

RESOLUTION NO. ____ – 2023

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2023, entitled “A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 705 relating to establishing a Demonstration Program imposing vehicle owner liability for failure of an operator thereof to stop for a school bus displaying a red visual signal and stop-arm.” The public hearing will be held at __.m. on the ____ day of _____, 2023 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee recommends passage of “A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 705 relating to establishing a Demonstration Program imposing vehicle owner liability for failure of an operator thereof to stop for a school bus displaying a red visual signal and stop-arm.”

Your Committee is advised that under current law in Westchester County, a ticket for illegally passing a stopped school bus displaying a red visual signal can be issued only by a police officer who witnesses the violation. In 2019, New York State enacted Laws of 2019, Chapter 145, which enabled counties, cities, towns and villages to provide for additional enforcement options. Such law authorized a demonstration program to allow local governments to impose liability on the owners of motor vehicles for the failure of the drivers of such vehicles to comply with the law prohibiting the overtaking and passing of stopped school buses displaying red visual signals.

Your Committee is further advised that many efforts throughout New York State have already been undertaken to combat the problem of illegally passing a stopped school bus, however, the number of violations continues to be alarming. A 2018 study by New York agencies of 113 school bus fatalities that had occurred across the state since 1960 found 82 fatalities, or 81.4%, involved students outside their buses. According to

the state Association for Pupil Transportation, about 50,000 motorists illegally pass stopped school buses, with red lights flashing, each school day around New York State.

Your Committee is informed that this proposed legislation is intended to protect the health, safety, and welfare of schoolchildren riding school buses. This Local Law will establish a demonstration program authorizing the County to impose liability on vehicle owners for the failure of motor vehicle operators to comply with New York State Vehicle and Traffic Law § 1174 (overtaking and passing stopped school buses displaying red visual signals). Under this Local Law, the County will be authorized to install and operate school bus photo violation monitoring systems (stationary or mobile), which can be placed on school buses owned or operated by the school district within the municipality pursuant to an agreement. All costs would be borne by the County subject to the agreements. Specifically, the program allows a school district to equip school buses with stop-arm cameras designed to capture images of vehicles illegally passing stopped buses. The images would then be transmitted to the municipality and used to identify the owners of vehicles and to send notices of liability to the owners. Tickets given by these cameras will result in fines of \$250 for a first violation up to \$300 for each violation in an 18-month period. The owners may then pay a fine or contest their liability. Since the New York State law that authorizes counties to establish such demonstration programs will expire on December 1, 2024, this proposed law will also expire on that date unless New York State extends their law beyond December 1, 2024, and then the County law will expire on any subsequent date established pursuant to New York State law.

Your Committee is further informed that many counties in New York State have already adopted laws implementing a School Bus Camera Demonstration Program including the counties of Nassau, Suffolk, Monroe, Dutchess, Rockland and Putnam. Counties or other municipalities have contracted with private companies to engage school districts, install cameras on school buses and then forward violation information to local or County police, who make the call on whether to issue a ticket. Moreover, according to an article in LoHud dated November 21, 2022, two Westchester school districts that participated in a pilot program with video cameras, Somers and Hendrick Hudson, indicated that they videoed nearly 650 illegal passings of school buses between them in September and October of 2022.

Your Committee notes that the use of school bus photo violation monitoring systems (cameras) is necessary to prevent further deaths and injuries caused by dangerous motorists who ignore current law. This Local Law will expand the enforcement tools available in the County to further address this issue, and will significantly lessen the numbers of violations that continue to compromise the health, safety and wellbeing of students.

Your Committee is informed that the proposed project does not meet the definition of an action under New York State Environmental Quality Review Act (“SEQRA”) and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning, dated January 12, 2023, which is on file with the Clerk of the Board of Legislators. Your Committee concurs in this conclusion.

Your Committee, after careful consideration, recommends adoption of this Local

Law.

Dated: April 3, 2023
White Plains, New York

[Signature]
[Signature]
David J. Tubito
Colin O'Neil
Nancy Pan
Lenny B. Johnson
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Margaret A. Cijio
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Colin O'Neil
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David O'Connell
Benjamin Johnson

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Terry S.
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Colin O'Neil
Nancy Pan
Joe Ho

COMMITTEE ON

SDK 2/26/23

Budget & Appropriations

Legislation

Public Safety

Dated: April 3, 2023
White Plains, New York

The following members attended the meeting remotely and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Budget & Appropriations

Catherine F. Parker

Legislation

[Handwritten Signature]

Public Safety

FISCAL IMPACT STATEMENT

SUBJECT: School Bus Stop-Arm Program NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ -

Total Current Year Revenue \$ 1,384,213

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: 101-38-2000-9230

Vendor is responsible for all technology related expenditures.

Potential Related Operating Budget Expenses: Annual Amount \$0

Describe: A Local Law amending the Laws of Westchester County by adding a new Chapter 705 relating to establishing a Demonstration Program imposing vehicle owner liability for failure of an operator to stop for a school bus displaying a red visual signal and stop arm.

Potential Related Operating Budget Revenues: Annual Amount 1,384,213

Describe: NYS Law Vehicle Traffic Law 1174-A sunsets September 2024. Projected revenue (September - December 2023) is reflected above.

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four Years: _____

Prepared by: Debra Ogden

Title: Sr. Budget Analyst

Department: Budget

Date: March 3, 2023

Reviewed By: 
Budget Director

Date: 3/3/23

A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 705 relating to establishing a Demonstration Program imposing vehicle owner liability for failure of an operator thereof to stop for a school bus displaying a red visual signal and stop-arm.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section I. A new Chapter 705 is hereby added to the Laws of Westchester

County to read as follows:

Chapter 705

SCHOOL BUS STOP-ARM DEMONSTRATION PROGRAM

Sec. 705.11. Short Title.

Sec. 705.21. Definitions.

Sec. 705.31. Program Established.

Sec. 705.41. Requirements and Cost of Program.

Sec. 705.51. Penalties for Offenses.

Sec. 705.61. Notice of Liability.

Sec. 705.71. Owner Liability.

Sec. 705.81. Adjudication of Liability.

Sec. 705.91. Action for Indemnification.

Sec. 705.101. Reporting Requirements.

Sec. 705.111. Severability.

Sec. 705.11 Short Title.

This Chapter shall be known as and cited as the “School Bus Stop-Arm Demonstration Program.

Sec. 705.21. Definitions.

a. County. County shall mean the County of Westchester.

- b. School Bus Photo Violation Monitoring System. 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 § 1174 of the New York Vehicle and Traffic Law.
- c. School District. Any school district of which at least a majority is contained within the County of Westchester.
- d. Manual on Uniform Traffic Control Devices or “MUTCD”. The manual and specifications for a uniform system of traffic control devices maintained pursuant to New York State Vehicle and Traffic Law § 1680.
- e. Owner. Owner shall have the meaning provided in New York State Vehicle and Traffic Law § 239.
- f. Recorded Images and Data. Photographs, microphotographs, videotapes, other recorded images or data created with respect to the program authorized by this Chapter.

Sec. 705.31. Demonstration Program Established.

- a. There is hereby established in the County of Westchester a demonstration program pursuant to the authorization provided by New York State Vehicle and Traffic law § 1174-a, which imposes monetary liability for failure of a motor vehicle operator to comply with school bus red visual signals and stop arm.
- b. To carry out the demonstration program, the County is authorized to enter into agreements with school districts for the installation, maintenance, and use of school bus photo violation monitoring systems as well as proper handling and custody of data received by the school bus cameras, subject to the provisions of § 1174-a of the New York State Vehicle and Traffic Law. Under this demonstration program, each school district located within the County of Westchester that would like to utilize the program must enter into an agreement with the County.
- c. Once a school district has entered into an agreement with the County, cameras shall be installed to the external portion of school buses owned or operated by that school district or privately owned and operated for compensation under a contract with such school district.
- d. To the extent practicable, such demonstration program shall use necessary technologies to produce photographs that do not include images that identify the driver, passengers, contents of the vehicles, pedestrians, and

cyclists. However, no notice of liability issued pursuant to this Chapter shall be dismissed solely because a photograph or photographs allowed for identification of persons or contents within the vehicle.

e. Nothing in this Chapter shall be construed to prevent the County or a school district at any time from withdrawing from or terminating an agreement pursuant to the terms of any such agreement.

Sec. 705.41. Requirements and Cost of Program.

a. The total cost to a school district of the installation, maintenance, and use of school bus photo violation monitoring systems pursuant to an agreement authorized by this Chapter shall be borne entirely by the County.

b. A school district shall provide any information necessary or desirable to the County in order to meet its reporting requirements under § 1174-a of the New York State Vehicle and Traffic Law.

c. Pursuant to § 1174-a(a)(3)(i) of the New York State Vehicle and Traffic Law, any school district participating in the demonstration program shall be prohibited from accessing any photographs, microphotographs, videotapes, other recorded images and data from school bus photo violation monitoring systems but shall provide, pursuant to the agreement with the County, as provided in this Chapter, for the proper handling and custody of such photographs, microphotographs, videotapes, other recorded images and data produced by such systems, and for the forwarding of such photographs, microphotographs, videotapes, other recorded images and data to the County for the purpose of determining whether a motor vehicle was operated in violation of Subdivision (a) of § 1174 of the New York State Vehicle and Traffic Law and imposing monetary liability on the owner of such motor vehicle therefor.

d. Photographs, microphotographs, videotapes, other recorded images and data produced by school bus photo violation monitoring systems shall be destroyed:

(1) Ninety 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 chapter; or

(2) Upon final disposition of a notice of liability issued pursuant to this Chapter.

e. 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 monitoring device. Such measures shall include:

(1) Utilization of necessary technologies to ensure, to the extent practicable, that photographs produced by such school 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 section shall be dismissed solely because a photograph or photographs allow for the identification of persons or contents of a vehicle, provided that the County has made a reasonable effort to comply with the provisions of this subsection;

(2) 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 section or collect payment of penalties;

(b) As required by court order; or

(c) As otherwise required by law;

(3) Oversight procedures to ensure compliance with the privacy protection measures required herein.

f. The County shall undertake the installation of signage in conformance with standards established in the Manual of Uniform Traffic Control Devices. Such signage shall be installed 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 § 1174 of the New York State Vehicle and Traffic Law. For the purposes of this subsection, the term "roadway" shall not include state expressway routes or state interstate routes but shall include controlled-access highway exit ramps that enter the boundaries of the County.

Sec. 705.51. Penalties for offenses.

a. An owner liable for a violation of Subdivision (a) of § 1174 of the New York State Vehicle and Traffic Law pursuant to this Chapter shall be liable for monetary penalties in accordance with the following schedule of fines and penalties:

(1) \$250 for a first violation;

(2) \$275 for a second violation committed within 18 months of the first violation;

(3) \$300 for a third violation or subsequent violation all of which were committed within 18 months from the first violation; and

(4) An additional penalty of \$25 for each violation for the failure to respond to a notice of liability within the prescribed time period.

b. An imposition of liability under this Chapter shall not be deemed a conviction 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.

Sec. 704.61. Notice of Liability.

a. A notice of liability shall be sent as provided by state law by first-class mail to each person alleged to be liable as an owner for a violation of Subdivision (a) of § 1174 of the New York State Vehicle and Traffic Law. Personal delivery on the owner shall not be required. 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 notice of liability shall be prepared and mailed by the County, or by any other entity authorized by the County.

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 Subdivision (a) of § 1174 of the New York State Vehicle and Traffic Law, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation and the identification number of the camera which recorded the violation or other document locator number.

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. Such notice of liability shall also contain a warning to advise the persons charged that failure to contest the notice of liability in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

e. A notice of liability may contain such other information as the entity causing such notice of liability to be mailed deems appropriate to communicate the law, and the adjudicatory process if the addressee of the notice wishes to contest the notice of liability.

Sec. 705.71. Owner Liability.

a. The owner of a vehicle shall be liable for a penalty imposed pursuant to this chapter if such vehicle was used or operated with the permission of the owner, express or implied, in violation of Subdivision (a) of § 1174 of the New York State Vehicle and Traffic Law 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 Chapter where the operator of such vehicle has been convicted of the underlying violation of Subdivision (a) of § 1174 of the New York State Vehicle and Traffic Law. For the purpose of this

Chapter, there shall be a presumption that such vehicle was used and operated with the consent of the owner at the time it was used and operated in violation of Subdivision (a) of § 1174 of the New York State Vehicle and Traffic Law.

- b. If the owner receives a notice of liability pursuant to this Chapter 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 Subdivision (a) of § 1174 of the New York State Vehicle and Traffic Law pursuant to this Chapter 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 subsection, it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent or delivered to a court of competent jurisdiction or parking violations bureau having jurisdiction where any contested notice of liability would otherwise be determined.
- c. An owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to this chapter shall not be liable for the violation of Subdivision (a) of § 1174 of the New York State Vehicle and Traffic Law, provided that he or she complies with the provisions of § 1174-a of the New York State Vehicle and Traffic Law and otherwise sends to the court of competent jurisdiction, or other adjudicatory bureau or agency of competent jurisdiction, 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 37 days after receiving notice from the agency or entity which caused such notice of liability to be issued, together with the information contained in the original notice of liability. Failure to send such information within the thirty-seven-day time period shall render the owner liable for the penalty prescribed by this chapter. Where the lessor complies with the provisions of this subsection, the lessee of such vehicle for purposes of this section shall be deemed to be the owner of such vehicle on the date of such violation for the purposes of this section, shall be subject to liability for the violation of Subdivision (a) of § 1174 of the New York State Vehicle and Traffic Law pursuant to this chapter and shall be sent a notice of liability pursuant to § 341-4 of this chapter.
- d. A certificate, sworn to or affirmed by a technician employed by the County, or a facsimile thereof, upon inspection of photographs, microphotographs, videotapes, and other recorded images produced by a school bus photo violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotapes, and other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation.
- e. It shall be a defense to any prosecution for or allegation of a violation of

Subdivision (a) of § 1174 of the New York State Vehicle and Traffic Law pursuant to this Chapter that such school bus stop-arms were malfunctioning at the time of the alleged violation.

Sec. 705.81. Adjudication of Liability.

Liability pursuant to the demonstration program established pursuant to this Chapter shall be imposed upon owners by a court of competent jurisdiction having jurisdiction over traffic infractions where the violation occurred within the County of Westchester or in another manner pursuant to the New York State Vehicle and Traffic Law.

Sec. 705.91. Action for Indemnification.

If the owner held liable for a violation of Subdivision (a) of § 1174 of the New York State Vehicle and Traffic Law pursuant to this chapter was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

Sec. 705.101. Reporting Requirements.

- a. The County 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 is operable. Such report shall include any information required by § 1174-a(m) of the New York State Vehicle and Traffic Law to be included as a result of the enactment of this Chapter.

- b. Pursuant to the requirements of § 1174-a of the New York State Vehicle and Traffic Law, courts, bureaus, and agencies conducting adjudications as a result of this Chapter shall report at least annually to the County on the quality of the adjudication process and its results, including the total number of hearings scheduled, rescheduled, 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.

Sec. 705.111. Severability

If any clause, sentence, paragraph, subdivision, section, or part of this ordinance 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

ordinance, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§2. This Local Law shall take effect immediately and shall remain in full force and effect until December 1, 2024, or any subsequent expiration date imposed by New York State law.

SDK-2/26/23

2023.04.03 JRA