

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 13

BY SENATORS CARMICHAEL, BOSO, GAUNCH,
LEONHARDT, TRUMP, WALTERS, BLAIR, TAKUBO, MILLER

AND UNGER, *original sponsors*

[Passed March 12, 2016; in effect 90 days from passage]

1 AN ACT to amend and reenact §17C-12-7 of the Code of West Virginia, 1931, as amended,
2 relating to offense of overtaking and passing school bus stopped for the purpose of
3 receiving and discharging children; creating rebuttable inference for charging purposes
4 that registered owner or lessee was operating vehicle in the event that the driver of the
5 passing vehicle cannot be ascertained at time of alleged offense; limiting penalty for
6 violation to a fine where identity of operator is unknown; increasing certain penalties;
7 clarifying that service of process is pursuant to West Virginia Rule of Criminal Procedure
8 4 where the vehicle is involved in violation, but identity of operator is not determined at the
9 scene; and clarifying that offenses set forth in this section are separate and distinct from
10 each other.

Be it enacted by the Legislature of West Virginia:

1 That §17C-12-7 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 12. SPECIAL STOPS REQUIRED.

**§17C-12-7. Overtaking and passing school bus; penalties; signs and warning lights upon
buses; requirements for sale of buses; mounting of cameras; educational
information campaign; limitation on idling.**

1 (a) The driver of a vehicle, upon meeting or overtaking from either direction any school
2 bus which has stopped for the purpose of receiving or discharging any school children, shall stop
3 the vehicle before reaching the school bus when there is in operation on the school bus flashing
4 warning signal lights, as referred to in section eight of this article, and the driver may not proceed
5 until the school bus resumes motion, or is signaled by the school bus driver to proceed or the
6 visual signals are no longer actuated. This section applies wherever the school bus is receiving
7 or discharging children including, but not limited to, any street, highway, parking lot, private road
8 or driveway: *Provided*, That the driver of a vehicle upon a controlled access highway need not
9 stop upon meeting or passing a school bus which is on a different roadway or adjacent to the
10 highway and where pedestrians are not permitted to cross the roadway.

11 (b) Any driver acting in violation of subsection (a) of this section is guilty of a misdemeanor
12 and, upon conviction for a first offense, shall be fined not less than \$250 or more than \$500, or
13 confined in jail not more than six months, or both fined and confined. Upon conviction of a second
14 violation of subsection (a), the driver shall be fined not less than \$500 nor more than \$1,000, or
15 confined in jail not more than six months, or both fined and confined. Upon conviction of a third
16 or subsequent violation of subsection (a), the driver shall be fined \$1,000, and confined not less
17 than forty-eight hours in jail but not more than six months.

18 (c) Where the actual identity of the operator of a motor vehicle operated in violation of
19 subsection (a) of this section is unknown but the license plate number of the motor vehicle is
20 known, it may be inferred that the operator was an owner or lessee of the motor vehicle for
21 purposes of the probable cause determination. Where there is more than one registered owner
22 or lessee, the inference created by this subsection shall apply to the first listed owner or lessee
23 as found on the motor vehicle registration: *Provided*, That a person charged with a violation of
24 subsection (a) of section under the provisions of this subsection where the sole evidence against
25 the owner or lessee is the presence of the vehicle at the scene at the time of the offense shall
26 only be subject to the applicable fine set forth in subsection (b) of this section upon conviction:
27 *Provided, however*, That, the offenses set forth in subsection (f) and (g) of this section are
28 separate and distinct from that set forth in subsection (a) of this section.

29 (d) Service of process of a complaint issued pursuant to subsection (c) of this section shall
30 be effected consistent with West Virginia Rule of Criminal Procedure 4.

31 (e) In addition to the penalties prescribed in subsections (b) of this section, the
32 Commissioner of Motor Vehicles shall, upon conviction, suspend the driver's license of the person
33 so convicted:

34 (1) Of a first offense under subsection (b) of this section, for a period of thirty days;

35 (2) Of a second offense under subsection (b) of this section, for a period of ninety days;

36 or

37 (3) Of a third or subsequent offense under subsection (b) of this section, for a period of
38 one hundred eighty days.

39 (f) Any driver of a vehicle who willfully violates the provisions of subsection (a) of this
40 section and the violation causes serious bodily injury to any person other than the driver, is guilty
41 of a felony and, upon conviction, shall be confined in a state correctional facility not less than one
42 year nor more than three years and fined not less than \$500 nor more than \$2,000.

43 (g) Any driver of a vehicle who willfully violates the provisions of subsection (a) of this
44 section, and the violation causes death, is guilty of a felony and, upon conviction, shall be confined
45 in a state correctional facility not less than one year nor more than ten years and fined not less
46 than \$1,000 nor more than \$3,000.

47 (h) Every bus used for the transportation of school children shall bear upon the front and
48 rear of the bus a plainly visible sign containing the words "school bus" in letters not less than eight
49 inches in height. When a contract school bus is being operated upon a highway for purposes
50 other than the actual transportation of children either to or from school, all markings on the
51 contract school bus indicating "school bus" shall be covered or concealed. Any school bus sold
52 or transferred to another owner by a county board of education, agency or individual shall have
53 all flashing warning lights disconnected and all lettering removed or permanently obscured, except
54 when sold or transferred for the transportation of school children.

55 (i) Every county board of education is hereby authorized to mount a camera on any school
56 bus for the purpose of enforcing this section or for any other lawful purpose.

57 (j) To the extent that state, federal or other funds are available, the State Police shall
58 conduct an information campaign to educate drivers concerning the provisions of this section and
59 the importance of school bus safety.

60 (k) The State Board of Education shall promulgate a rule in accordance with the provisions
61 of article three-b, chapter twenty-nine-a of this code governing the idling of school buses.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2016.

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Governor