

Budget & Appropriations Meeting Agenda



Committee Chair: Jewel Williams Johnson

800 Michaelian Office Bldg.
148 Martine Avenue, 8th Floor
White Plains, NY 10601
www.westchesterlegislators.com

Wednesday, May 29, 2024

1:00 PM

Committee Room

CALL TO ORDER

Please note: Meetings of the Board of Legislators and its committees are held at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York, 10601, and remotely via the WebEx video conferencing system. Legislators may participate in person or via Webex. Members of the public may attend meetings in person at any of its locations, or view it online on the Westchester County Legislature's website:

<https://westchestercountyny.legistar.com/> This website also provides links to materials for all matters to be discussed at a given meeting.

MINUTES APPROVAL

I. ITEMS FOR DISCUSSION

1. [2024-282](#) **PH-Amendments to the Stop Arm Law**

A RESOLUTION to set a Public Hearing on a "A LOCAL LAW amending Chapter 705 of the Laws of Westchester County relating to 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." [Public Hearing set for _____, 2024 at _____ .m.]. LOCAL LAW INTRO: 2024-283.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS, LEGISLATION AND PUBLIC SAFETY

Joint with LEG.

Guest; Law Department

Associate County Attorney Rachel Noe

2. [2024-283](#) **LOCAL LAW-Amendments to the Stop Arm Law**

A LOCAL LAW amending Chapter 705 of the Laws of Westchester County relating to 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.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS, LEGISLATION AND PUBLIC SAFETY

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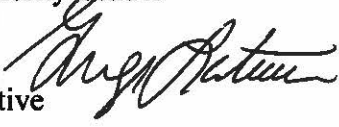
II. OTHER BUSINESS

III. RECEIVE & FILE

ADJOURNMENT

May 6, 2024

TO: Hon. Vedat Gashi, Chair
Hon. Jose Alvarado, Vice Chair
Hon. Tyrae Woodson-Samuels, Majority Leader
Hon. Margaret Cunzio, Minority Leader

FROM: George Latimer
Westchester County Executive 

RE: Message Requesting Immediate Consideration: **Local Law –
Amendments to the Stop Arm Law.**

This will confirm my request that the Board of Legislators allow submission of the referenced communication to be submitted to the Board of Legislators May 6, 2024 Agenda.

Transmitted herewith for your consideration is a proposed Local Law, which would incorporate amendments to the Stop Arm Law.

Therefore, since this communication is of the utmost importance, it is respectfully submitted that the County Board of Legislators accepts this submission for May 6, 2024 “blue sheet” calendar.

Thank you for your prompt attention to this matter.



George Latimer
County Executive

May 2, 2024

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue, 8th Floor
White Plains, New York 10601

Dear Honorable Members of the Board:

I respectfully request that your Honorable Board adopt the attached Local Law amending Chapter 705 of the Laws of Westchester County relating to 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.

On April 19, 2023, this Honorable Board adopted Local Law Intro. No. 91-2023, which established a demonstration program for imposing vehicle owner liability for failure of an operator thereof to comply with Section 1174 of the New York State Vehicle & Traffic Law ("VTL") when meeting a school bus marked, equipped, and operated in the County pursuant to Sections 375 and 1174-a of the VTL (the "Local Law"). The Local Law was adopted pursuant to Chapter 145 of the 2019 Laws of the State of New York (the "Stop Arm Law"). The law was enacted to prevent further deaths and injuries caused by dangerous motorists who ignore the law and illegally passed a stopped school bus. In addition, the law expanded the enforcement tools available in the County to further address this issue, with the hope of significantly lessening the numbers of violations that continue to compromise the health, safety, and wellbeing of students.

The New York State Legislature recently amended the Stop Arm Law as Part AA in S.8306-C/A.8806-C, Article VII, of the Budget bill signed by the Governor on April 20, 2024 as Chapter 56 of the Laws of 2024 ("Chapter 56"). The proposed local law, if adopted, would amend the Local Law to incorporate the same amendments to the Stop Arm Law as set forth in Chapter 56.

The amendments enact certain statutory presumptions, which address several evidentiary issues that have been raised in cases adjudicating Stop Arm Law violations. *See People v. Croce (Alfred)*, No. 2023-310, N.Y. App. Term LEXIS 23160 (2d Dep't Nov. 30, 2023). One such statutory presumption concerns the sufficiency of proof that the bus is properly marked and equipped as provided under VTL § 375. To address this issue, Chapter 56 added a new requirement that the certificate sworn to or affirmed by the County technician for a violation be based upon, among other things, an inspection of documents or declarations pertaining to inspections by the New York State Department of Transportation ("DOT") of

the bus. The certificate must also include a statement confirming that the school bus photo violation monitoring system was installed on a school bus marked and equipped as provided by VTL § 375, at the time of the violation, as evidenced by a valid certificate of inspection issued by the DOT. Chapter 56 also provides that such a certificate from the County technician shall be prima facie evidence of compliance with VTL § 375.

Another statutory presumption concerns the sufficiency of proof that the bus was stopped for the purpose of receiving or discharging passengers or had stopped because a school bus in front of it stopped to receive or discharge any passengers. To address this issue, Chapter 56 added a new requirement that any photographs, microphotographs, videotape or other recorded images ("Recorded Images") evidencing a violation shall include an electronic indicator or indicators showing the flashing red signal lamps were active. Where the Recorded Images are in compliance with the foregoing, the law establishes a rebuttable presumption that such school bus was stopped for the purpose of receiving or discharging any passengers or because a school bus in front of it had stopped to receive or discharge any passengers.

The proposed local law would incorporate these statutory presumptions into the County demonstration program, which will assist local prosecutors and the local Courts in adjudicating the school bus stop arm violations under the demonstration program. Additionally, Chapter 56 extends the provisions of the Stop Arm Law from December 1, 2024 until December 1, 2029. The proposed local law extends the Local Law until the State law expires.

Finally, the attached Local Law rennumbers Chapter 705 to Chapter 708 of the Laws of Westchester County, as there are currently two Chapters 705.

In light of the aforementioned, I respectfully urge that your Honorable Board adopt the attached Local Law amending Chapter 705 of the Laws of Westchester County relating to 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.

Sincerely,

A handwritten signature in black ink, appearing to read "George Latimer", written in a cursive style.

GEORGE LATIMER
County Executive

GL/nn
Enclosure

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee recommends passage of “A LOCAL LAW amending Chapter 705 of the Laws of Westchester County relating to 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 on April 19, 2023, this Honorable Board adopted Local Law Intro. No. 91-2023, which established a demonstration program for imposing vehicle owner liability for failure of an operator thereof to comply with Section 1174 of the New York State Vehicle & Traffic Law (“VTL”) when meeting a school bus marked, equipped and operated in the County pursuant to Sections 375 and 1174-a of the VTL (the “Local Law”). The Local Law was adopted pursuant to Chapter 145 of the 2019 Laws of the State of New York (the “Stop Arm Law”). The law was enacted to prevent further deaths and injuries caused by dangerous motorists who ignore the law and illegally passed a stopped school bus. In addition, the law expanded the enforcement tools available in the County to further address this issue, with the hope of significantly lessening the numbers of violations that continue to compromise the health, safety and wellbeing of students.

Your Committee is informed that the New York State Legislature recently amended the Stop Arm Law as Part AA in S.8306-C/A.8806-C, Article VII, of the Budget bill signed by the Governor on April 20, 2024 as Chapter 56 of the Laws of 2024 (“Chapter 56”). The proposed local law, if adopted, would amend the Local Law to incorporate the same amendments to the Stop Arm Law as set forth in Chapter 56.

Your Committee is advised that the amendments enact certain statutory presumptions, which address certain evidentiary issues that have been raised in cases adjudicating Stop Arm Law violations. *See People v. Croce (Alfred)*, No. 2023-310, N.Y. App. Term LEXIS 23160 (2d Dep’t Nov. 30, 2023). One such statutory presumption concerns the sufficiency of proof that the bus is properly marked and equipped as provided under VTL § 375. To address this issue, Chapter 56 added a new requirement that the certificate sworn to or affirmed by the County technician for a violation be based upon, among other things, an inspection of documents or declarations pertaining to inspections by the New York State Department of Transportation (“DOT”) of the bus. The certificate must also include a statement confirming that the school bus photo violation monitoring system was installed on a school bus marked and equipped as provided by VTL § 375, at the time of the violation, as evidenced by a valid certificate of inspection issued by the DOT. Chapter 56 also provides that such a certificate from the County technician shall be prima facie evidence of compliance with VTL § 375.

Your Committee is further advised that another statutory presumption concerns the sufficiency of proof that the bus was stopped for the purpose of receiving or discharging passengers or had stopped because a school bus in front of it stopped to receive or discharge any passengers. To address this issue, Chapter 56 added a new requirement that any photographs, microphotographs, videotape or other recorded images (“Recorded Images”) evidencing a violation shall include an electronic indicator or indicators showing the flashing red signal lamps were active. Where the Recorded Images are in compliance with the foregoing, the law establishes a rebuttable presumption that such school bus was stopped for the purpose of receiving or discharging any passengers or because a school bus in front of it had stopped to receive or discharge any passengers.

Your Committee is informed that the proposed local law would incorporate these statutory presumptions into the County demonstration program, which will assist local prosecutors and the local Courts in adjudicating the school bus stop arm violations under the demonstration program. Chapter 56 extends the provisions of the Stop Arm Law from December 1, 2024 until December 1, 2029. The proposed local law extends the Local Law until the State law expires.

Your Committee also recognizes that there are currently two Chapters 705 of the Laws of Westchester County; this Local Law rennumbers this School Bus Stop-Arm Demonstration Program chapter to 708 in order to prevent confusion.

Your Committee is further 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 8, 2024, 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: _____, 2024
White Plains, New York

COMMITTEE ON

Sdk-5-2-24

RESOLUTION NO. ____ - 2024

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. ____ - 2024, entitled "A LOCAL LAW amending Chapter 705 of the Laws of Westchester County relating to 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 _____, 2024 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.

Vedat Gashi

Chairman of the Board
Legislator, 4th District



To: Colin Smith, Chairman of the Committee on Legislation
Sunday Vanderberg, Clerk of the Board of Legislators

From: Vedat Gashi, Chairman of the Board of Legislators

Date: May 15, 2024

Re: Item #s 2024 -282 and 283

Due to a ministerial oversight, Item #s 2024-282 and 283, a Public Hearing and Local Law amending Chapter 705 of the Laws of Westchester County relating to 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, were not referred to the Committee on Legislation.

The underlying legislation (Item # 2023-91) was discussed and approved by the Committees on Budget & Appropriations, Public Safety, and Legislation. The items regarding the amendments were referred only to the Committees on Budget & Appropriations and Public Safety. For consistency, the items related to the amendments to the legislation should be referred to the Committee on Legislation as well.

I am therefore requesting that Item #s 2024-282 and 283 be referred to the Committee on Legislation for consideration.

Cc: Marcello Figueroa
Shatika Parker
James Silverberg

JA/ja

A LOCAL LAW amending Chapter 705 of the Laws of Westchester County relating to 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 1. Section 705.61 subdivision (b) of Chapter 705 of the Laws of Westchester County is hereby amended to read as follows:

- 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~~ school bus photo violation monitoring system which recorded the violation or other document locator number, and the registration number of the school bus on which the school bus photo violation monitoring system which recorded the violation was installed.

Section 2. Section 705.71 subdivision (d) of Chapter 705 of the Laws of Westchester County is hereby amended, subdivision (e) is renumbered to (f), and a new subdivision (e) is added, to read as follows:

- d. 1. A certificate shall be sworn to or affirmed by a technician employed by the County, or a facsimile thereof, and shall be based upon inspection of photographs, microphotographs, videotapes, and other recorded images produced by a school bus photo violation monitoring system, and other documents or declarations pertaining to inspections by the New York State Department of Transportation. Said certificate shall be prima facie evidence of the facts contained therein. Such certificate, or a facsimile thereof, shall include the following information:
 - i. the identification number of the school bus photo violation monitoring system which recorded the violation;
 - ii. a statement confirming that at the time such violation was recorded by such school bus photo violation monitoring system, such school bus photo violation monitoring system was installed on a school bus marked and equipped as provided in subdivisions

twenty and twenty-one-c of section three hundred seventy-five of the New York State Vehicle and Traffic Law, as evidenced by a valid certificate of inspection issued to such school bus by the department of transportation pursuant to section one hundred forty of the New York State Transportation Law and the rules and regulations promulgated thereunder; and

iii. the registration number of the school bus to which such school bus photo violation monitoring system was attached.

2. Any photographs, microphotographs, videotapes, and other recorded images evidencing such a violation shall include a recorded image of the outside of the motor vehicle involved in such violation, the registration number of such vehicle, at least one activated school bus stop-arm, and an electronic indicator or indicators showing the activation of the flashing red signal lamps of the school bus to which the school bus photo violation monitoring system producing such photographs, microphotographs, videotape or other recorded images was installed at the time such violation occurred. Any photographs, microphotographs, videotapes, and other recorded images evidencing such a violation including the required recorded image described in the first sentence of this subdivision, shall be available for inspection in any proceeding to adjudicate the liability for such violation.

e. Where recorded images from a school bus photo violation monitoring system attached to a school bus, as certified pursuant to this section, show the activation of at least one school bus stop-arm and an electronic indicator or indicators as required pursuant to this section, there shall be a rebuttable presumption that such school bus was stopped for the purpose of receiving or discharging any passengers or because a school bus in front of it had stopped to receive or discharge any passengers. A certificate, sworn to or affirmed by a technician employed by the county, or a facsimile thereof, stating that after reviewing evidence that on the day the charged violation occurred such school bus had a valid certificate of inspection issued by the department of transportation pursuant to section one hundred forty of the New York State Transportation Law and the rules and regulations promulgated thereunder. Such certificate shall be prima facie evidence that such school bus was marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of the New York State Vehicle and Traffic Law and the flashing red signal lamp of such school bus was in operation at the time the violation occurred.

f. 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.

Section 3. Chapter 705 of the Laws of Westchester County, entitled School Bus Stop-Arm Demonstration Program, as amended herein, is renumbered to Chapter 708 of the Laws of Westchester County. Any and all internal references in said Chapter are hereby renumbered in accordance with this modification.

Section 4. This Local Law shall take effect immediately and, notwithstanding any other provision of law, Chapter 705 (newly renumbered to Chapter 708) of the Laws of Westchester County shall expire on the same date that the New York State Law authorizing such demonstration program expires.

Vedat Gashi

Chairman of the Board
Legislator, 4th District



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