may be equipped with:

(1) rooftop warning lamps:

(A) that conform to and are placed on the bus in accordance with specifications adopted under Section 34.002, Education Code; and

(B) that are operated under rules adopted by the school district; ~~and~~

(2) movable stop arms:

(A) that conform to regulations adopted under Section 34.002, Education Code; and

(B) that may be operated only when the bus is stopped to load or unload students; and

(3) a monitoring system that:

(A) 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;

(B) conforms to regulations adopted under Section 34.002, Education Code; and

(C) 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.

(c) When a school bus is being stopped or is stopped on a highway to permit students to board or exit the bus, the operator of the bus shall activate all flashing warning signal lights and other equipment on the bus designed to warn other drivers that the bus is stopping to load or unload children. A person may not operate such a light or other equipment except when the bus is being stopped or is stopped on a highway to permit students to board or exit the bus.

(d) The exterior of a school bus may not bear advertising or another paid announcement directed at the public if the advertising or announcement distracts from the effectiveness of required safety warning equipment. The department shall adopt rules to implement this subsection. A school bus that violates this section or rules adopted under this section shall be placed out of service until it complies.

(e) In this subsection, "bus" includes a school bus and a school activity bus. A bus operated by or contracted for use by a school district for the transportation of schoolchildren shall be equipped with a three-point seat belt for each passenger, including the operator. This subsection applies to:

(1) each bus purchased by a school district on or after September 1, 2010, for the transportation of schoolchildren; and

(2) each school-chartered bus contracted for use by a school district on or after September 1, 2011, for the transportation of schoolchildren.

(f) A school district is required to comply with Subsection (e) only to the extent that the Texas Education Agency pays or commits to pay the district for expenses incurred in complying with that subsection. The Texas Education Agency may make grants of appropriated money for the purpose of paying school districts under this subsection.

SECTION _____. Section 5, Chapter 259 (H.B. 323), Acts of the 80th Legislature, Regular Session, 2007, is repealed.

SECTION _____. Section 547.701(e), Transportation Code, as

added by Chapter 259 (H.B. 323), Acts of the 80th Legislature, Regular Session, 2007, takes effect September 1, 2009.

SECTION _____. Except as provided by subsection (e) and (f) of Section 547.701, Transportation Code, this ARTICLE expires September 1, 2013