

SESSION OF 2017

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2040

As Further Amended Without Recommendation
by House Committee on Judiciary

Brief*

HB 2040, as amended, would authorize a school board to equip school buses with a video recording device to enforce current law that requires a driver to stop and prohibits a driver of a vehicle meeting or overtaking from either direction any school bus from proceeding when the bus is flashing red lights (school bus stop sign law).

The bill would specify that for the purpose of enforcement *via* video recording device, a copy of a certificate sworn to or affirmed by a law enforcement officer and stating that, based upon inspection of recorded images, a motor vehicle was operated in violation of the school bus stop sign law and that a particular person depicted on a recorded image from a video recording device operated such vehicle, shall be *prima facie* evidence of the facts contained therein.

The bill would further provide that evidence that the person particularly described in a citation issued under the bill's provisions operated a vehicle in violation of the school bus stop sign law would create a rebuttable presumption that such person was the driver of the vehicle at the time of the alleged violation. The presumption could be rebutted by competent evidence.

The bill would state recorded images made for this purpose would not be subject to the Open Records Act, an exception that would expire July 1, 2022, unless the

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Legislature reviews and re-enacts the exception prior to that date.

The bill would state no additional citation would be issued to the owner if the operator is arrested or issued a citation and notice to appear for the same violation.

The bill would provide the following definitions:

- “Recorded images” would mean images recorded by a video recording device mounted on a school bus with a clear view of vehicles passing the bus on either side and showing the date and time the recording was made and an electronic symbol showing the activation of amber lights, flashing red lights, stop arms fully extended, and brakes; and
- “Video recording device” would mean a camera capable of recording digital images showing the date and time the images were recorded.

The bill would require a law enforcement officer prepare and deliver the written traffic citation to a person so charged, evidenced by a recorded image. The bill would authorize such citation be served in any manner authorized by law, including, but not limited to, mailing it by certified mail to the person’s last known address. The bill would require the citation include:

- The date, time, and location of the alleged violation, the amount of the fine imposed, and the date by which such fine shall be paid;
- An image taken from the recorded images showing the vehicle and particular person involved in the alleged violation;
- A copy of the law enforcement officer certificate described above;

- A statement of the rebuttable presumption described above;
- Information advising the owner of the motor vehicle of the manner and time in which liability as alleged in the citation may be contested in court; and
- A warning that failure to contest liability in a timely manner shall waive any right to contest liability.

The fine in current law for improper passing of a school bus is \$315. The bill would increase the fine for any subsequent violation within five years to \$750 for a second violation and to \$1,000 for a third or subsequent violation.

Background

Representative Highland requested the bill, and he testified as a proponent in the hearing of the House Committee on Transportation. The Transportation Director for USD 378 Riley County Schools also testified in support of the bill. The proponents reported they had witnessed violations that put children at risk, that a driver violating current law is cited now only if a law enforcement officer witnesses the violation, and that 16 other states have bus camera laws and 3 other states are considering them. The Kansas Highway Patrol provided written-only proponent testimony. A representative of the League of Kansas Municipalities (LKM) appeared as an opponent to certain portions of the bill, relating to costs for the maintaining and storing of evidence and for delivering the citation to the vehicle owner. No other testimony was provided.

The House Committee on Transportation amended the bill regarding delivery of the citation.

On February 22, the House Committee of the Whole referred the bill to the House Committee on Judiciary. On March 14, the House Committee on Judiciary held a hearing

on due process issues in the bill. Representative Highland testified in support of the bill. A representative of LKM testified as an opponent to the provisions of the bill it had previously opposed before the House Committee on Transportation.

The House Committee on Judiciary further amended the bill without recommendation by:

- Removing a definition of “owner” that would have been added by the bill as introduced;
- Adding the provisions regarding *prima facie* evidence and a rebuttable presumption;
- Removing a provision that would have been added by the bill, as introduced, allowing a school district to enter into an intergovernmental agreement to offset expenses involved with the video recording devices contemplated by the bill; and
- Moving and expanding the required contents of a citation.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, enactment of the bill could have these effects:

- According to the Office of Judicial Administration, the bill could increase the number of cases filed, which could increase time spent by staff but also result in collection of docket fees. However, it is not possible to predict the number or complexity of the cases and therefore a precise fiscal effect cannot be determined;
- The Kansas Department of Transportation reported the bill could result in additional federal reporting on automated enforcement, but any fiscal effect to agency operations would be negligible; and

- The Kansas Department of Revenue indicates the bill would require a change to motor vehicle reports and to the driver's license system, at a total cost of \$1,401 in FY 2018.

Any fiscal effect of the bill is not reflected in *The FY 2018 Governor's Budget Report*.