NATIONAL CONFERENCE OF STATE LEGISLATURES
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TESTIMONY OF
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National Conference of State Legislatures

ON BEHALF OF THE
NATIONAL CONFERENCE OF STATE LEGISLATURES

REGARDING
EXAMINING THE FEDERAL ROLE IN IMPROVING SCHOOL BUS SAFETY

BEFORE THE
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

UNITED STATES HOUSE OF REPRESENTATIVES

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Chairman Holmes-Norton, Ranking Member Davis, and distinguished members of the House Subcommittee on Highways and Transit, my name is Andrew McLean, House chairman of the Maine Joint Committee Transportation and co-chair of the National Conference of State Legislatures (NCSL) Natural Resources and Infrastructure Committee. I appear before you today on behalf of NCSL, a bi-partisan organization representing the 50 state legislatures and the legislatures of our nation's commonwealths, territories, possessions, and the District of Columbia.

Madam Chairman, I would like to take this opportunity to thank you and the committee for your leadership on this important issue. Every school day, more than 25 million children climb into 485,000 buses around the country that take them to and from school and related activities, according to the National Association for Pupil Transportation. Thankfully, school buses are statistically the safest way to transport school children, as school transportation-related fatalities between 2008 and 2017 made up less than half a percent of all fatal crashes. However, 61 children who were school bus occupants died in crashes between 2008 and 2017 and this is 61 children too many.

States across the nation have responded to these tragedies with laws that NCSL has determined fall into three distinct categories:

- laws requiring seatbelts on school buses;
- laws authorizing cameras mounted on stop-arms to cite drivers that illegally pass a stopped school bus; and
- laws making changes to requirements for school bus drivers.

Overall, 35 states debated more than 250 school safety bills in 2018, and 33 states have considered more than 200 bills in 2019, thus far. Contrast this to only 132 bills in 2014 and 173 bills in 2015 and you can see there has been an increase in interest to legislate school bus safety.

Seatbelts on School Buses

School buses are designed to protect riders through compartmentalization, using structural safety features such as high, energy-absorbing seat backs and closely spaced seats so children are kept snug. However, these features don't necessarily protect children the way seatbelts do during side-impact crashes or high-speed rollovers, when passengers can be thrown from their seats.

In May of 2018, a school bus crash took the life of one student and one teacher in Paramus, N.J. In response, New Jersey enacted legislation (HB 4110) requiring lap-shoulder seatbelts instead of solely lap belts. The new requirement applies to buses manufactured beginning 180 days after the bill signing. In addition to New Jersey, seven other states require seatbelts on school buses. These states inlcude Arkansas, California, Florida, Nevada, and Texas which require lap and shoulder belt and Louisiana and New York require lap. However, the requirements in Arkansas, Louisiana, and Texas are subject to appropriations or approval or denial by local jurisdictions. Additionally, Iowa's Board of Education is pursuing an internal rule and has approved a preliminary requirement for lap/shoulder seatbelts to be included in the purchase of all new school buses.

Illegally Passing School Buses

Students boarding and exiting school buses are at risk of being hit by motorists passing and failing to yield to stopped school buses. The National Highway Traffic Safety Administration (NHTSA) found that 97 pedestrians under the age of 18 were killed in school transportation-related crashes between 2008 and 2017. Further, according to a survey by the National Association of State Directors of Pupil Transportation Services, in 2018, more than 108,000 school bus drivers observed almost 84,000 vehicles illegally passing school buses in a single day. Thankfully, most state laws require vehicles on both sides of a road without a median to stop, and remain stopped, while school bus stop arms and flashing red lights are deployed.

In 2014, Wyoming became the first state to require all school buses (approximately 1,500) to be equipped with a camera system to capture images of motorists illegally passing stopped school buses. Wyoming HB 5 required all school buses to be equipped with cameras by the 2016-2017 school year and appropriated $5 million to pay for installation. After feedback from law enforcement that some authorities were reluctant to cite drivers for violations unless both the license plate and driver's face could be clearly seen, Wyoming tweaked their law in 2019 to clarify that a recording of images produced by a video system equipped on a school bus shall be prima facie evidence of the facts contained in it. Further, Wyoming clarified that a recorded image evidencing a violation shall be admissible in a judicial or administrative proceeding to adjudicate liability for the violation and that if the identity of the driver of a vehicle that violates this section is unknown, the registered owner of the vehicle recorded by a video system as provided in this subsection shall be fined $195. Wyoming also added language to address privacy concerns, including stipulating that recordings or images made from a video system shall be destroyed within one year of the recording date.

Further, state laws concerning school bus stop arm cameras also address how any revenue from violations is allocated while safeguarding privacy. Illinois' law requires that proceeds from fines be divided between a school district and municipality or county. It also states that "the compensation paid for an automated traffic law enforcement system must be based on the value of the equipment or the services provided and may not be based on the number of traffic citations issued or the revenue generated by the system." In Virginia, the fine revenue is allocated to the local school division where the violation occurred. Washington directs fine revenue to school districts for school zone and school bus safety projects, minus administrative and operational costs. In Pennsylvania, violators are subject to a fine of $250, plus a surcharge of $35. The surcharge must be deposited in the school bus safety grant program account and the Pennsylvania Department of Transportation must develop a competitive grant program using the funds to increase school bus safety, education, and training in the state.

To help protect the privacy of drivers, Alabama's law requires that images or video not include the face of the driver or passengers and be destroyed within 90 days if there was no violation. Rhode Island's law stipulates that images must be destroyed within 24 hours if no violation is identified and within one year if there was a violation.

Overall, 21 states, including five enacted just this year—Alabama, Arkansas, Connecticut, Georgia, Illinois, Indiana, Maine, Maryland, Mississippi, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Virginia, Washington, West Virginia, and Wyoming—explicitly allow local governments or school districts to use cameras to capture images and issue tickets for drivers who illegally pass stopped school buses. The laws in five states—Indiana, Maine, New York, Tennessee, and Oklahoma—were enacted in 2019.

In addition to making it illegal to pass a stopped school bus, states have also moved to increase penalties for illegally passing a stopped school bus.

Illinois now requires the revocation of a driver's license when a driver illegally passes a school bus and the violation leads to a motor vehicle crash resulting in death. Florida recently passed legislation to allow a court to mandate that a driver who causes serious bodily injury or death when passing a stopped school bus serve 120 hours of community service in a trauma center or hospital that regularly treats victims of vehicle crashes and to participate in a victims' impact panel or attend a driver-improvement course relating to the rights of vulnerable road users. It also sets the penalty at $1,500 for causing serious bodily injury or death by illegally passing a school bus and increases it to a six-point offense. Maryland increased the penalty for illegally passing a school bus from $250 to $500. The law also requires that Montgomery County report to the legislature the number of violations recorded by school bus monitoring cameras after the effective date of the new penalty legislation.

In the fall of 2018, three northern Indiana children died, and another was injured while crossing a rural highway to board their school bus. Indiana enacted a bill in 2019 allowing the installation of school bus stop-arm cameras. Indiana also took several comprehensive steps to try and ensure the placement of school bus stops is safe including:

- Except when within the boundary of a city or town, when a school bus is operated on a: (1)U.S. route or state route, the driver may not load or unload a student at a location that requires the student to cross a roadway unless no other safe alternatives are available; and (2) when a school bus is operated on a street or highway other than a U.S. route or state route, the driver shall load and unload a student as close to the right-hand curb or edge of the roadway as practicable.
- On or before Sept. 1, 2019, and each Sept. 1 thereafter, each school corporation, charter school, and accredited nonpublic school that provides transportation for students must review the school's school bus routes and school bus safety policies to improve the safety for students and adults.
- The state school bus committee, in consultation with the department of education, shall develop and post on the department's website, school bus safety guidelines or best practices. The guidelines or best practices must include procedures to be taken to ensure that students do not enter a roadway until approaching traffic has come to a complete stop.
- The department of education, in consultation with the department of transportation, shall include on the department's website, information on how an individual or school may petition to reduce maximum speed limits in areas necessary to ensure that students are safely loaded onto or unloaded from a school bus.

School Bus Drivers

Finally, I'd like to highlight how states have strengthened their requirements for school bus driver testing, training, and penalties for unsafe driving, failing a drug or alcohol test, or moving violations.

For example, New York enacted a bill (AB 208) that requires all school bus drivers to take pre-employment drug and alcohol testing, as well as be subject to random testing, with all drivers

required to be included in the random testing pool. The bill also extended the time limit for consuming alcohol before operating a school bus from six to eight hours for school bus operators. Connecticut recently increased the penalty for DUI when driving a school bus, making this a new offense. The new law includes longer mandatory prison terms, increased maximum fines, and a 45-day license suspension.

States have also increased school bus driver training requirements. Virginia recently changed (SB 557/HB 810) their requirements for training school bus drivers. The training program for applicants without a commercial driver's license must include: a minimum of 24 hours of classroom training and 6 hours of behind-the-wheel training on a school bus that contains no pupil passengers. For applicants with a commercial driver's license, they must receive a minimum of 4 hours of classroom training and 3 hours of behind-the-wheel training on a school bus that contains no pupil passengers. Behind-the-wheel training shall be administered under the direct on-board supervision of a designated school bus driver trainer. Rhode Island passed a law requiring that annual training for school bus drivers include NHTSA's school bus driver in-service training series. Indiana now allows a driver's certificate of completion of the school bus driver safety education to be revoked in certain instances, including when the driver endangers the safe transportation of students.

And of course, states have also sought to ensure school bus drivers are not distracted when driving. Georgia recently modified the ban on cell phone use by school bus drivers to specify that phone use is permitted if the phone is used in a way similar to a two-way radio in order to communicate with school or public safety officials. Tennessee expanded the state's prohibition of cell phone use by school bus drivers, applying the ban to a wider range of portable electronic devices beyond simply cell phones.

School Bus Safety in Maine

I'd like to take a quick minute and take off my NCSL hat and put on my Maine transportation chairman hat. This is my fourth term serving as state legislator in the Maine House of Representatives, and third term chairing our Transportation Committee, and I can say that this past session was the most active in terms of legislation addressing school bus safety.

Just over a month ago, in mid-June, Maine entertained nearly a dozen bills and passed two bills specifically focused on school bus safety. LD 19 will now require school buses purchased after this year to be equipped with a school bus crossing arm and LD 166 addressed the issue of cars passing school busses.

Initially, there was interest in simply increasing fines for violators, but we know that simply increasing the penalties does not actually solve the problem. We engaged stakeholders, including community members, and local and state police. The working group identified that enforcement of existing laws is the challenge because there is no way to identify a vehicle when the bus driver is the only person to have witnessed the violation. Thus, the working group recommended allowing the use of a traffic surveillance camera mounted on a school bus in conjunction with a lighted traffic control device to prove or enforce a violation in order to identify the violator. This bill was very controversial given our state's high regard for privacy. However, the testimony from grieving parents and community members was powerful and convincing: too many kids are being hurt or killed while on or near a school bus.

Next Steps

Finally, I'd like to end by noting that NCSL supports a continued federal role in helping to set national performance and safety goals with federal safety programs being expanded to incorporate emerging safety issues, while respecting state sovereignty. However, NCSL strongly opposes the use of federal sanctions or redirection penalties to enforce federal safety standards as well as the use of federal mandates that are enforced using "reprogramming" sanctions. States stand ready to work with our federal partners to ensure that school buses remain the safest way to transport school children.

Madam Chairman, I thank you for this opportunity to testify before the subcommittee on this important topic. If you or your staff have any additional questions, please contact NCSL staff Ben Husch (ben.husch@ncsl.org) and Doug Shinkle (doug.shinkle@ncsl.org). We look forward to working with you and the members of the subcommittee on this increasingly important safety issue.

School Bus Safety Laws