

ORDINANCE NO. 19-9(1)

AN ORDINANCE TO AMEND CHAPTER 9, MOTOR VEHICLES AND TRAFFIC, ARTICLE VIII, VIDEO-MONITORING SYSTEM, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 9, Motor Vehicles and Traffic, Article VIII, Authorizations, is hereby amended and reordained as follows:

By Amending:

- Sec. 9-800 Definitions.
- Sec. 9-801 Authorizations
- Sec. 9-802 Passing stopped school buses violations; civil penalty.

Chapter 9. Motor Vehicles and Traffic

Article VIII. Video-Monitoring System

.....

Sec. 9-800 Definitions.

For the purposes of this article and, unless otherwise required by the context, “video-monitoring system” shall mean a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of Virginia Code § 46.2-859. Such system shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in Virginia Code § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.

(Ord. 14-9(1), 7-2-14)

State law reference - Va. Code § 46.2-844

Sec. 9-801 Authorization

- A. *Authorization.* Pursuant to Virginia Code § 46.2-844(B)(1), the eCounty authorizes the school division to install and operate video-monitoring systems in or on the division’s school buses.
- B. *Private entities.* Pursuant to the Virginia Public Procurement Act, the school division may enter into an agreement with a private entity to provide the video-monitoring systems and all related support services, to include consulting, operations, and administration for the purpose of recording, charging, and prosecuting violations of Virginia Code § 46.2-844(A). ~~A private entity may not obtain records on behalf of the county regarding the registered owners of vehicles captured by a video monitoring system.~~ Only a law enforcement officer employed by the eCounty may authorize the issuance of a civil summons or ticket pursuant to this article.
- C. *Restricted collection of information.* Personal information collected by a video-monitoring system installed and operated pursuant to this article shall be limited exclusively to that information that is permitted by Virginia Code § 46.2-208(B)(30) ~~necessary for the enforcement of violations of Virginia Code §§ 46.2-844 (A) or 46.2-859.~~

(Ord. 14-9(1), 7-2-14)

State law reference – Va. Code §§ 46.2-844, 46.2-208.

Sec. 9-802 Passing stopped school buses violations; civil penalty.

- A. *Elements of violation.* The ~~operator~~ driver of a vehicle will be deemed to be in violation of this section if ~~such vehicle is found, as evidenced from a video monitoring system, to have the driver failed to stop such the vehicle when approaching, from any direction, any school bus which is stopped on any highway, private road, or school driveway for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons, and if the vehicle fails to remain stopped until all such of those persons are clear of the highway, private road, or school driveway and the bus is put in motion.~~
- B. *Evidence of violation.* In any prosecution for which a civil summons is issued within ~~ten~~ (10) days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of ~~such the~~ violation the registered owner of the vehicle, as required by Chapter 6 of Title 46.2 of the Code of Virginia, shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred.

The testimony of the school bus driver, the supervisor of school buses, or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in Virginia Code § 46.2-1090 is *prima facie* evidence that the vehicle is a school bus.

- C. *Civil summons.* A civil summons for a violation of this section may be executed as provided in Virginia Code § 19.2-76.2 and, notwithstanding the provisions of § 19.2-76, the summons may be executed by mailing by first-class mail a copy to the address of the owner of the vehicle contained in the records of the Virginia Department of Motor Vehicles. Every mailing shall include, in addition to the summons, a notice of: (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in Virginia Code § 46.2-844(A); and (ii) instructions for filing the affidavit, including the address to which the affidavit is to be sent. shall contain, at a minimum, the following information: (i) the name and address of the person charged; (ii) the nature of the violation and the section of this chapter allegedly violated; (iii) the location and date that the violation occurred or was observed; (iv) the amount of the civil penalty for the violation; (v) the manner, location, and time in which the civil penalty may be paid to the county; and (vi) the right of the recipient of the summons or ticket to elect to stand trial, and that a signature to an admission of liability, will have the same force and effect as a judgment of a court. If the summoned person fails to appear on the date of return set out in the summons, issued a summons does not admit to liability and pay the civil penalty, the summons shall be executed in the manner set out in person may be served with a summons pursuant to the Virginia Code § 19.2-74.3 to appear in court for trial. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.
- D. *Civil Penalties.* The operator of a vehicle deemed to be in violation of this section shall be subject to the following:
1. *Amount of civil penalty.* Any violation of this section shall be subject to a civil penalty of ~~two hundred and fifty dollars (\$250.00), payable to Albemarle County Public Schools.~~
 2. *Civil penalties are in lieu of criminal penalties.* A prosecution or proceeding under Virginia Code § 46.2-859 is a bar to a prosecution or proceeding under this section for the same act, and a

~~prosecution or proceeding under civil penalty imposed pursuant to this section is a bar to a~~
prosecution or proceeding under Virginia Code § 46.2-859 for the same act.

(Ord. 14-9(1), 7-2-14)

State law reference – Va. .Code § 46.2-844

.

This ordinance shall be effective on and after July 1, 2019.

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of to, as recorded below, at a regular meeting held on _____.

Clerk, Board of County Supervisors

	Aye	Nay
Mr. Dill	_____	_____
Mr. Gallaway	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Mr. Randolph	_____	_____