

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of Dutchess

Local Law No. 1 of the year 2020

A local law IN RELATION TO ESTABLISHING A DEMONSTRATION
(Insert Title)
PROGRAM IMPOSING OWNER LIABILITY FOR FAILURE OF AN
OPERATOR TO STOP FOR A SCHOOL BUS DISPLAYING A
RED VISUAL SIGNAL AND STOP-ARM

Be it enacted by the County Legislature of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Dutchess as follows:

SECTION 1. Definitions.

For the purposes of this local law, the following terms shall have the following meanings:

- A. "County" shall mean the County of Dutchess.
- B. "Manual on uniform traffic control devices" or "MUTCD" shall mean the manual and specifications for a uniform system of traffic control devices maintained by the Commissioner of the Department of Transportation pursuant to section 1680 of the New York Vehicle Traffic Law.
- C. "Owner" shall have the meaning provided in Section 239 of the New York Vehicle and Traffic Law.
- D. "School bus photo violation monitoring system" shall mean 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 section 1174 of the New York Vehicle and Traffic Law.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

SECTION 2. Program Established.

A. There is hereby established, pursuant to section 1174-a of the New York State Vehicle and Traffic Law, a demonstration program imposing monetary liability on owners of vehicles for failure of the operators thereof to comply with section 1174 of the New York State Vehicle and Traffic Law when meeting a school bus marked and equipped as provided in subdivisions 20 and 21-c of section 375 of the New York State Vehicle and Traffic Law in Dutchess County.

B. Under such demonstration program the County is hereby authorized to install and operate school bus photo violation monitoring systems which may be stationary or mobile, and which may be installed, pursuant to an agreement with a school district within the County on school buses owned and/or operated by such school district. Provided, however, that:

- i. No stationary school bus photo violation monitoring system shall be installed or operated by the County, except on roadways under the jurisdiction of the County; and
- ii. No mobile school bus photo violation monitoring system shall be installed or operated on any such school buses unless the County and such school district enter into an agreement for such installation and operation.

C. To carry out the demonstration program, the County, acting by and through the County Executive, is authorized to enter into agreement with school districts for the installation, maintenance and use of school bus photo violation monitoring systems, for the proper handling and custody of 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, subject to the provisions of this section

and section 1174-a of the New York Vehicle and Traffic Law and approval of the County Legislature.

D. Nothing in this local law shall be construed to prevent the County or school district at any time from withdrawing from or terminating an agreement for the installation, maintenance and use of school bus photo violation monitoring systems, provided however, that the County or the school district shall provide no less than thirty days' required notice to the other for such withdrawal, if any, prior to such withdrawal.

E. Cost of Program and Reports Relating Thereto.

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

ii. Any participating school district, acting by and through the Superintendent of Schools of such district, or his or her designee shall provide any report required of the district, pursuant to Section 1174-a of the Vehicle and Traffic Law, to the State or any official thereof.

iii. To the extent that the County shall be required to issue any report to the State or any official thereof as a result of the adoption of this Local Law and/or Section 1174-a of the Vehicle and Traffic Law, the Dutchess County Department of Planning STOP-DWI/Traffic Safety Coordinator shall cause the same to be prepared pursuant to this local or applicable State law.

F. Pursuant to Section 1174-a (a)(3)(i) of the 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 Local Law, 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 Section 1174 of the New York Vehicle and Traffic Law and imposing monetary liability on the owner of such motor vehicle therefor.

G. The agreement between the County and the school district shall provide that photographs, microphotographs, videotapes, other recorded images and data produced by school bus photo violation monitoring systems shall be destroyed (a) 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 local law or (b) upon final disposition of a notice of liability issued pursuant to this local law.

H. 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:

- (i) 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 the contents of a vehicle, provided that the County has made a reasonable effort to comply with the provisions of this paragraph;

(ii) 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;

(iii) oversight procedures to ensure compliance with the privacy protection measures required herein.

I. The County, acting by and through the Commissioner of the Department of Public Works (DPW) shall also 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 Section 1174 of the New York Vehicle and Traffic Law. For the purposes of this paragraph, 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.

SECTION 3: Penalties.

An owner liable for a violation of subdivision (a) of Section 1174 of the New York Vehicle and Traffic Law pursuant to this Local Law shall be liable for monetary penalties in accordance with the following schedule of fines and penalties:

- A. Two hundred fifty dollars for a first violation;
- B. Two hundred seventy-five dollars for a second violation committed within eighteen (18) months of the first violation;
- C. Three hundred dollars for a third violation or subsequent violation all of which were committed within eighteen (18) months from the first violation; and
- D. An additional penalty of twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.

SECTION 4: 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 Section 1174 of the New York 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. To the extent that State Law does not preclude the County from causing such mailing to be made, the County shall undertake or cause to be undertaken such mailing.

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 Section 1174 of the New York 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. (i) 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 in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon. (ii) The 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, the adjudicatory process if the addressee of the notice wishes to contest the notice of liability.

SECTION 5. Owner Liability.

A. The Owner of a vehicle shall be liable for a penalty imposed pursuant to this Local Law if such vehicle was used or operated with the permission of the owner, express or implied, in violation of subdivision (a) of Section 1174 of the New York 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 Local Law where the operator of such vehicle has been convicted of the underlying violation of subdivision (a) of Section 1174 of the New York State Vehicle and Traffic Law. For purpose of (i) this Section; and (ii) this Local Law, 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 Section 1174 of the New York Vehicle and Traffic Law.

B. If the owner receives a notice of liability pursuant to this Local Law 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 Section 1174 of the New York Vehicle and Traffic Law pursuant to this Local Law 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 subdivision, 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 Local Law shall not be liable for the violation of subdivision (a) of Section 1174 of the New York Vehicle and Traffic Law, provided that he or she complies with the provisions of Section 1174-a of the New York 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 thirty-seven (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 thirty-seven (37) day time period shall render the owner liable for the penalty prescribed by this Local Law. Where the lessor complies with the provisions of this paragraph, 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 Section 1174 of the New York Vehicle and Traffic Law pursuant to this Local Law and shall be sent a notice of liability pursuant to Section 4 of this Local Law.

D. A certificate, sworn to or affirmed by a technician employed by the County, or a facsimile thereof, upon inspection of photographs, microphotographs, videotapes, 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, 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 Section 1174 of the New York Vehicle and Traffic Law pursuant to this Local Law that such school bus stop-arms were malfunctioning at the time of the alleged violation.

F. For the purpose of informing and educating owners for motor vehicles in this County during the first thirty-day (30) period in which a school bus photo violation monitoring system is in operation pursuant to the provisions of this Local Law, all owners of motor vehicles who would otherwise be held liable for failure of operators thereof to comply with Section 1174 of the New York Vehicle and Traffic Law when meeting a school bus marked and equipped as provided in subdivisions 20-21-c of Section 375 of such Law, shall be issued a written warning in lieu of a notice of liability.

SECTION 6. Adjudication of Liability.

Liability pursuant to the demonstration program established hereunder shall be imposed upon owners by the Court of competent jurisdiction in Dutchess County or in another other manner pursuant to the New York State Vehicle and Traffic Law.

SECTION 7. Action for Indemnification.

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

SECTION 8. Reporting Requirements.

A. The County, acting by and through the Dutchess County Department of Planning STOP-DWI/Traffic Safety Coordinator 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 Section 1174-a (m) of the New York Vehicle and Traffic Law to be included as a result of the enactment of this Local Law.

B. Pursuant to the requirements of Section 1174-a of the New York State Vehicle and Traffic Law, courts, bureaus, and agencies conducting adjudications as a result of this Local Law 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, re-scheduled, 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.

C. The County, acting by and through the Dutchess County Department of Planning STOP-DWI/Traffic Safety Coordinator shall annually provide a copy of the annual report submitted pursuant to subsections a and b of this Section, to each

Local Law enforcement agency having jurisdiction to enforce violations of the vehicle and traffic law or any ordinance, rule or regulation relating to traffic adopted pursuant to such law on roadways within the County.

SECTION 9. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this Law 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 law, 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.

SECTION 10. EFFECTIVE DATE.

This local law shall take effect immediately upon full compliance with all the requisite statutes and laws applicable to its adoption and promulgation.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the Legislature _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 _____ of 2020 of the (County)(City)(Town)(Village) of Dutchess was duly passed by the Legislature _____ on December 5 2019, and was (approved)(~~not approved~~)
(Name of Legislative Body)
~~(repassed after disapproval)~~ by the County Executive and was deemed duly adopted
(Elective Chief Executive Officer)*
on January 2 2020, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____.
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

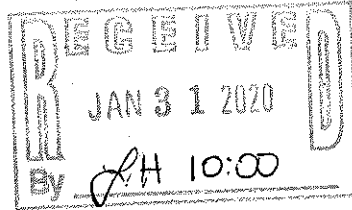
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph ²_____ above.



Carol Morris
Clerk of the county legislative body, ~~CITY, TOWN OR VILLAGE CLERK~~
~~OR CLERK OF A LEGISLATIVE BODY~~

Date: 1.6.2020

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
WWW.DOS.NY.GOV



ANDREW M. CUOMO
GOVERNOR

ROSSANA ROSADO
SECRETARY OF STATE

January 27, 2020

Carolyn Morris
Clerk
22 Market Street
Poughkeepsie NY 12601

RE: County of Dutchess, Local Law 1 2020, filed on January 9 2020

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492



Department
of State