

NOVEMBER 7, 2024 SESSION

LOCAL LAWS

- a. A LOCAL LAW IN RELATION TO ESTABLISHING A DEMONSTRATION PROGRAM IMPOSING OWNER LIABILITY FOR FAILURE OF AN OPERATOR TO STOP FOR A SCHOOL BUS DISPLAYING A RED VISUAL SIGNAL AND STOP-ARM
(Sponsored by Mr. Olson, Dr. Kelly)**

LOCAL LAW NO. ____ - 2024

A LOCAL LAW IN RELATION TO ESTABLISHING A DEMONSTRATION PROGRAM IMPOSING OWNER LIABILITY FOR FAILURE OF AN OPERATOR TO STOP FOR A SCHOOL BUS DISPLAYING A RED VISUAL SIGNAL AND STOP-ARM

BE IT ENACTED BY THE COUNTY LEGISLATURE OF ONONDAGA COUNTY, AS FOLLOWS:

Section 1. Definitions. For the purposes of this Local Law, the following terms shall have the following meanings:

- A. "County" shall mean the County of Onondaga.
- B. "District" shall mean a school district located in the County of Onondaga, excluding the Syracuse City School District.
- C. "Manual on Uniform Traffic Control Devices" or "MUTCD" shall mean the manual and specifications for a uniform system of traffic control devices maintained by the commissioner of transportation pursuant to section 1680 of the New York State Vehicle and Traffic law.
- D. "Owner" shall have the meaning provided in section 239 of the New York State Vehicle and Traffic Law.
- E. "School Bus Photo Violation Monitoring System" shall mean a device that is capable of operating independently of an enforcement officer which is installed to work in conjunction with a school bus stop-arm and which automatically produces two or more photographs, two or more microphotographs, a videotape or other recorded images of a vehicle at the time it is used or operated in violation of subdivision (a) of section 1174 of the New York State Vehicle and Traffic Law.
- F. "System Data" shall mean photographs, microphotographs, videotapes, other recorded images and data produced by School Bus Photo Violation Monitoring Systems.
- G. "VTL" shall mean the New York State Vehicle and Traffic Law.

Section 2. Program Established.

- A. There is hereby established, pursuant to VTL § 1174-a, a demonstration program imposing monetary liability on owners of vehicles for failure of the operators thereof to comply with VTL § 1174 when meeting a school bus marked and equipped as provided in subdivisions 20 and 21-c of VTL § 375 in Onondaga County.
- B. Under such demonstration program the County is hereby authorized to install and operate mobile School Bus Photo Violation Monitoring Systems which may be installed, pursuant to an agreement with a District, on school buses owned and/or operated by such District or privately owned and/or operated for compensation under contract with such District. Provided, however, that:
 - (i) No mobile School Bus Photo Violation Monitoring System shall be installed or operated on any such school buses unless the County and the District enter into an agreement for such installation and operation.

- C. To carry out the demonstration program, the County Legislature hereby authorizes the County Executive to enter into agreements with Districts, subject to and in accordance with the provisions of this Local Law and VTL § 1174-a, for the installation, maintenance and use of School Bus Photo Violation Monitoring Systems on school buses, for the proper handling and custody of System Data, and for the forwarding of such System Data to the County (hereinafter, “District Agreement”).
- D. Nothing in this Local Law shall be construed to prevent the County or a District at any time from withdrawing from or terminating a District Agreement; provided, however, that the County or a District shall provide no less than thirty (30) days’ prior written notice to the other for such withdrawal or termination.
- E. The total cost to a District of the installation, maintenance and use of School Bus Photo Violation Monitoring Systems pursuant to a District Agreement authorized by this Local Law shall be borne entirely by the County; which total cost, if any, shall be certified, paid, and reported in accordance with VTL § 1174-a(a)(1-b).
- F. Any image or images captured by School Bus Photo Violation Monitoring Systems shall be inadmissible in any disciplinary proceeding convened by any District or any school bus contractor thereof, and any proceeding involving licensure privileges of school bus operators. Any school bus photo violation monitoring device mounted on a school bus shall be directed outwardly from such school bus to capture images of vehicles operated in violation of VTL § 1174, and images produced by such device shall not be used for any other purpose.
- G. Pursuant to VTL § 1174-a(a)(3)(i), any participating District shall be prohibited from accessing any System Data but shall provide, pursuant to a District Agreement, for the proper handling and custody of such System Data, and for the forwarding of such System Data to the County for the purpose of determining whether a motor vehicle was operated in violation of VTL § 1174(a) and imposing monetary liability on the owner of such motor vehicle therefor.
- H. System Data shall be destroyed: (i) ninety (90) days after the date of the alleged imposition of liability if a notice of liability is not issued for such alleged imposition of liability pursuant to this Local Law; or (ii) upon final disposition of a notice of liability issued pursuant to this Local Law.
- I. The County shall adopt and enforce measures to protect the privacy of drivers, passengers, pedestrians and cyclists whose identity and identifying information may be captured by a School Bus Photo Violation Monitoring System device. Such measures shall include:
 - (i) Utilization of necessary technologies to ensure, to the extent practicable, that photographs produced by such School Bus Photo Violation Monitoring Systems shall not include images that identify the driver, the passengers, the contents of the vehicle, pedestrians and cyclists; provided, however, that no notice of liability issued pursuant to this Local Law shall be dismissed solely because a photograph or photographs allow for the identification of the contents of the vehicle, provided that the County has made a reasonable effort to comply with the provisions of this paragraph;

- (ii) A prohibition of the use or dissemination of vehicles' license plate information and other information and images captured by School Bus Photo Violation Monitoring Systems except: (a) as required to establish liability under this Local Law or collect payment of penalties; (b) as required by court order; or (c) as otherwise required by law; and
 - (iii) Oversight procedures to ensure compliance with the privacy protection measures required herein.
- J. The County, acting by and through the Commissioner of the Onondaga County Department of Transportation, shall install signage in conformance with standards established in the MUTCD at each roadway entrance of the jurisdictional boundaries of the County giving notice that School Bus Photo Violation Monitoring Systems are used to enforce restrictions on vehicles violating VTL § 1174. For the purposes of this paragraph, the term "roadway" shall not include state expressway routes or state interstate routes but shall include controlled-access highway exit ramps that enter the jurisdictional boundaries of the County.

Section 3. Penalties. An owner liable for a violation of VTL § 1174(a) pursuant to this Local Law shall be liable for monetary penalties in accordance with the following schedules of fines and penalties:

- A. Two hundred fifty dollars (\$250) for the first violation;
- B. Two hundred seventy-five dollars (\$275) for a second violation committed within eighteen (18) months of the first violation;
- C. Three hundred dollars (\$300) for a third or subsequent violation all of which were committed within eighteen (18) months from the first violation; and
- D. An additional penalty of twenty-five dollars (\$25) for each violation for the failure to respond to a notice of liability within the prescribed time period.

Section 4. Notice of Liability.

- A. Pursuant to VTL § 1174-a, a notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation of VTL § 1174(a). A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein. The County shall undertake or cause to be undertaken the preparation and mailing of such notices of liability.
- B. A notice of liability shall contain: the name and address of the person alleged to be liable as an owner for a violation of VTL § 1174(a); the registration number of the vehicle involved in such violation; the location where such violation took place; the date and time of such violation; the identification number of the School Bus Photo Violation Monitoring System which recorded the violation or other document locator number; and the registration number of the school bus on which the School Bus Photo Violation Monitoring System which recorded the violation was installed.
- C. A notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice; and shall also contain a warning to advise the persons charged that failure to contest in

the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

Section 5. Owner Liability.

- A. The owner of a vehicle shall be liable for a penalty imposed pursuant to this Local Law if such vehicle was used or operated with the permission of the owner, express or implied, in violation of VTL § 1174(a), and such violation is evidenced by information obtained from a School Bus Photo Violation Monitoring System; provided however that no owner of a vehicle shall be liable for a penalty imposed pursuant to this Local Law where the operator of such vehicle has been convicted of the underlying violation of VTL § 1174(a). No owner of a vehicle shall be subject to a monetary fine imposed pursuant to this Local Law if the operator of such vehicle was operating such vehicle without the consent/permission of the owner at the time such operator failed to comply with VTL § 1174. For purpose of this Local Law, there shall be a presumption that the operator of such vehicle was operating such vehicle with the permission/consent of the owner at the time such operator failed to comply with VTL § 1174.
- B. If the owner receives a notice of liability pursuant to this Local Law for any time period during which the vehicle was reported to the police as having been stolen, it shall be a valid defense to an allegation of liability for a violation of VTL § 1174(a) pursuant to this Local Law that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this paragraph, it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail or personally delivered to the County and, if applicable, the court having jurisdiction over the violation being contested/enforced.
- C. An owner who is lessor of a vehicle to which a notice of liability was issued pursuant to this Local Law shall not be liable for the violation of VTL § 1174(a), provided that he or she complies with the provisions of VTL § 1174-a and otherwise sends to the County and, if applicable, the court having jurisdiction over the violation being contested/enforced a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty-seven (37) days after receiving notice from the agency or entity which caused such notice of liability to be issued, together with the other information contained in the original notice of liability. Failure to send such information within the thirty-seven (37) day time period shall render the owner liable for the penalty prescribed by this Local Law. Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for the purposes of this Local Law, shall be subject to liability for the violation of VTL § 1174(a) pursuant to this Local Law, and shall be sent a notice of liability pursuant to Section 4 of this Local Law.
- D. A certificate, sworn to or affirmed by a technician employed by the County, or facsimile thereof, based upon inspection of System Data, and other documents or declarations pertaining to inspections by the department of transportation, shall be prima facie evidence of the facts contained therein. Such certificate, or a facsimile

thereof, shall provide: the identification number of the School Bus Photo Violation Monitoring System which recorded the violation; a statement confirming that at the time such violation was recorded by such School Bus Photo Violation Monitoring System, such School Bus Photo Violation Monitoring System was installed on a school bus marked and equipped as provided in subdivisions 20 and 21-c of VTL § 375 as evidenced by a valid certificate of inspection issued to such school bus by the department of transportation pursuant to Transportation Law § 140 and the safety rules and regulations promulgated thereunder; and the registration number of the school bus to which such School Bus Photo Violation Monitoring System was attached. Any System Data evidencing such a violation shall include: a recorded image of the outside of the motor vehicle involved in such violation; the registration number of such vehicle; at least one activated school bus stop-arm; and an electronic indicator or indicators showing the activation of the flashing red signal lamps of the school bus to which the School Bus Photo Violation Monitoring System producing such System Data was installed at the time such violation occurred; and any System Data evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation.

Where recorded images from a School Bus Photo Violation Monitoring System attached to a school bus, as certified pursuant to this Local Law, show the activation of at least one school bus stop-arm and an electronic indicator or indicators as required hereby, there shall be a rebuttable presumption that such school bus was stopped for the purpose of receiving or discharging any passengers or because a school bus in front of it had stopped to receive or discharge any passengers. A certificate, sworn to or affirmed by a technician employed by the County, or a facsimile thereof, after reviewing evidence that on the day the charged violation occurred such school bus had a valid certificate of inspection issued by the department of transportation pursuant to Transportation Law § 140 and the safety rules and regulations promulgated thereunder, shall be prima facie evidence that such school bus was marked and equipped as provided in in subdivisions 20 and 21-c of VTL § 375 and the flashing red signal lamp of such school bus was in operation at the time the violation occurred.

- E. It shall be a defense to any prosecution for a violation of VTL § 1174(a) pursuant to this Local Law that such school bus stop-arms were malfunctioning at the time of the alleged violation.
- F. An imposition of liability under this Local Law shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.
- G. For the purpose of informing and educating owners for motor vehicles in this County during the first thirty-day (30) period in which a School Bus Photo Violation Monitoring System is in operation pursuant to the provisions of this Local Law in the County, all owners of motor vehicles who would otherwise be held liable for failure of operators thereof to comply with VTL § 1174 when meeting a school bus marked and equipped as provided in subdivisions 20 and 21-c of VTL § 375, shall be issued a written warning in lieu of a notice of liability.

Section 6. Adjudication of Liability. Adjudication of liability imposed upon owners pursuant to this Local Law shall be by the court of competent jurisdiction in Onondaga County. Nothing in this Local Law shall be construed to limit the liability of an operator of a vehicle for any violation of VTL § 1174(a).

Section 7. Action for Indemnification. If the owner liable for a violation of VTL § 1174(a) pursuant to this Local Law was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

Section 8. Reporting Requirements.

- A. The County, acting by and through its Director of Security, or any other Executive department, division or office as may be directed by the County Executive, shall develop and cause to be submitted an annual report on the results of the use of a School Bus Photo Violation Monitoring System to the Governor, the temporary president of the Senate and the speaker of the Assembly on or before June 1 of each year in which the demonstration program set forth herein is operable. Such report shall include, but not be limited to:
- (i) the number of buses and a description of the routes where mobile School Bus Photo Violation Monitoring Systems were used;
 - (ii) the aggregate number, type and severity of accidents reported at locations where a School Bus Photo Violation Monitoring System is used for the year preceding the installation of such system, to the extent the information is maintained by the New York State Department of Motor Vehicle (“NYSDMV”);
 - (iii) the aggregate number, type and severity of accidents reported at locations where a School Bus Photo Violation Monitoring System is used, to the extent the information is maintained by the NYSDMV;
 - (iv) the number of violations recorded at each location where a School Bus Photo Violation Monitoring System is used and in the aggregate on a daily, weekly and monthly basis;
 - (v) the number of convictions for violations of VTL § 1174(a) recorded at each location where a School Bus Photo Violation Monitoring System is used on an annual basis, to the extent the information is maintained by the NYSDMV;
 - (vi) the total number of notices of liability issued for violations recorded by such systems;
 - (vii) the number of fines and total amount of fines paid after the first notice of liability issued for violations recorded by such systems;
 - (viii) the total amount of revenue realized by the County from such adjudications;
 - (ix) the expenses incurred by the County in connection with the program; and
 - (x) a description of public education activities conducted to warn motorists of the dangers of overtaking and passing stopped school buses.
- B. Pursuant to the requirements of VTL §1174-a(m)(7), (10), respective courts, bureaus, and agencies conducting adjudications in accordance with this Local Law shall provide

to the County at least annually a report, which reports shall be incorporated into the annual report set forth in Section 8(A) above, setting forth:

- (i) the number of violations adjudicated and results of such adjudications, including breakdowns of dispositions made for such violations recorded by School Bus Photo Violation Monitoring Systems; and
- (ii) the quality of the adjudication process and its results, including the total number of hearings scheduled, re-scheduled, and held; the total number of persons scheduled for such hearings; the total number of cases where fines were paid on or before the hearing date; and the total number of default judgments entered.

Section 9. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this Local Law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local Law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstances directly involved in the controversy in which such order or judgment shall be rendered.

Section 10. Effective Date. This Local Law shall take effect immediately upon filing, consistent with the provisions of the New York State Municipal Home Rule Law.