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Transportation

M-3 School Bus Passing Law Enforcement in Other States

State laws across the country for many years have prohibited passing a stopped school bus from either direction and many states' laws impose substantial fines for doing so.¹ Nevertheless, in a total of single-day counts taken in Spring 2019, 130,963 school bus drivers from 39 states recorded 95,319 vehicles illegally passing their stopped school buses. In Kansas in 2019, the drivers of 3,300 buses from 220 districts reported a total single-day count of 1,040 instances of such illegal passing.²

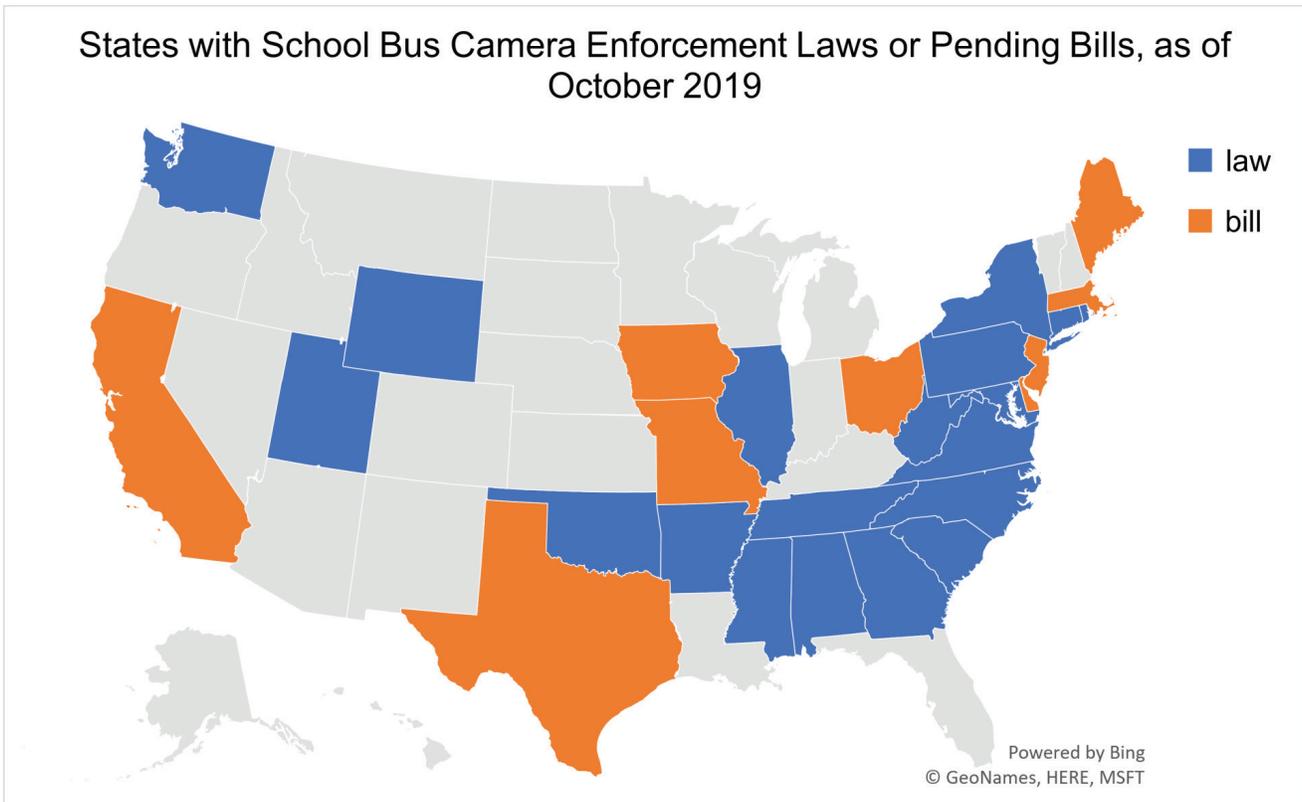
To reduce the instances of such illegal passing and reduce the risk to children entering and leaving school buses, some states have authorized video enforcement. This article examines some of the policy choices enacted in these states and contemplated in bills in other states. The included information is based on examination of the states' laws and bills, which are listed at the end of this article.

States' authorization of school bus camera enforcement programs. School districts are authorized by law in Alabama, Arkansas, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, and Washington to equip school buses with cameras and operate enforcement systems, either by themselves or by contracting with a vendor. Alabama, Connecticut, Georgia, Illinois, Maryland, North Carolina, and Virginia laws authorize such use for other types of municipalities, such as counties, sometimes requiring cooperation with the school districts. West Virginia and Wyoming state laws require cameras on buses. As identified on the following map, additional states are considering similar authorizations.

The laws of Alabama, Arkansas, Connecticut, Illinois, North Carolina, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Virginia, and Washington specifically authorize contracts with private vendors for such systems.

Most states with these laws require law enforcement involvement with reviewing violations, but some authorize civil enforcement. Laws of states including Arkansas, Connecticut, Georgia, Maryland, Oklahoma, Pennsylvania, Rhode Island, Utah, Virginia, and Washington require direct involvement of a law enforcement officer in reviewing images recording alleged violations, and bills pending in states including Massachusetts, Missouri, New Jersey,

States with School Bus Camera Enforcement Laws or Pending Bills, as of October 2019



New York, and South Carolina also would require this.

Illinois state law authorizes the county or municipality to issue a citation after review by a technician or, under some circumstances in the more populated cities and counties, by a law enforcement officer or retired officer. In Alabama, the definition of a “law enforcement agency” for this purpose includes the law enforcement agency of “a local governing body, a county sheriff, the Alabama State Law Enforcement Agency, or a school system that is authorized to issue a citation.” North Carolina law states a county shall issue the citation. Law authorizing a pilot program in New York specifies municipality administrative tribunals that hear and determine complaints of traffic infractions may deal with these violations. Bills pending in South Carolina and Texas would authorize civil enforcement by the Department of Public Safety and school districts, respectively.

States also differ in whether a citation must be issued. Laws in Arkansas, Rhode Island, Utah, and Washington give the law enforcement agency the discretion as to whether to issue a citation, but

a citation must be issued in Connecticut, Georgia, Illinois, and Pennsylvania if there are reasonable grounds to believe a violation occurred. Maryland requires the law enforcement agency to issue a citation, but gives the agency discretion to issue a warning in place of the citation.

Vehicle owner responsibilities. For most states with these laws, the vehicle owner is presumed to be the operator and is held accountable for the violation. Laws of states including Alabama, Arkansas, Connecticut, Georgia, Illinois, Maryland, Mississippi, North Carolina, Pennsylvania, Rhode Island, Tennessee, Utah, Virginia, Washington, West Virginia, and Wyoming specify the registered owner of the vehicle for which a recorded image of a violation is captured is presumed to be responsible unless a citation was issued to another person at the time of the violation. The states offered various ways to rebut the presumption, such as providing proof the vehicle was stolen, or by providing an affidavit or sworn oath regarding the operator of the vehicle at the time of the incident.

Iowa law authorizes a peace officer to draw a “permissible inference” that the owner was responsible for illegally passing a stopped school bus if the driver cannot be identified from the report delivered by a school official to the peace officer. (*Note*: Current Iowa law does not directly address cameras on school buses.)

Laws of Alabama, Connecticut, New York, and Washington forbid recording images of the face of the operator or passengers that could be used to identify them; Oklahoma law requires an image of the driver and, if there is sufficient evidence to identify the vehicle and driver, that the district attorney’s office prosecute the case.

Citations. Laws of some states provide specifics about the citation itself and how the citation must be served. Laws of Alabama, Connecticut, Georgia, Illinois, Maryland, North Carolina, and Rhode Island require images be included with the citation, in addition to information on the date, time, and location of the alleged violation, and Virginia law states the person to whom the citation is issued has 30 days to inspect images. Laws of Georgia, New York, North Carolina, and Virginia state notices are to be sent *via* first-class mail. South Carolina requires personal service.

Time limits are placed on that service by a few states: within 10 days after the violation for Connecticut and Rhode Island, 10 days after obtaining the registered owner’s name and address in Georgia, 14 days of the violation for Maryland and Washington, and 30 days after notification of vehicle owner identity in Illinois.

Recorded images as evidence. Some state laws specify recorded images are sufficient evidence of the violation. Laws of states including Connecticut, Georgia, Illinois, North Carolina, Rhode Island, Tennessee, and Wyoming specify recorded images are *prima facie* evidence of the facts or evidence sufficient to establish a violation. Certification of the images by a law enforcement officer is required by states including Maryland, Pennsylvania, and Washington.

Recorded image retention and use. Records retention and allowable uses of images recorded for this purpose are addressed in

some states’ school bus camera laws. If no violation is detected, recorded images must be destroyed after certain periods under the laws of some states: Alabama (90 days of recording), Connecticut (90 days of the alleged violation), Pennsylvania (1 year of recording), Rhode Island (24 hours of recording), and Wyoming (1 year of recording). Retention periods also vary if a violation is detected: Alabama (30 days after final disposition), Connecticut (upon final disposition), New York (upon final disposition), Pennsylvania (1 year of final disposition), Rhode Island (1 year after citation is resolved), Washington (no longer than necessary to enforce), and Wyoming (1 year of recording). North Carolina requires a county to maintain records of violations for at least five years. Bills pending as of October 2019 in California, Maine, Massachusetts, Missouri, New Jersey, and Texas also propose records destruction after specified periods.

In none of the states with these laws is a record of an alleged violation an open record. States including Alabama, Illinois, New York, Pennsylvania, Rhode Island, and Wyoming allow the images to be used for certain other proceedings (such as when required by a court order), but laws of states including Utah and Washington specify the images may be used only for enforcing laws prohibiting passing of school buses.

State Laws and Pending Bills

- Alabama: Ala.Code 1975 §§ 16-27A-2, 16-27A-3, 16-27A-4;
- Arkansas: A.C.A. §§ 6-19-131, 27-51-1001;
- Connecticut: C.G.S.A. §§ 14-107, 14-279a, 14-279b, 51-56a;
- Georgia: GA ST § 40-6-163;
- Illinois: 625 ILCS 5/11-208.3, 5/11-208.9;
- Iowa: I.C.A. § 321.372A, 321.484;
- Maine: 19-A M.R.S.A. § 2117;
- Maryland: MD Code, Transportation, § 21-706.1; Courts and Judicial Proceedings, § 7-302;

- Mississippi: Miss. Code Ann. §§ 37-41-59, 63-3-615;
 - New York: 2019 Ch. 145 (AB 4950);
 - North Carolina: N.C.G.S.A. §§ 20-217, 115C-242.1, 153A-246;
 - Oklahoma: OK ST T. 47 § 11-705, 70 § 119 (HB 1926);
 - Pennsylvania: 75 Pa.C.S.A. § 3345, 3345.1;
 - Rhode Island: Gen.Laws 1956, §§ 31-41.1-1, 31-51-2, 31-51-2.1, 31-51-3, 31-51-5, 31-51-8;
 - South Carolina: Code 1976 §§ 56-5-2770, 56-5-2773, 56-5-2774;
 - Tennessee: T.C.A. §§ 55-8-151, 55-8-198;
 - Utah: U.C.A. 1953 §§ 41-6a-1302, 41-6a-1303, 41-6a-1310;
 - Virginia: VA ST § 46.2–844;
 - Washington: RCWA 46.63.075, 46.63.180;
 - West Virginia: W. Va. Code, §§ 17C-12-7, 17C-12-9; and
 - Wyoming: W.S.1977 § § 21-3-131, 31-5-507.
- Bills pending as of October 10, 2019:
- California: SB 371;
 - Delaware: HB 111;
 - Iowa: SF 495;
 - Maine: L.D. 166;
 - Massachusetts: (grouped as similar bills) HB 2994/HB 3142/SB 2075; HB 3046/SB 2131; HB 2971/SB 2045; HB 2998; SB 1376;
 - Missouri: HB 596;
 - New Jersey: AB 4891;
 - New York: SB 3548;
 - Ohio: HB 83;
 - South Carolina: HB 4282; and
 - Texas: HB 2656.

- 1 For example, Kansas law states “the driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop before reaching such school bus when there is in operation on the school bus the flashing red lights specified in [KSA 8-1730(a)], and the driver shall not proceed until such school bus resumes motion or the flashing red lights and the stop signal arm are no longer actuated.” (KSA 2018 Supp. 8-1556) Violation is punishable by a fine of \$315 for the first offense, \$750 for the second within five years, and \$1,000 for each subsequent violation within five years after two prior convictions. (KSA 2018 Supp. 8-2118)
- 2 Sources: National Association of State Directors of Pupil Transportation Services, <http://www.nasdpts.org/stoparm/2019/index.html>, and Kansas State Department of Education, <https://www.ksde.org/Agency/Fiscal-and-Administrative-Services/School-Finance/School-Bus-Safety/School-Bus-Safety-Illegal-Passing-Information>.

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