

HOUSE No. 01293

The Commonwealth of Massachusetts

PRESENTED BY:

Paul J. Donato

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act concerning the safety of school children embarking and disembarking school buses.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Paul J. Donato</i>	<i>35th Middlesex</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Kathi-Anne Reinstein</i>	<i>16th Suffolk</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>John J. Binienda</i>	<i>17th Worcester</i>
<i>Carlo Basile</i>	<i>1st Suffolk</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Gailanne Cariddi</i>	<i>1st Berkshire</i>
<i>Michael A. Costello</i>	<i>1st Essex</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>
<i>Stephen Stat Smith</i>	<i>28th Middlesex</i>

<i>William M. Straus</i>	<i>10th Bristol</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>
<i>John D. Keenan</i>	<i>7th Essex</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>

HOUSE No. 01293

By Mr. Donato of Medford, a petition (accompanied by bill, House, No. 1293) of Paul J. Donato and others for legislation authorizing cities and towns to install video monitoring systems to detect certain motor vehicle violations. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act concerning the safety of school children embarking and disembarking school buses.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 14 of Chapter 90 of the General Laws is hereby amended by inserting
2 after section 14B the following section:-

3 Section 14C. (a) In addition to other monitoring devices lawfully authorized to be installed in
4 school buses and notwithstanding any general or special law to the contrary, any city, town or
5 local school department within the Commonwealth, is hereby authorized to install and operate
6 live digital video school bus violation detection monitoring systems for purpose of enforcing
7 violations against the owner of a motor vehicle whose vehicle failed to stop for a bus when
8 required to do so by the provisions of Section 14. Such systems shall be limited to monitor and
9 detect violations of motorists failing to stop for a school bus.

10 (b) (1) As used in this section, the following words shall have the following meanings:

11 “School bus violation detection monitoring system” a camera system that shall monitor and
12 detect motor vehicles overtaking or passing school buses when said buses are stopped and
13 displaying front and rear alternating flashing red signal lamps as provided in section seven B,
14 and which has been stopped to allow pupils to alight from or board the same. It shall be a system
15 with two or more camera sensors and computers that produce live digital and recorded video and
16 2 or more film or digital photographic still images of each motor vehicle at the time it is used or
17 operated in a manner that is in violation of Section 14 of Chapter 90.

18 “Stop arm traffic control sign” a stop sign mounted on a mechanical arm installed on a school
19 bus which is deployed when a school bus is stopped to allow pupils to alight from or board the
20 same and notify motorists when it they are required to stop and when they can proceed.

21 “Violation” the failure of an operator of a motor vehicle to comply with the laws, codes,
22 regulations, by-laws, ordinances, rules or other forms of legislation governing the traffic control
23 requirements for school buses stopped to allow pupils to alight from or board same for which a
24 school bus violation detection monitoring system is installed and in operation.

25 (2) All systems installed for use under this section shall produce an evidence file that includes a
26 live visual image viewable remotely, a recorded image of the license plate and be able to record
27 the date, time and location of the vehicle committing the violation. An affidavit shall be signed
28 by a person trained to observe and detect such violations who witnesses the violation via live
29 video provided by the school bus violation detection monitoring system.

30 (3) Recorded video images and still photographic images must record the rear of the motor
31 vehicle, with at least 1 photographic image and one recorded video image clearly recording the
32 motor vehicle immediately before the violation of the stop arm traffic control sign and at least 1

33 photographic image and one recorded video image recording the motor vehicle passing the
34 stopped school bus with the stop arm traffic control sign deployed in violation of the stop arm
35 traffic control sign. Additionally, at least 1 photographic image and 1 recorded video image
36 must clearly identify the license plate of the motor vehicle.

37 (4) To the extent practicable, any school bus violation detection monitoring system shall use
38 necessary technologies to ensure that photographs or recorded video images produced by the
39 school bus violation detection monitoring system shall not include a frontal view photograph or
40 video image of the motor vehicle that is in violation of the stop arm traffic control sign or images
41 that identify the operator, the passengers, or the contents of the vehicle, but no notice of liability
42 issued under this section shall be dismissed solely because a photograph or recorded video image
43 allow for the identification of the operator, passengers, or contents of a vehicle as long as a
44 reasonable effort has been made to comply with this paragraph.

45 (5) Any school bus installed with a school bus violation detection monitoring system shall post
46 warning signage indicating the use of such system. The signage shall remain on each bus as long
47 as a school bus violation detection monitoring system is in operation.

48 (6) A penalty imposed for a violation of this section shall not be considered a criminal conviction
49 and shall not be considered a moving violation of the motor vehicle laws for the purpose of
50 determining surcharges on motor vehicle premiums pursuant to Section 113B of Chapter 175
51 although as provided in this section the violation shall be noted on the registered owner or
52 owner's driving record.

53 (7) The fines contained in this section and section 14 for a failure to stop for a school bus shall be
54 applied whether the violation is detected through the use of a school bus mounted violation

55 detection monitoring system or by a police officer on scene who issues a written citation to the
56 operator of the motor vehicle. Pursuant to the provisions of Section 2 of Chapter 280, all fines
57 imposed for a violation of failing to stop for school bus in accordance with section 14 that is
58 detected by a school bus violation detection monitoring system or by a police officer who cites
59 the operator in hand shall be paid over to the treasury of the city or town where the offense was
60 committed.

61 (8) A city, town or local school department may enter into an agreement with a private vendor or
62 manufacturer to provide a school bus violation detection monitoring system on each bus within
63 its fleet whether owned or leased, up to and including the installation, operation and maintenance
64 of such systems. Compensation paid to the manufacturer or vendor of the school bus violation
65 detection monitoring system as authorized by this section shall not be based solely upon the
66 revenue generated by the use of such systems. The compensation paid to the manufacturer or
67 vendor of the equipment shall be based upon the value of the equipment installed and the
68 recurring services provided in support of the school bus violation detection monitoring systems
69 including processing of evidence files, cost of the technology provided and maintenance of such
70 technology.

71 (9) A city or town shall provide reimbursement of expenses to the private vendor or
72 manufacturer for the installation, operation and maintenance of the school bus violation detection
73 monitoring systems in operation and acknowledged by an agreement between the private vendor
74 and the school department that has adopted this section. Notwithstanding the terms and
75 conditions contained in any such agreement, reimbursement shall be made from ticket revenue
76 proceeds incurred under this section only if received as currently allocated under the laws of the
77 Commonwealth for said citations so as to eliminate any cost to the city or town for installation,

78 operation and maintenance of the school bus violation detection monitoring systems in its
79 municipality. Such reimbursement shall be made to the private vendor or manufacturer within
80 30 days following the submittal of request for cost reimbursement. Such reimbursement shall
81 not exceed 82.5% of the ticket revenue proceeds in any preceding period. If such violations
82 occur on highways or roads controlled by the Commonwealth, then reimbursement for installing,
83 operating, and maintaining school bus violation detection systems shall be permitted from the
84 Commonwealth to the private vendor from ticket proceeds pursuant to this section only.

85

86 (c) (1) An evidence file of the alleged violation and the signed affidavit shall be forwarded to a
87 trained law enforcement officer in the jurisdiction who is trained to observe and detect a
88 violation for failure to stop for a stopped school bus allowing pupils to alight or board the same.
89 The officer shall issue a citation if he or she is satisfied that a violation was committed under
90 section 14 and the vehicle committing such violation can be indentified from its registration
91 plate. A certificate, or a facsimile thereof sworn to or affirmed by a police officer or other law
92 enforcement officer authorized to issue motor vehicle citations for violations of traffic laws,
93 stating that based upon inspection of the evidence file produced by a school bus violation
94 detection monitoring system, the vehicle was in violation of this section, shall be prima facie
95 evidence of the facts contained therein. Any recorded video images or still photographic images
96 produced by a school bus violation detection monitoring system evidencing the violation shall be
97 available for inspection in any proceeding to adjudicate the liability for the violation adopted
98 under this section.

99 (2) In all prosecutions of civil traffic violations based on evidence obtained from a school bus
100 violation detection monitoring system the registered owner of the motor vehicle shall be
101 primarily responsible pursuant to the provisions of this chapter except as otherwise provided in
102 this section. In the event the registered owner of the vehicle operated in violation of this chapter
103 was not the operator of the vehicle at the time of the violation the registered owner of the vehicle
104 shall either (a) assume liability for the violation by paying the fine or; (b) upon written receipt of
105 the citation provide the issuing authority within 30 days of the date of issuance, the name,
106 address and registration number {license plate} of the operator of the vehicle who was
107 responsible along with a signed affidavit acknowledging such or; (c) defend the violation
108 pursuant to the procedures established for traffic violations under this section. A vehicle owned
109 or leased to a corporation that is identified by a school bus violation detection monitoring system
110 under this section shall be primarily responsible for a violation pursuant to section 14 even if a
111 person who normally operates the vehicle for the corporation denies that he or she was operating
112 the vehicle at the time of the violation although no entry shall be made on the person's driving
113 record.

114 (3) A penalty imposed may, if so provided in writing, be increased by up to 33 1/3% if the
115 penalty remains unpaid in excess of 45 days after a citation has been issued consistent with the
116 procedures established in this section and there has been no request for a hearing under
117 paragraph (3) of subsection (d).

118 (d) (1) Upon the determination of a violation through the use of a school bus violation detection
119 monitoring system, it shall be the duty of the chief of police of the city or town, or any designee
120 of the chief, to issue the owner or owners of the vehicle a citation pursuant to the provisions of
121 Chapter 90C. The citation shall require the owner or owners to pay the fine amount issued

122 pursuant to section 14 or appear before the parking clerk not later than 30 days after the date the
123 citation was sent under the procedures established pursuant to violations under this section. The
124 citation shall be mailed to the address of the registered owner or owners as contained in the
125 registry or in records of the Department of Motor Vehicles in the jurisdiction in which the
126 vehicle is registered if other than the Commonwealth for any motor vehicle identified by the
127 school bus violation detection monitoring system as evidence of a violation of this section.
128 Citations shall be mailed by first class mail, post marked no later than 14 days after the date of
129 the alleged violation, inclusive of Sundays and holidays. In the case of any motor vehicle
130 registered under the laws of another state or country, if the address is unavailable, it shall be
131 sufficient to mail the citation to the official in the state or country having charge of the
132 registration of the motor vehicle. The citation shall be considered sufficient notice, and a
133 certificate of the chief of police or the chief's designee mailing the citation stating that it has
134 been mailed in accordance with this section shall be deemed prima facie evidence thereof and
135 shall be admissible in any judicial or administrative proceeding as to the facts contained therein.
136 It shall be sufficient to commence a prosecution. The chief or the chief's designee shall retain
137 and safely preserve a copy of the Citation and shall at a time no later than the beginning of the
138 next business day of the city or town after mailing to the owner or owners, deliver another copy
139 to the parking clerk before whom the owner or owners have been notified to appear. The parking
140 clerk shall maintain a docket of all such notices to appear. For purposes of this section, the date
141 of issuance shall be the date of mailing.

142 The police officer issuing the citation shall certify that the evidence obtained from the school bus
143 violation detection monitoring system was sufficient to demonstrate a violation of section 14.
144 Such certification shall be sufficient in all prosecutions pursuant to this section to justify the

145 entry of a default judgment in all cases where the citation is not answered within the time period
146 permitted under this section.

147 The citation issued by the trained law enforcement officer in the jurisdiction shall contain but not
148 be limited to the following information:

149 (i) a citation for the violation, which shall include the name and address of the person or persons
150 liable as an owner or owners of the motor vehicle for the violation of this section, the registration
151 number and state of issuance of the registration number of the vehicle involved in the violation,
152 the date, time and location of the violation, the specific violation charged, the amount of the
153 penalty for the violation, and the date by which the penalty shall be paid;

154 (ii) a copy of two or more still photographs, microphotographs, video or other recorded images
155 showing the vehicle in violation of the stop arm traffic sign;

156 (iii) a copy of the certificate or affidavit of the police officer under paragraph (1) of subsection
157 (c);

158 (iv) a statement that recorded video images and photographic images are evidence of a violation
159 of section 14;

160 (v) a schedule of fines for the violation as established by the Commonwealth;

161 (vi) instructions for the return of the citation notice including but not limited to the following
162 text:—

163 “This notice and the required payment may be returned in person, by mail, or by a duly
164 authorized agent. A hearing to contest liability may be obtained upon the written request of the
165 registered owner. Failure to pay the penalty or to contest liability within 30 days of issuance of

166 this notice is an admission of liability and may result in a default judgment being entered against
167 the owner to whom the violation has been issued and/or non-renewal or suspension of the license
168 to drive and the certificate of registration of the registered owner.”;

169 (vii) an affidavit form approved by the parking clerk for the purpose of complying with
170 paragraph (5);and

171 (viii) a statement explaining the procedure to adjudicate the violation by mail under paragraph
172 (6) .

173 (2) Any person notified to appear before the parking clerk, as provided in this section, may
174 appear before the parking clerk, or his designee, and confess the offense charged, either
175 personally or through a duly authorized agent or by mailing to the parking clerk the notice
176 accompanied by the fine provided therein, such payment to be made only by postal note, money
177 order or check made out to the parking clerk. Payment of the penalty established shall operate as
178 a final disposition of the case.

179 (3) Except as expressly provided, all prosecutions based on evidence produced by a school bus
180 violation detection monitoring system shall follow the procedures of this section.

181 Notwithstanding the installation and use of a live digital video school bus violation detection
182 monitoring system on a school bus, a trained police officer in whose presence of motorist failing
183 to stop for a stopped school bus as required under section 14, may issue a citation at the scene to
184 the operator of such vehicle for such violation pursuant to section 14. An owner of a vehicle
185 shall not be liable for a citation as a result of a school bus violation detection monitoring system
186 if the operator of the vehicle was cited directly by a police officer at the scene of the violation.

187 (4) Should any person notified to appear hereunder fail to appear and, if a penalty is provided
188 hereunder, to pay the same, or if the person requests a hearing to contest liability, the parking
189 clerk shall forthwith schedule the matter before a person referred to in this section as a hearing
190 officer. The hearing officer shall be the parking clerk of the city or town in which the violation
191 occurred or any other person or persons that the parking clerk may designate. Written notice of
192 the date, time and place of the hearing shall be sent by first-class mail to the registered owner or
193 owners. The hearing shall be informal, the rules of evidence shall not apply and the decision of
194 the hearing officer shall be final subject to judicial review as provided by Section 14 of Chapter
195 30A. Within 21 days of the hearing, the hearing officer shall send by first class mail to the
196 registered owner or owners the decision of the hearing officer, including the reasons for the
197 outcome.

198 (5) Any owner to whom a citation has been issued shall not be liable for a violation of this
199 section (a) if the violation was necessary to allow the passage of an emergency vehicle; (b) if the
200 violation was necessary in order to protect the property or person of another; (c) if the violation
201 was incurred while participating in a funeral procession; (d) if the violation was incurred during
202 a period of time in which the motor vehicle was reported to the police department of any state,
203 city or town as having been stolen and had not been recovered before the time the violation
204 occurred; (e) if the operator of the motor vehicle was operating the motor vehicle under a rental
205 or lease agreement and the owner of the motor vehicle is a rental or leasing company; (f) if the
206 operator of the motor vehicle was convicted of the underlying violation under a citation issued in
207 accordance with Section 2 of Chapter 90C; (g) if the violation was necessary to comply with an
208 order of a law enforcement officer or of a flagger directing traffic flow; or (h) if the vehicle was
209 subject to the exceptions granted to an authorized emergency vehicle under Section 7B of

210 Chapter 89. An owner disputing a violation under this subsection shall, within 30 days of
211 issuance of the notice, provide the parking clerk with an affidavit signed under the pains and
212 penalties of perjury in a form approved by the parking clerk, as provided for in clause (vii) of
213 paragraph (1) of this subsection stating (1) the reason for disputing the violation; (2) the full
214 legal name and address of the owner of the motor vehicle; (3) the names and addresses of all
215 witnesses supporting the owner's defense and the specifics of their knowledge; and where
216 applicable (4) the signed statements from witnesses. The affidavit shall be filed with the request
217 for a hearing.

218 (6) Any person notified to appear before the parking clerk, as provided in this paragraph, may
219 without waiving his right to a hearing before the parking clerk or hearing officer as provided by
220 this subsection, and also without waiving judicial review under Section 14 of Chapter 30A,
221 challenge the validity of the citation and receive a review and disposition of the violation from
222 the parking clerk or a hearing officer by mail. The owner may, upon receipt of the citation, send
223 a signed statement explaining his objections to the violation notice as well as signed statements
224 from witnesses, police officers, government officials and any other relevant parties.
225 Photographs, diagrams, maps and other documents may also be sent with the statements. Any
226 statements or materials sent to the parking clerk for review shall have attached the person's name
227 and address as well as the citation number and the date of the violation. The parking clerk or
228 hearing officer shall, within 21 days of receipt of this material, review the material and dismiss
229 or uphold the violation and notify, by mail, the owner or owners of the disposition of the written
230 review. If the outcome of the written review is adverse to the owner or owners, the parking clerk
231 or hearing officer shall explain the reasons for the outcome on the notice. The review and
232 disposition handled by mail shall be informal, the rules of evidence shall not apply, and the

233 decision of the parking clerk or hearing officer based upon the written materials shall be final,
234 unless the owner invokes the hearing provisions under this section or judicial review under
235 Section 14 of Chapter 30A.

236 (7) If any person fails to appear before the hearing officer in accordance with the notice, or fails
237 to receive a favorable adjudication of the hearing from a hearing officer and fails to pay the fine
238 within 30 days of the date that the hearing officer has mailed notice of the decision of the hearing
239 officer, the parking clerk shall notify the registrar of motor vehicles, who shall place the matter
240 on record. Upon notification to the registrar of 2 or more citations under this section or section
241 14 from the parking clerk of the city or town, or state authorities or agencies, the registrar shall
242 not issue or renew or may suspend the owner's license to operate a motor vehicle or motor
243 vehicle registration until after notification from the parking clerk of each city, agency or
244 authority, from whom the registrar received notification, that all fines, taxes and penalties owed
245 by the owner under this section have been disposed of in accordance with law. Upon such
246 notification to the registrar, an additional charge of \$20 payable to the registrar but collected by
247 the city or town, and an additional charge of \$20 payable to and collected by the city or town,
248 shall be assessed against the registered owner of the motor vehicle. It shall be the duty of the
249 parking clerk to notify the registrar forthwith that the case has been so disposed, but certified
250 receipt of full and final payment from the parking clerk of the city or town, or state agency or
251 authority issuing the violation shall also serve as legal notice to the registrar that the violation has
252 been disposed of in accordance with law. The certified receipt shall be printed in a form
253 approved by the registrar of motor vehicles.

254 (8) Upon the accumulation by an owner of 2 or more outstanding citations under this section or
255 section 14 on account of violations of any statute, ordinance, order, rule or regulation relating to

256 the operation, control or parking of motor vehicles in a particular city or town, notwithstanding
257 any notification to the registrar, the parking clerk of the city or town may notify the chief of
258 police or director of traffic and parking of the city or town that the vehicle bearing the
259 registration to which the notices have been issued shall be removed and stored or otherwise
260 immobilized by a mechanical device at the expense of the registered owner of the vehicle until
261 all fines, taxes and penalties owed by the owner either under this section, or otherwise arising out
262 of the parking or usage of the owner's motor vehicle, have been disposed of in accordance with
263 law. No vehicle shall be removed, stored, or otherwise immobilized unless the owner of the
264 motor vehicle shall have received 10 days prior notification by mail that the motor vehicle may
265 be removed, stored, or immobilized without further notification. It shall be sufficient for the
266 parking clerk to mail, postage prepaid, the notification to the last known address of the registered
267 owner. It shall be sufficient for the parking clerk, in the case of a motor vehicle registered in
268 another state or country, to mail notification to the official in the state or country having charge
269 of the registration of the motor vehicle.

270 (e)(1) Other than for purposes of enforcement of a violation of this section and section 14 or for
271 purposes of an owner defending a violation of this section, recorded video images and
272 photographs taken or created under this section may only be obtained under an order by a court
273 of competent jurisdiction.

274 (2) Recorded video images and other photographic information obtained through the use of
275 school bus violation detection monitoring systems authorized in this section that do not identify a
276 violation shall be destroyed within 90 days of the date the image was recorded, unless otherwise
277 ordered by a court of competent jurisdiction. All photographic and other recorded information
278 that identifies a violation shall be destroyed within 1 year of final disposition of proceedings

279 related to the enforcement or defense of a violation, unless otherwise ordered by a court of
280 competent jurisdiction. Each city, town or school department utilizing 1 or more school bus
281 violation detection monitoring systems shall file notice annually with the secretary of state that
282 these records have been destroyed in accordance with this paragraph.

283 (3) The administrator of the school bus violation detection monitoring system within any city or
284 town accepting this section shall also submit an annual report to the Massachusetts Department
285 of Transportation regarding the use and operation of the monitoring system. This annual report
286 shall contain data on the number of citations issued under this section at each particular
287 intersection, and of those citations, shall detail the number paid without a request for a hearing;
288 the number found responsible after a hearing; and the number dismissed after a hearing. In
289 addition, the report shall also include the cost to maintain each said monitoring system and the
290 amount of revenue obtained from each said monitoring system.