

HB0235S01 compared with HB0235

~~text~~ shows text that was in HB0235 but was deleted in HB0235S01.

Inserted text shows text that was not in HB0235 but was inserted into HB0235S01.

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Representative Mike K. McKell proposes the following substitute bill:

AUTOMATED TRAFFIC ENFORCEMENT SAFETY DEVICES

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike K. McKell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions authorizing the use of an automated traffic enforcement safety device on a school bus.

Highlighted Provisions:

This bill:

- ▶ authorizes the use of an automated traffic enforcement safety device on a school bus to capture a photograph or video image of a possible violation of certain traffic laws;
- ▶ authorizes the use of a photograph or video image obtained by an automated traffic enforcement safety device as evidence of certain traffic violations;
- ▶ provides for a portion of fines collected for certain traffic violations related to school buses to be allocated to offset costs of an automated traffic enforcement

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safety device if the device was used to provide evidence of a violation;

- ▶ provides rulemaking authority; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-1302, as last amended by Laws of Utah 2015, Chapter 412

41-6a-1303, as renumbered and amended by Laws of Utah 2005, Chapter 2

78A-5-110, as last amended by Laws of Utah 2008, Chapter 22 and renumbered and amended by Laws of Utah 2008, Chapter 3

78A-6-210, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-7-120, as last amended by Laws of Utah 2012, Chapter 205

ENACTS:

41-6a-1310, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **41-6a-1302** is amended to read:

41-6a-1302. School bus -- Signs and light signals -- Flashing amber lights -- Flashing red lights -- Passing school bus -- Duty to stop -- Travel in opposite direction -- Penalties.

- (1) A school bus, when operated for the transportation of school children, shall:
 - (a) bear on the front and rear of the bus a plainly visible sign containing the words "school bus" in letters not less than eight inches in height, which shall be removed or covered when the vehicle is not in use for the transportation of school children; and
 - (b) be equipped with alternating flashing amber and red light signals visible from the front and rear, of a type approved and mounted as required under Section 41-6a-1301 and prescribed by the department under Section 41-6a-1601.
- (2) The operator of a vehicle on a highway, upon meeting or overtaking a school bus

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equipped with signals required under this section which is displaying alternating flashing:

(a) amber warning light signals, shall slow the vehicle, but may proceed past the school bus using due care and caution at a speed not greater than specified in Subsection 41-6a-601(2) for school zones for the safety of the school children that may be in the vicinity; or

(b) red light signals visible from the front or rear, shall stop immediately before reaching the bus and may not proceed until the flashing red light signals cease operation.

(3) The operator of a vehicle need not stop upon meeting or passing a school bus displaying alternating flashing red light signals if the school bus is traveling in the opposite direction when:

(a) traveling on a divided highway;

(b) the bus is stopped at an intersection or other place controlled by a traffic-control signal or by a peace officer; or

(c) on a highway of five or more lanes, which may include a left-turn lane or two-way left turn lane.

(4) (a) The operator of a school bus shall operate alternating flashing red light signals at all times when:

(i) children are unloading from a school bus to cross a highway;

(ii) a school bus is stopped for the purpose of loading children who must cross a highway to board the bus; or

(iii) it would be hazardous for vehicles to proceed past the stopped school bus.

(b) The alternating flashing red light signals may not be operated except:

(i) when the school bus is stopped for loading or unloading school children; or

(ii) for an emergency purpose.

(5) The operator of a school bus being operated on a highway shall have the headlights of the school bus lighted.

(6) (a) A violation of Subsection (2) or (3) is a class C misdemeanor and the minimum fine is:

(i) \$100 for a first offense;

(ii) \$200 for a second offense within three years of a previous conviction or bail forfeiture; and

(iii) \$500 for a third or subsequent offense within three years of a previous conviction

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or bail forfeiture.

(b) A violation of Subsection (5) is an infraction and the fine is \$50.

(c) The court may order the person to perform compensatory service in lieu of the fine or any portion of the fine if the court makes the reasons for the waiver part of the record.

(d) ~~(ff)~~ In accordance with Section 78A-5-110, 78A-6-210, or 78A-7-120, as applicable, if a photograph or video image obtained from an automated traffic enforcement safety device described in Section 41-6a-1310 was used as evidence of a violation of Subsection (2) or (3), 20% of the fine collected under Subsection (6)(a) shall be deposited with the school district or private school that owns or contracts for the operation of the bus to offset the costs of the automated traffic enforcement safety device.

(7) A violation of Subsection (1) or (4) is an infraction.

(8) The Driver License Division shall develop and implement a record system to distinguish:

- (a) a conviction or bail forfeiture under this section from other convictions; and
- (b) between a first and subsequent conviction or bail forfeiture under this section.

Section 2. Section **41-6a-1303** is amended to read:

41-6a-1303. Passing a school bus complaint procedure.

(1) (a) An operator of a school bus who observes a violation of Subsection 41-6a-1302(2) or (3) may prepare a report, in a manner specified by the school district, to the school district transportation coordinator no more than two working days after the alleged violation occurred.

(b) (i) The report under Subsection (1)(a) shall contain:

~~(+)~~ (A) the date, time, and location of the violation;

~~(+)~~ (B) the license plate number and state and description of the offending vehicle;

~~(+)~~ (C) as much as practical, a description of the operator of the offending vehicle;

~~(+)~~ (D) a description of the incident involving the violation;

~~(+)~~ (E) information on how to contact the school bus operator who witnessed the offense; and

~~(+)~~ (F) the signature of the operator of the school bus who witnessed the offense attesting to the accuracy of the report.

(ii) The report under Subsection (1)(a) may contain photographs or video images

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produced by an automated traffic enforcement safety device described in Section 41-6a-1310.

(2) (a) Upon receipt of a report in accordance with Subsection (1), the school district transportation coordinator shall promptly send a notification letter to the last-known registered owner of the vehicle.

(b) The notification letter shall include:

(i) the applicable information on the school bus operator's report stating that the vehicle was observed passing a school bus displaying alternating flashing red lights in violation of state law;

(ii) a complete explanation of the applicable provisions of Section 41-6a-1302; and

(iii) an explanation that the notification letter is not a peace officer citation but is an effort to call attention to the seriousness of the incident.

(c) The school district transportation coordinator may file the report with the local law enforcement agency that has jurisdiction for the alleged violation.

(3) A law enforcement agency that receives a report in accordance with Subsection (2) may have a peace officer initiate an investigation of the reported violation.

Section 3. Section **41-6a-1310** is enacted to read:

41-6a-1310. School bus traffic safety devices.

(1) For purposes of this section, "automated traffic enforcement safety device" means a device that:

(a) is affixed to a school bus;

(b) is capable of detecting a vehicle unlawfully overtaking or passing a school bus;

(c) is capable of producing a photograph or video image of the rear of a vehicle,

including an image of the vehicle's license plate; and

(d) produces a time stamp on the photograph or video image described in Subsection

(1)(c).

(2) A school district or private school may install an automated traffic enforcement safety device on a school bus.

(3) A photograph ~~for~~, video image, ~~or other record~~ produced by an automated traffic enforcement safety device ~~{may be used as evidence of}~~ is subject to Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, and, as applicable, Title 63G, Chapter 2, Government Records Access and Management Act.

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(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education may make rules to address student privacy concerns that may arise from the use of an automated traffic enforcement safety device authorized in this section.

Section 4. Section 78A-5-110 is amended to read:

78A-5-110. Allocation of district court fees and forfeitures.

(1) Except as provided in this section, district court fines and forfeitures collected for violation of state statutes shall be paid to the state treasurer.

(2) Fines and forfeitures collected by the court for violation of a state statute or county or municipal ordinance constituting a misdemeanor or an infraction shall be remitted 1/2 to the state treasurer and 1/2 to the treasurer of the state or local governmental entity which prosecutes or which would prosecute the violation.

(3) (a) Fines and forfeitures collected for violations of Title 23, Wildlife Resources Code of Utah, Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, shall be paid to the state treasurer.

~~(a)~~ (b) For violations of Title 23, Wildlife Resources Code of Utah, the state treasurer shall allocate 85% to the Division of Wildlife Resources and 15% to the General Fund.

~~(b)~~ (c) For violations of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, the state treasurer shall allocate 85% to the Division of Parks and Recreation and 15% to the General Fund.

(4) Fines and forfeitures collected for violation of Section 72-7-404 or 72-7-406, less fees established by the Judicial Council, shall be paid to the state treasurer for deposit in the B and C road account. Fees established by the Judicial Council shall be deposited in the state General Fund. Money deposited in the class B and C road account is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and C road funds.

(5) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(8)(b) shall be remitted:

(i) 60% to the state treasurer to be deposited in the Transportation Fund; and

(ii) 40% in accordance with Subsection (2).

(b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(8)(c) shall be remitted:

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(i) 50% to the state treasurer to be deposited in the Transportation Fund; and

(ii) 50% in accordance with Subsection (2).

(6) For fines and forfeitures collected by the court for a violation of Section

41-6a-1302.

Legislative Review Note

Office of Legislative Research and General Counsel in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to the school district or private school that owns or contracts for the use of the bus, and the state treasurer shall allocate 40% to the treasurer of the state or local governmental entity that prosecutes or that would prosecute the violation, and 40% to the General Fund.

[(6)] (7) Fines and forfeitures collected for any violations not specified in this chapter or otherwise provided for by law shall be paid to the state treasurer.

[(7)] (8) Fees collected in connection with civil actions filed in the district court shall be paid to the state treasurer.

[(8)] (9) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

Section 5. Section 78A-6-210 is amended to read:

78A-6-210. Fines -- Fees -- Deposit with state treasurer -- Restricted account.

(1) There is created within the General Fund a restricted account known as the "Nonjudicial Adjustment Account."

(2) (a) The account shall be funded from the financial penalty established under Subsection 78A-6-602(2)(d)(i).

(b) The court shall deposit all money collected as a result of penalties assessed as part of the nonjudicial adjustment of a case in the account.

(c) The account shall be used to pay the expenses of juvenile compensatory service, victim restitution, and diversion programs.

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(3) (a) Except under [Subsection] Subsections (3)(b), (4), and as otherwise provided by law, all fines, fees, penalties, and forfeitures imposed and collected by the juvenile court shall be paid to the state treasurer for deposit in the General Fund.

(b) Not more than 50% of any fine or forfeiture collected may be paid to a state rehabilitative employment program for delinquent minors that provides for employment of the minor in the county of the minor's residence if:

(i) reimbursement for the minor's labor is paid to the victim of the minor's delinquent behavior;

(ii) the amount earned and paid is set by court order;

(iii) the minor is not paid more than the hourly minimum wage; and

(iv) no payments to victims are made without the minor's involvement in a rehabilitative work program.

(c) Fines withheld under Subsection (3)(b) and any private contributions to the rehabilitative employment program are accounted for separately and are subject to audit at any time by the state auditor.

(d) Funds withheld under Subsection (3)(b) and private contributions are nonlapsing. The Board of Juvenile Court Judges shall establish policies for the use of the funds described in this subsection.

(4) For fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to the school district or private school that owns or contracts for the use of the bus, and the state treasurer shall allocate 80% to the General Fund.

~~(4)~~ (5) No fee may be charged by any state or local public officer for the service of process in any proceedings initiated by a public agency.

Section 6. Section 78A-7-120 is amended to read:

78A-7-120. Disposition of fines.

(1) Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the court and 1/2 to the treasurer of the local government which prosecutes or which would prosecute the violation. An interlocal agreement created pursuant to Title 11, Chapter 13,

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Interlocal Cooperation Act, related to justice courts may alter the ratio provided in this section if the parties agree.

(2) (a) For violation of Title 23, Wildlife Resources Code of Utah, the court shall allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the city or county government responsible for the justice court.

(b) For violation of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, the court shall allocate 85% to the Division of Parks and Recreation and 15% to the general fund of the city or county government responsible for the justice court.

(c) For fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to the school district or private school that owns or contracts for the use of the school bus, and the state treasurer shall allocate 40% to the treasurer of the local government that prosecutes or that would prosecute the violation and 40% to the local government responsible for the court.

(3) The surcharge established by Section 51-9-401 shall be paid to the state treasurer.

(4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial Council, shall be paid to the state treasurer and distributed to the class B and C road account.

(5) Revenue deposited in the class B and C road account pursuant to Subsection (4) is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and C road funds.

(6) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(8)(b) shall be remitted:

(i) 60% to the state treasurer to be deposited in the Transportation Fund; and

(ii) 40% in accordance with Subsection (1).

(b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(8)(c) shall be remitted:

(i) 50% to the state treasurer to be deposited in the Transportation Fund; and

(ii) 50% in accordance with Subsection (1).