

Senate Bill 57

By: Senators Gooch of the 51st, Mullis of the 53rd, Miller of the 49th, Jackson of the 24th, Ginn of the 47th and others

AS PASSED

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.