

LOCAL LAW 04-2022 A LOCAL LAW PURSUANT TO NEW YORK STATE VEHICLE AND TRAFFIC LAW §1174-a, CREATING SECTION § 265.9 et seq., SCHOOL BUS STOP ARM DEMONSTRATION PROGRAM, IN THE CODE OF THE CITY OF GLEN COVE, ALLOWING THE CITY TO IMPOSE MONETARY LIABILITY ON OWNERS OF VEHICLES FOR FAILURE OF THE OPERATORS THEREOF TO COMPLY WITH § 1174 OF THE VEHICLE AND TRAFFIC LAW AND ADDING TO THE DEFINITIONS UNDER § 265.1(B) A DEFINITION OF “SCHOOL BUS PHOTO VIOLATION MONITORING SYSTEM”

Section 1: Legislative Intent and Purpose.

To add to the Code of the City of Glen Cove, pursuant to New York State Vehicle and Traffic Law § 1174-a, the School Bus Stop Arm Demonstration Program, allowing the City to impose monetary liability on owners of vehicles for failure of the operators thereof to comply with § 1174 of the Vehicle and Traffic Law. This addition to the Code seeks to discourage motor vehicle operators from unlawfully passing stopped school buses, to further protect school children travelling on school buses and to generate revenue for the City of Glen Cove.

Section 2: Authority.

This local law is enacted in accordance with Municipal Home Rule Law Section 10(c)(1) and New York State Vehicle and Traffic Law § 1174-a.

Section 3: Legislation:

BE IT ENACTED as follows:

The City Council hereby makes the following additions to the Code of the City of Glen Cove:

Code of Law § 265-1 Definitions:

B. SCHOOL BUS PHOTO VIOLATION MONITORING SYSTEM

A device that can operate 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 Vehicle and Traffic Law.

Code of Law § 265-9 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 City of Glen Cove.
- B.** To carry out the demonstration program, the City is authorized to enter into an agreement with the Glen Cove City school district for the installation, maintenance, and use of school bus photo violation monitoring systems as well as proper handling and custody of data received by the school bus cameras, subject to the provisions of § 1174-a of the New York Vehicle and Traffic Law. Once the school district has entered into an agreement with the City, cameras shall be installed on school buses owned or operated by that school district or privately owned and operated for compensation under a contract with such school district.
- C.** 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 City.
 - (2)** The school district shall provide any report required of the district, pursuant to § 1174-a of the Vehicle and Traffic Law, to the State or any official thereof.
 - (3)** To the extent that the City shall be required to issue any report to the state or any official thereof because of the adoption of this article and/or § 1174-a of the Vehicle and Traffic Law, the City shall cause the same to be prepared pursuant to this article or applicable state law.
- D.** Pursuant to § 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 City, as provided in this article, 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 City for the purpose of determining whether a motor vehicle

was operated in violation of Subdivision (a) of § 1174 of the New York Vehicle and Traffic Law and imposing monetary liability on the owner of such motor vehicle therefor.

- E.** The agreement between the City 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 article or (b) upon final disposition of a notice of liability issued pursuant to this article.
- F.** The City 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 City 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; and
 - (3)** Oversight procedures to ensure compliance with the privacy protection measures required herein.
- G.** The City 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 City giving notice that school bus photo violation monitoring systems are used to enforce restrictions on vehicles violating § 1174 of the New York 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 City.

§ 265-9.1 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 article 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.
- E. An imposition of liability under this article shall not be deemed a conviction and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

§ 265-9.2 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 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 City from causing such mailing to be made, the City 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 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 and the adjudicatory process if the addressee of the notice wishes to contest the notice of liability.

§ 265-9.3 Owner liability.

- A.** The owner of a vehicle shall be liable for a penalty imposed pursuant to this article 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 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 article 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 article, 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 article 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 Vehicle and Traffic Law pursuant to this article 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 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 article shall not be liable for the violation of Subdivision (a) of § 1174 of the New York Vehicle and Traffic Law, provided that he or she complies with the provisions of § 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 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-day time period shall render the owner liable for the penalty prescribed by this article. 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 Vehicle and Traffic Law pursuant to this article and shall be sent a notice of liability pursuant to § 275-6 of this article.

- D. A certificate, sworn to or affirmed by a technician employed by the City, 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 Vehicle and Traffic Law pursuant to this article that such school bus stop-arms were malfunctioning at the time of the alleged violation.

§ 265-9.4 Adjudication of liability.

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

§ 265-9.5 Action for indemnification.

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

§ 265-9.6 Reporting requirements.

- A. The City 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 § 1174-a(m) of the New York Vehicle and Traffic Law to be included as a result of the enactment of this article.

- B.** Pursuant to the requirements of § 1174-a of the New York State Vehicle and Traffic Law, courts, bureaus, and agencies conducting adjudications as a result of this article shall report at least annually to the City 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.

§ 265-9.6 Severability.

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

§ 265-9.7 When effective.

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

Section 4: This Local Law shall take effect upon its filing with the New York Secretary of State.

Resolution 6B

Resolution offered by Mayor Panzenbeck and seconded by _____

BE IT RESOLVED, that the City Council hereby authorize the Mayor to enter into an agreement with BusPatrol America, LLC to install and operate photo violation monitoring systems on school buses for the purpose of recording violations.

Resolution 6C

Resolution offered by Mayor Panzenbeck and seconded by _____

BE IT RESOLVED, that the City Council hereby authorize the Mayor to accept the proposal of and enter into an agreement with Newport Engineering, P.C. to provide professional engineering support services to analyze the proposed replacement of golf course netting poles from timber to steel, with a not to exceed fee, inclusive of expenses of \$13,500.

Funding: H7180-52240-2202

Resolution 6D

Resolution offered by Mayor Panzenbeck and seconded by _____

BE IT RESOLVED, that the City Council hereby authorize Girls Rising to erect ten (10) lawn signs, to advertise their annual Girls Rising Music Festival, June 8th through June 20th, 2022.

Resolution 7A-1

Resolution offered by Mayor Panzenbeck and seconded by _____

WHEREAS, an examination for Police Sergeant was given by the Municipal Civil Service Commission of Glen Cove; and

WHEREAS, an eligible list No. 70810 was established by the Glen Cove Municipal Civil Service Commission; and

WHEREAS, Roberto P. Telese is certified as eligible under list No. 70810 by the Glen Cove Municipal Civil Service Commission;

NOW, THEREFORE, BE IT RESOLVED, that, Roberto P. Telese is hereby appointed as a Police Sergeant with the Police Department with an annual salary of \$184,304 with an effective date of June 15, 2022.

Funding: A3120-51101

Resolution 7A-2

Resolution offered by Mayor Panzenbeck and seconded by _____

WHEREAS, an examination for Police Officer was given by the Municipal Civil Service Commission of Glen Cove; and

WHEREAS, an eligible list No. 61458 was established by the Glen Cove Municipal Civil Service Commission; and

WHEREAS, Michele Stanco is certified as eligible under list No. 61458 by the Glen Cove Municipal Civil Service Commission;

NOW, THEREFORE, BE IT RESOLVED, that, Michele Stanco is hereby appointed as a Police Officer with the Police Department with an annual salary of \$42,000 with an effective date of June 15, 2022.

Funding: A3120-51101

Resolution 7B

Resolution offered by Mayor Panzenbeck and seconded by _____

BE IT RESOLVED, that Mark LaRocca is hereby appointed as Lifeguard with Youth Services and Recreation, effective June 5, 2022 through November 30, 2022, at \$15.00 per hour.

Funding: A705551120

