

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 12-1 OF THE CITY CODE TO ADD A NEW ARTICLE 7 RELATING TO AUTOMATED TRAFFIC ENFORCEMENT DEVICES ON SCHOOL BUSES; AND CREATING A CIVIL OFFENSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code, Chapter 12-1 (*Traffic Regulation and Administration*) of the city is amended by adding a new Article 7 to read:

ARTICLE 7. AUTOMATED TRAFFIC ENFORCEMENT DEVICES ON SCHOOL BUSES.

§ 12-1-71 Definitions.

In this Article:

- (1) **SCHOOL BUS** has the same meaning as in Texas Transportation Code, Section 541.201(*Vehicles*).

§ 12-1-72 Applicability; Adjudication.

- (A) This Article applies to the part of an independent school district that is in the full purpose limits of the City, if:
- (1) the school district has installed a system on a school bus that is capable of producing a recorded image depicting the license plate attached to the front or the rear of a motor vehicle that passes the school bus in violation of this Article;
 - (2) the school district's board of trustees has adopted a procedure for assessing, collecting, and adjudicating alleged violations of this Article that includes notice and the opportunity for a hearing before an impartial hearing examiner at which a person accused of a violation may present evidence in the person's defense; and
 - (3) the school district's board of trustees enters a finding in its minutes that the process adopted by the school district under this section satisfies constitutional due process requirements.
- (B) A school district covered by this Article may establish any procedure reasonably necessary to carry out the purpose of this Article, including,

without limitation, citation of a violator, a process for adjudication in person or by mail, the appointment of hearing examiners, the standard of proof, the administration of oaths, the production of evidence or the attendance of witnesses, deadlines for responding to notices and citations, and a process for the payment of a fine.

- (C) The procedure created by a school district under this section may not create a duty or responsibility to a city officer or employee, assign a duty to a city officer or employee, or create an expense or obligation for the city.

§ 12-1-73 Civil Offense Created.

- (A) The owner of a motor vehicle that is operated in violation of Texas Transportation Code, Section 545.066 (*Passing a School Bus; Offense*) by passing a stopped school bus displaying the visual signals required by subsection (c) of Texas Transportation Code, Section 547.701 (*Additional Equipment Requirements for School Buses and Other Buses Used To Transport Schoolchildren*) commits a civil offense and is liable for a civil fine.
- (B) Each violation is a separate civil offense.
- (C) If the recording equipment installed on a school bus shows that a motor vehicle has been operated in violation of this Article, the motor vehicle is presumed to have been operated in violation of this article, and the school district may charge the owner of the vehicle the fine provided by this article.
- (D) A defense to Texas Transportation Code, Section 545.066 066 (*Passing a School Bus; Offense*) is a defense to the civil offense created by this section.
- (E) This article does not create a criminal offense.

§ 12-1-74 Fine.

- (A) The fine for an offense under this Article is \$300.
- (B) A school district may assess to a person who is liable for a fine under this Article an additional \$25 fine if:
- (1) the person fails to timely respond to a citation under this Article, and if:
 - (2) the person fails to timely pay a fine assessed against the person under this Article.
- (C) The council finds that the purpose of this Article is to obtain compliance, and to provide for the safety of school children, and not to raise revenue for the

1 City. The City further finds that the fines collected under this article serve the
2 municipal public purpose of enhancing traffic safety compliance with respect
3 to school buses. Accordingly, the City assigns a fine collected for a violation
4 of this Article to the school district on whose behalf the school bus that
5 recorded the violation was operated.

6 (D) A fine under this Article is payable directly to the school district or the
7 district's assignee. The fine may be used by the school district for any lawful
8 purpose.

9 **PART 2.** This ordinance takes effect on _____, 2015.

10 **PASSED AND APPROVED**

11
12 §
13 §
14 _____, 2015 § _____
15 Steve Adler
16 Mayor
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19 **APPROVED:** _____ **ATTEST:** _____
20 Anne L. Morgan Jannette S. Goodall
21 Interim City Attorney City Clerk
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