

SESSION OF 2022

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2154

As Amended by House Committee on Judiciary

Brief*

HB 2154, as amended, would create law regarding use of stop signal arm video recording devices (recording devices) on school buses and civil penalties for violations of the statute prohibiting passing a school bus with its stop signals activated (illegally passing a school bus) that are detected by such recording devices.

Policies, Procedures, Resolutions, and Agreements

The bill would direct the State Department of Education (KSDE) to create policies and procedures to contract with a private vendor for the installation, operation, and maintenance of recording devices to capture motor vehicles illegally passing a school bus and to allow KSDE to assess civil penalties pursuant to the bill.

The bill would require, before allowing a private vendor to install recording devices on school buses, the board of education of a school district to adopt by a majority vote of its members a resolution specifying the board's intent to work with the private vendor designated by KSDE to capture motor vehicles illegally passing a school bus and to allow KSDE to assess civil penalties pursuant to the bill.

The bill would require an agreement between KSDE and a private vendor to:

- Specify the compensation owed to the vendor for the installation, operation, and maintenance of the

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

recording devices and the cost of the equipment and for the expenses associated with any other services necessary for the operation of recording devices; and

- Contain data reporting requirements that the private vendor shall provide to KSDE, including the total number of notices issued as a result of a violation captured and recorded by the recording device and the total amount of civil penalties issued from such notices.

Fund Creation

The bill would require civil penalties collected pursuant to the bill to be remitted by KSDE to the State Treasurer to be credited to the School Bus Safety and Education Fund (Fund), which the bill would create in the State Treasury and would be administered by KSDE.

Expenditures from the Fund could be made for the purposes of covering expenses for work by a private vendor related to the installation, operation, and maintenance of recording devices, verifying violations captured by recording devices, educating the public on the dangers of illegally passing a school bus, and to alert the public of the consequences for violations captured by the recording devices.

Violation Review, Notice, and Appeal

Whenever a violation of illegally passing a school bus is detected by the private vendor from recorded images captured by a recording device, the alleged violation would be forwarded to the Kansas Highway Patrol (KHP) and reviewed and verified by a designated official working under the supervision of KHP. The bill would define “designated official” to mean a certified Kansas law enforcement officer or a retired law enforcement officer who was in good standing at

the time of retirement and whose certification was not suspended, revoked, or surrendered at the time of retirement or any time subsequent to retirement.

The information reviewed by KHP's designated official to verify alleged violations would include the following:

- Recorded images of the alleged violation;
- The location where the alleged violation occurred;
- An image of the vehicle involved in the alleged violation; and
- An image of the registration plate for the vehicle involved in the alleged violation.

Recorded images showing a vehicle illegally passing a school bus would be *prima facie* evidence that a violation occurred.

The bill would require that if the designated official verifying an evidence file determines that a violation of illegally passing a school bus has occurred, a notice of violation would be issued by KSDE to the registered owner of the vehicle in the recorded images by sending such notice to the registered vehicle owner's last known address by first-class mail within 14 calendar days from the date the violation occurred. The bill would require such notice include:

- The information reviewed by KSDE's designated official;
- The amount of the civil penalty and the date by which such penalty shall be paid;
- A signed affidavit by the party who verified the violation from the evidence file;

- Information advising the registered owner on the appeal process to contest the captured violation; and
- A warning listing additional penalties for failure to pay the civil penalty or file an appeal in a timely manner.

The bill would provide the penalty for illegally passing a school bus recorded by a recording device would be a civil penalty of \$250.

If the registered owner of a vehicle fails to pay this civil penalty, KSDE would be authorized to inform the Division of Vehicles (Division), Department of Revenue, of such failure.

The bill would allow KSDE to instruct the Division to require payment of any civil penalties due and owing to KSDE at the time of registration or renewal of registration, or to otherwise refuse to register or renew the registration of the vehicle, of the registered owner or owners, until the civil penalties are paid to the satisfaction of KSDE.

The registered owner of a vehicle would be presumed to be the driver responsible for any violation under the bill.

The registered owner of a vehicle could contest that the owner was the driver of the vehicle by appealing the notice of violation to KSDE within 15 business days and providing sufficient evidence for an available defense. Available defenses would include:

- At the time of the violation, the vehicle was stolen;
- At the time of the violation, the registration plate or registration decal for the vehicle was stolen;
- The registered owner of the vehicle was already charged with a traffic infraction for illegally passing a school bus for the same incident; or

- At the time of the violation, the vehicle was sold or the registered owner otherwise no longer owned the vehicle.

Upon receipt of a contest from the registered owner, the bill would require KSDE to investigate the contest and, within 30 business days, either dismiss the violation or confirm the violation. A registered owner could thereafter pay the specified civil penalty or contest the findings and conclusions of KSDE by requesting an administrative hearing within 15 business days of receipt of the notice of violation, pursuant to the Kansas Administrative Procedure Act (KAPA).

The administrative hearing would be conducted in accordance with KAPA, and any party could appeal the administrative hearing order to the district court in accordance with the provisions of the Kansas Judicial Review Act.

Release and Retention of Recorded Images

The bill would require recorded images made for the purposes of its provisions to be released by KSDE or the private vendor to:

- The registered owner of the vehicle captured in the recorded images, upon request by the owner;
- A court or person, as directed by a valid court order or subpoena; or
- A Kansas law enforcement agency for investigation purposes connected with alleged illegal passing of a school bus, upon request by such agency.

The bill would require recorded images that capture no violation to be retained for no longer than 28 business days. The bill would require recorded images showing no violation to be destroyed or disposed of by KSDE or the private vendor responsible for identifying violations after 28 business days.

The bill would require recorded images that capture violations to be retained by the party responsible for issuing notices of violations until the case is closed. The bill would require recorded images of the violation to be destroyed or disposed of at such time the case is closed.

The bill would state recorded images made for purposes of its provisions would not be subject to the Kansas Open Records Act (KORA), and this exception would expire on July 1, 2027, unless the Legislature reviews and reenacts this provision prior to that date.

Annual Report

The bill would require KSDE to make an annual report to the Legislature detailing the total number of violations captured, the total number of notices issued, and the total amount of civil penalties collected from such violations. The bill would require these reports to be published on the KSDE website with a link to such reports.

Definitions

In addition to “designated official,” the bill would define “closed,” “recorded images,” and “stop signal arm recording device.”

Background

The bill was introduced by the House Committee on Judiciary at the request of Representative Proehl.

House Committee on Judiciary

In the House Committee hearing on February 10, 2021, a representative of Kansas Association of School Boards and United School Administrators of Kansas; representatives of

BusPatrol, Derby Public Schools (USD 260), Parsons District Schools (USD 503), State Board of Education, and Wichita Public Schools (USD 259); and a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association testified as **proponents** of the bill, stating the bill would increase safety for children by helping to deter the illegal passing of school buses. Written-only proponent testimony was provided by representatives of Smoky Valley Public School District (USD 400), Spring Hill School District (USD 230), and Stafford Schools (USD 349).

No neutral or **opponent** testimony was provided.

On March 5, 2021, the bill was referred to the House Committee on Appropriations. On March 10, 2021, the bill was re-referred to the House Committee on Judiciary.

On February 14, 2022, the House Committee amended the bill to update statutory references, extend the KORA exception expiration and review date by one year, and change the responsibility for reviewing alleged violations from KSDE to KHP.

Fiscal Information

According to the February 5, 2021, fiscal note prepared by the Division of the Budget on the bill, as introduced, KSDE indicates enactment of the bill would increase revenues from civil penalties and would increase expenditures associated with the contracted vendor. Over time, revenues from civil penalties likely would cover the contract costs to administer the program. KSDE indicates an additional position may be required to coordinate the program, depending on the number of school districts and buses that would participate. KSDE did not provide a cost estimate for the additional position but indicates any additional expenditures would be funded from the new Fund.

The Division of the Budget notes that in order to begin the program, an initial funding mechanism would be needed, either through a State General Fund appropriation or through the vendor contract with KSDE for retroactive vendor payments from the eventual civil penalty revenue, but the bill does not specify how these initial costs would be covered.

The Department of Revenue indicates enactment of the bill would have no fiscal effect on the agency. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2022 Governor's Budget Report*.

School buses; illegal passing; stop signal arm video recording; violations and penalties; State Department of Education; Kansas Highway Patrol; Department of Revenue