

Local Law Filing

Town of OYSTER BAY

Local Law No. 8 of the year 2023

A LOCAL LAW TO AMEND THE CODE OF THE TOWN OF OYSTER BAY BY ADDING CHAPTER 116 FAILURE TO STOP FOR SCHOOL BUSES, IN ACCORDANCE WITH SECTION 1174-a OF THE NEW YORK STATE VEHICLE AND TRAFFIC LAW GOVERNING DRIVERS WHO ILLEGALLY OVERTAKE OR PASS A SCHOOL BUS THAT HAS STOPPED TO RECEIVE OR DISCHARGE PASSENGERS.

Be it enacted by the TOWN BOARD of THE TOWN OF OYSTER BAY as follows:

SECTION 1: Amendment

The Code of the Town of Oyster Bay is amended by adding Chapter 116, Failure to Stop for School Buses, as follows:

CHAPTER 116 FAILURE TO STOP FOR SCHOOL BUSES

§116-1 Legislative Intent.

This Local Law establishes Chapter 116 of the Town Code entitled “Failure to Stop for School Buses” to advance the interests of the Town in protecting the health, safety, and welfare of its school children. In accordance with Section 1174-a of the New York State Vehicle and Traffic Law, the Board enacts this Local Law to provide a mechanism for enforcing the state prohibition against passing a school bus displaying a red visual signal and stop-arm which has stopped to receive or discharge passengers.

§116-2 Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES or MUTCD

The manual and specifications for a uniform system of traffic control devices maintained by the Commissioner of the Department of Transportation pursuant to §1680 of the New York State Vehicle and Traffic Law

OWNER

Shall have the meaning provided in § 239 of the New York State Vehicle and Traffic Law.

SCHOOL BUS PHOTO VIOLATION MONITORING SYSTEM

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 §1174 of the New York State Vehicle and Traffic Law.

TOWN

The Town of Oyster Bay

TPVA

The Nassau County Traffic and Parking Violations Agency

§116-3 Program Established.

A. There is hereby established, pursuant to § 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 § 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 § 375 of the New York State Vehicle and Traffic Law in the Town of Oyster Bay.

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

(1) No stationary school bus photo violation monitoring system shall be installed or operated by the Town, except on roadways under the jurisdiction of the Town; and

(2) No mobile school bus photo violation monitoring system shall be installed or operated on any such school buses unless the Town and such school district enter into an agreement for such installation and operation

C. To carry out the demonstration program, the Town is authorized to enter into agreements 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 Town and/or TPVA, subject to the provisions of this section and New York State Vehicle & Traffic Law §1174-a and approval of the Town Board.

D. Nothing in this Chapter shall be construed to prevent the Town 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 Town or the school district shall provide no less than thirty days written notice to the other prior to any withdrawal or termination.

E. Cost of program and reports relating thereto.

(1) 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 Town.

(2) To the extent that the Town shall be required to issue any report to the State or any official thereof, either as a result of the adoption of this Chapter and/or pursuant to §1174-a of the New York State Vehicle and Traffic Law, the Town shall cause such report to be prepared in accordance with such requirements. Any agreement between the Town and a participating school district shall require the school district to provide any report required of the district, pursuant to § 1174-a of the New York State Vehicle and Traffic Law, to the State or any official thereof.

F. Pursuant to § 1174-a (a)(3)(i) of the New York State 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 Town, as provided in this Chapter, 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 Town and/or TPVA for the purpose of determining whether a motor vehicle was operated in violation of Subdivision (a) of § 1174 of the New York State Vehicle and Traffic Law and imposing monetary liability on the owner of such motor vehicle therefor.

G. The agreement between the Town 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) 90 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 Chapter or (b) upon final disposition of a notice of liability issued pursuant to this Chapter.

H. The Town 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:

(1) 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 Town has made a reasonable effort to comply with the provisions of this subsection;

(2) 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;

(3) Oversight procedures to ensure compliance with the privacy protection measures required herein.

I. The Town 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 Town giving notice that school bus photo violation monitoring systems are used to enforce restrictions on vehicles violating § 1174 of the New York State Vehicle and Traffic Law. For the purposes of this subsection, 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 Town.

§116-4 Penalties for Offenses.

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

A. \$250 for a first violation;

B. \$275 for a second violation committed within 18 months of the first violation;

C. \$300 for a third violation or subsequent violation all of which were committed within 18 months from the first violation; and

D. An additional penalty of \$25 for each violation for the failure to respond to a notice of liability within the prescribed time period.

§116-5 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 § 1174 of the New York State 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 Town from causing such mailing to be made, the Town 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 § 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 which recorded the violation or other document locator number.

C. (1) 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.

(2) 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.

§116-6 Owner Liability.

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

B. If the owner receives a notice of liability pursuant to this Chapter 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 § 1174 of the New York State Vehicle and Traffic Law pursuant to this Chapter 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 subsection, it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent or delivered to TPVA.

C. An owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to this Chapter shall not be liable for the violation of Subdivision (a) of § 1174 of the New York State Vehicle and Traffic Law, provided that he or she complies with the provisions of § 1174-a of the New York State 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 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 the 37-day time period shall render the owner liable for the penalty prescribed by this Chapter. Where the lessor complies with the provisions of this subsection, 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 § 1174 of the New York State Vehicle and Traffic Law pursuant to this Chapter and shall be sent a notice of liability pursuant to this Chapter.

D. A certificate, sworn to or affirmed by a technician employed by the Town, 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 § 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.

F. For the purpose of informing and educating owners of motor vehicles in this Town during the first thirty-day period in which a school bus photo violation monitoring system is in operation in a school district pursuant to an agreement between the Town and a participating school district under the provisions of this chapter, all owners of motor vehicles who would otherwise be held liable for failure of operators thereof to comply with §1174 of the New York State Vehicle and Traffic Law when meeting a school bus marked and equipped as provided in Subdivisions 20 through 21-c of §375 of the New York State Vehicle and Traffic Law shall be issued a written warning in lieu of a notice of liability.

§116-7 Adjudication of Liability.

Liability pursuant to the demonstration program established hereunder shall be imposed upon owners by TPVA pursuant to the New York State General Municipal Law Article 14-B.

§116-8 Action for Indemnification.

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

§116-9 Reporting Requirements.

A. The Town 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 New York State Senate and the speaker of the New York State Assembly on or before June 1 of each year in which the demonstration program is operable. Such report shall include any information required by § 1174-a(m) of the New York State Vehicle and Traffic Law to be included as a result of the enactment of this Chapter. The Town shall also provide a copy of this report to TPVA.

B. Pursuant to the requirements of §1174-a of the New York State Vehicle and Traffic Law, the Town shall request TPVA to report at least annually to the Town on the quality of the adjudication process and its results including the total number of hearings scheduled, rescheduled, 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, together with such other information as may be required to report to the State under §1174-a of the New York State Vehicle and Traffic Law.

SECTION 2. SEQR Determination. It is hereby determined pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L. Section 101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., that the adoption of this local law is a “Type II” Action within the meaning of Section 617.5 (c)(26) of 6 N.Y.C.R.R., pertaining to “routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment” and, accordingly, is of a class of actions which do not have a significant effect on the environment and no further review is required.

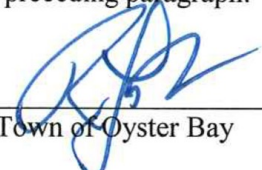
SECTION 3. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this Chapter or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, 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 Chapter, 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 4. Effective Date. This Local Law shall take effect immediately upon its adoption and filing with the Office of the Secretary of State.

Certification:

I hereby certify that the Local Law annexed hereto, designated as Local Law No. 8 of 2023 of the Town of Oyster Bay was duly passed by the Town Board on June 27 2023, in accordance with the applicable provisions of law.

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 the preceding paragraph.



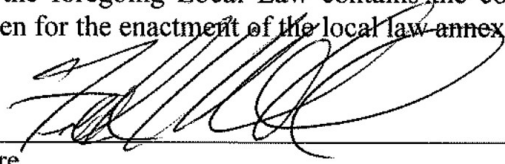
Clerk of the Town of Oyster Bay

(Seal)

Date: June 27, 2023

STATE OF NEW YORK
COUNTY OF NASSAU

I, the undersigned, hereby certify that the foregoing Local Law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature

Town Attorney

Title

Town of Oyster Bay

Date: June 27 2023