

# Michigan's New Stop-Arm Camera Legislation



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Future legal developments may affect these topics.

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# New Stop-Arm Camera Laws



# Stop-Arm Camera Laws



Governor Whitmer recently signed into law Public Acts 161, 162, and 163 of 2024.



These new laws outline requirements for stop-arm cameras, establish camera-based violations, and allocate the accompanying funds from civil fines to the school.



These acts are set to take effect 91 days after the 2024 Legislature adjourns *sine die*, which this year is April 2, 2025.



# PA 161

- PA 161 revises the Michigan Vehicle Code, MCL 257.682, to permit photographs or video captured by school bus stop-arm cameras to be used as evidence of a driver failing to stop less than twenty feet from a school bus.
- PA 161 sets mandatory civil fines for camera-based violations at not less than \$100 and not more than \$500.
- The county treasurer must distribute the fines from camera-based violations at least monthly to the school that operates the school bus.
- Schools must then use that money for ***transportation safety-related purposes.***

# PA 162

- PA 162 adds the language allocating funds generated by camera-based violations to school districts in the Revised Judicature Act, which governs the appropriation of civil fines.



# PA 163

- PA 163 amends the Pupil Transportation Act, MCL 257.1805, to establish what qualifies as a stop-arm camera system.
- A "stop-arm camera system" consists of "2 or more cameras affixed to a school bus" and "synchronized to automatically record video or 1 or more sequenced photographs of a vehicle that fails to stop for a school bus or passes a school bus."

# Stop-Arm Camera System Requirements

MCL 257.1805 further states that a stop-arm camera system must be "capable of capturing images of all of the following:

- (i) The vehicle.
- (ii) The registration plate on the rear of the vehicle
- (iii) A distance of not less than 200 feet in front of the school bus."

A stop-arm camera system must also be able to record "the date, time, and location on a video recorded or photograph captured on the system."





# Vendors, Technology, Pricing

- Vendors offer more sophisticated systems that exceed these requirements.
- But the two-camera system is all that is required under the law for sufficient evidence to enforce a stop-arm camera violation.
- A sales representative from a Michigan company that specializes in this technology quoted me a price of \$500-\$700 for their basic, two-camera system.
- However, the legislative history of the bills mentions an average \$10,000 installation cost per bus.

# No Duty

- New laws place no duty on schools to acquire stop-arm cameras.
- Rather, they specify the technology needed to enforce violations and the procedure for distributing fines to school districts.



# MCL 257.682

- Drivers can still be fined for failing to stop for a school bus absent stop-arm camera evidence under 257.682(1).
- Fines collected from those violations, however, are not distributed to the school district operating the bus.
- Only fines from stop-arm camera violations are distributed to schools. 257.682(8).
- Schools must then use those fines for "***school transportation safety related purposes.***" Id.

# Types of Agreements



# Types of Agreements

- Section 20, of the Pupil Transportation Act, states that "A school district may do **any** of the following:
  - (a) Install and operate a stop-arm camera system on a school bus.
  - (b) Enter into an agreement with 1 or more law enforcement agencies that establishes enforcement responsibilities for, and the reimbursement of, any costs related to a camera- based violation.

# Types of Agreements

- (c) Enter into a contract with a private vendor to do 1 or more of the following:
  - (i) Install, operate, and provide support to a stop-arm camera system on a school bus.
  - (ii) Perform the school district's obligations under an agreement described in subdivision (b) on behalf of the school district.

# Types of Agreements

- Section 20 additionally states that "If required by a contract entered into under subsection (2), a private vendor operating a stop-arm camera system shall provide [evidence of a stop arm camera violation] to a law enforcement agency authorized to enforce section 682(1) of the Michigan vehicle code."

# MCL 257.1820(2)

To clarify, Section 20 states that:

- Districts may install and operate their own camera systems and assume all responsibility for reporting violations, **or**
- Enter into an agreement with a law enforcement agency or a private vendor for the installation and maintenance of a stop-arm camera system.



# **MCL 257.1820(3)**

And the statute adds that:

- An agreement with a private vendor may establish responsibilities for the private vendor to report stop-arm camera violations to the law enforcement agency with jurisdictional authority.

# Violator-Funded Agreements

- School districts are thus able to establish violator-funded agreements with law enforcement agencies or private vendors.
- This means that the districts can acquire stop-arm camera systems with no, or minimal, initial costs.
- The purchase or lease and maintenance of the cameras are paid for through collected fines.
- Surplus funds can then be (re)distributed to the district for other "transportation safety related purposes."

# Violator-Funded Agreements

- Such purposes may include public service announcements warning the community of stop-arm camera violations and the district's bus camera systems.
- Law enforcement agencies or private vendors themselves may use collected fines for such community messaging after recouping costs for camera purchase (or lease) and maintenance.

# Violator-Funded Agreements: Who Owns the Cameras?

- Whether the district eventually owns a camera system through a violator-funded agreement with a law enforcement agency or private vendor depends upon the nature of the contract.
- Districts should consult with legal counsel to ensure that any violator-funded agreement the district enters meets its goals for ownership of the stop-arm camera system.
- Note that eventual ownership rights could trigger competitive bidding requirements (discussed below).

# Authority to Report



# Authority to Report

- Based on the language of MCL 257.1820(2) & (3), the school district, or the law enforcement agency or private vendor with whom the district has contracted for the installation and maintenance of the stop-arm camera system, **may** report a stop-arm camera violation.

# Ownership of Images/Privacy Concerns

- Ownership of stop-arm camera images depends on whether the district owns and operates the cameras or has entered into an agreement with a law enforcement agency or private vendor.
- Private vendor contracts most likely include a privacy agreement.
- Again, a district should work with legal counsel to ensure that their private vendor contract addresses any privacy concerns the district may have.



# Privacy Concerns

- Regarding privacy: The Supreme Court has held that an individual holds no right to privacy on a public road or in a public place. *Katz v United States*, 389 US 347 (1967).
- Also, FERPA (Family Educational and Privacy Rights Act) only protects from disclosure a student's **education record**, which typically does not include surveillance footage in which the student is merely a bystander.



# “Education Record”

- Under FERPA, “education records” means those records that are:
  - (1) Directly related to a student, and
  - (2) Maintained by an educational agency or institution or by a party acting for the agency or institution.

Thus, FERPA is only implicated when surveillance footage becomes “directly related to a student” as part of a student’s education record (e.g., for disciplinary reasons, etc.).

# Privacy Concerns

This is all to say that:

- Privacy is not an issue for the violating driver because an individual has no reasonable expectation of privacy on a public street.
- And privacy is not a concern for students captured on the video unless the image becomes part of the student's education record (under FERPA).

# Video or Still Images?



# **Video or Still: Either Works**

- MCL 257.682, 257.1805, and 257.1820 each establish that video images or still photographs can be used to enforce a stop-arm camera violation.
- For example, MCL 257.1805(8)(a) states that a stop-arm camera system must be “synchronized to automatically record video or 1 or more sequenced photographs of a vehicle that fails to stop for a school bus or passes a school bus.”



# Public v Private Schools



# Public v Private Schools

- MCL 257. 682(8) states that "a civil fine for a camera-based violation must be paid to the county treasurer or the county treasurer's designee, who shall distribute the paid civil fines not less than monthly to the **school district** that operates the school bus. A **school district** that receives money under this subsection must use that money for school transportation safety-related purposes."

# Public v Private Schools

- MCL 257. 682(9)(d) refers to the Revised School Code for its definition of "school district."
- The RSC defines "school district" as "a general powers school district organized under this act . . . a community district, or a school district of the first class."
- Under this definition, a private school cannot receive fines collected from a stop-arm camera violation, as it is not a "school district" under the definition of the Revised School Code.

# Competitive Bid Requirements?





# Competitive Bid Requirements Could Apply

- The Revised School Code requires school boards to “adopt written policies governing the procurement of supplies, materials, and equipment.” MCL 380.1274(1).
- And further states that “a school district or public-school academy shall not purchase an item or a group of items in a single transaction costing [\$30,512] or more unless competitive bids are obtained for those items, and the purchase of the items is approved by the school board or board of directors.” MCL 380.1274(2).

## **Competitive Bid Requirements Could Apply**

- At \$500-\$700 for a basic stop-arm camera unit, or even at \$10,000, this bidding requirement should not ordinarily apply when outfitting a single bus.
- However, schools should be aware of this \$30,512.00 threshold when purchasing cameras for a group or fleet of buses.
- Meeting that amount subjects the school to the competitive bidding and board approval requirements of MCL 380.1274(2).

# SE-4094 Reporting

- Civil fines received by a school district are 3<sup>rd</sup> party contributions.
- And stop-arm camera fines are exclusively earmarked for “school transportation safety-related purposes.”
- Because of this, districts may have to report these funds on their SE-4094 Transportation Expenditure Report.
- We have reached out to MDE for clarification on this issue and will report back to you once we have a response.

# Questions?



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