

The House Committee on Motor Vehicles offers the following substitute to SB 57:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 40-6-163 of the Official Code of Georgia Annotated, relating to the  
2 duty of the driver of a vehicle meeting or overtaking a school bus and reporting of violations,  
3 so as to define certain terms; to provide that such Code section may be enforced by means  
4 of video images; to provide a civil penalty; to provide for notice and procedures; to provide  
5 for a rebuttable presumption; to provide for a transfer of funds; to provide for an exemption  
6 from recording provisions; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 Code Section 40-6-163 of the Official Code of Georgia Annotated, relating to the duty of the  
10 driver of a vehicle meeting or overtaking a school bus and reporting of violations, is amended  
11 by adding a new subsection to read as follows:

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

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

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

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

23 (2) Subsection (a) of this Code section may be enforced by using recorded images as  
24 provided in this subsection.

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

26 (A) The driver of a motor vehicle shall be liable for a civil monetary penalty if such  
27 vehicle is found, as evidenced by recorded images, to have been operated in disregard  
28 or disobedience of subsection (a) of this Code section and such disregard or  
29 disobedience was not otherwise authorized by law. The amount of such fine shall be  
30 \$300.00 for a first offense, \$750.00 for a second offense, and \$1,000.00 for each  
31 subsequent offense in a five-year period;

32 (B) The law enforcement agency authorized to enforce the provisions of this Code  
33 section shall send by regular mail addressed to the owner of the motor vehicle  
34 postmarked not later than ten days after the date of the alleged violation:

35 (i) A citation for the alleged violation, which shall include the date and time of the  
36 violation, the location of the infraction, the amount of the civil monetary penalty  
37 imposed, and the date by which the civil monetary penalty shall be paid;

38 (ii) An image taken from the recorded image showing the vehicle involved in the  
39 infraction;

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

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

47 (v) Information advising the owner of the motor vehicle of the manner and time in  
48 which liability as alleged in the citation may be contested in court; and

49 (vi) A warning that failure to pay the civil monetary penalty or to contest liability in  
50 a timely manner shall waive any right to contest liability and result in a civil monetary  
51 penalty;

52 (C) Proof that a motor vehicle was operated in disregard or disobedience of subsection  
53 (a) of this Code section shall be evidenced by recorded images. A copy of a certificate  
54 sworn to or affirmed by a certified peace officer employed by a law enforcement  
55 agency and stating that, based upon inspection of recorded images, a motor vehicle was  
56 operated in disregard or disobedience of subsection (a) of this Code section and that  
57 such disregard or disobedience was not otherwise authorized by law shall be  
58 prima-facie evidence of the facts contained therein; and

59 (D) Liability under this subsection shall be determined based upon preponderance of  
60 the evidence. Prima-facie evidence that the vehicle described in the citation issued  
61 pursuant to this subsection was operated in violation of subsection (a) of this Code  
62 section, together with proof that the defendant was at the time of such violation the

63 registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that  
64 such owner of the vehicle was the driver of the vehicle at the time of the alleged  
65 violation. Such an inference may be rebutted if the owner of the vehicle:

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

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

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

79 (5) If a person summoned by regular mail fails to appear on the date of return set out in  
80 the citation and has not paid the penalty for the violation or filed a police report or  
81 notarized statement pursuant to subparagraph (D) of paragraph (3) of this subsection, the  
82 person shall then be summoned a second time by certified mail with a return receipt  
83 requested. The second summons shall include all information required in subparagraph  
84 (B) of paragraph (3) of this subsection for the initial summons and shall include a new  
85 date of return. If a person summoned by certified mail again fails to appear on the date  
86 of return set out in the second citation and has failed to pay the penalty or file an  
87 appropriate document for rebuttal, the person summoned shall have waived the right to  
88 contest the violation and shall be liable for the civil monetary penalty provided in  
89 paragraph (3) of this subsection.

90 (6) Any court having jurisdiction over violations of subsection (a) of this Code section  
91 shall have jurisdiction over cases arising under this subsection and shall be authorized to  
92 impose the civil monetary penalty provided by this subsection. Except as otherwise  
93 provided in this subsection, the provisions of law governing jurisdiction, procedure,  
94 defenses, adjudication, appeal, and payment and distribution of penalties otherwise  
95 applicable to violations of subsection (a) of this Code section shall apply to enforcement  
96 under this subsection except as provided in subparagraph (A) of paragraph (3) of this  
97 subsection; provided, however, that any appeal from superior or state court shall be by  
98 application in the same manner as that provided by Code Section 5-6-35.

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

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

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

108 (10) Any school bus driver operating a vehicle equipped with an activated video  
109 recording device shall be exempt from the recording provisions of subsection (c) of Code  
110 Section 40-6-163."

111 **SECTION 2.**

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