

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2080

By Delegates Toney and Hillenbrand

[Introduced January 11, 2023; Referred to the
Committee on Technology and Infrastructure then the
Judiciary]

1 A BILL to amend and reenact §17C-12-7 of the Code of West Virginia, 1931, as amended, relating
 2 to providing that when a registered owner or lessee of a motor vehicle that is involved in the
 3 overtaking and passing of a stopped school bus is charged for a violation and
 4 misdemeanor offense, the state is not relieved of its burden of proof.

Be it enacted by the Legislature of West Virginia:

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 bus
 2 which has stopped for the purpose of receiving or discharging any school children, shall stop the
 3 vehicle before reaching the school bus when there is in operation on the school bus flashing
 4 warning signal lights, as referred to in §17C-12-8 of this code, and the driver may not proceed until
 5 the school bus resumes motion, or is signaled by the school bus driver to proceed or the visual
 6 signals are no longer actuated. This section applies wherever the school bus is receiving or
 7 discharging children including, but not limited to, any street, highway, parking lot, private road, or
 8 driveway: *Provided*, That the driver of a vehicle upon a controlled access highway need not stop
 9 upon meeting or passing a school bus which is on a different roadway or adjacent to the highway
 10 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 \$500 or more than \$1,000, 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) of this section, the driver shall be fined not less than \$1,000 nor more
 15 than \$1,500, or confined in jail not more than six months, or both fined and confined. Upon
 16 conviction of a third or subsequent violation of subsection (a) of this section, the driver shall be
 17 fined \$2,000 and confined not less than 48 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 or
22 lessee, the inference created by this subsection shall apply to the first listed owner or lessee as
23 found on the motor vehicle registration: *Provided*, That a person charged with a violation of
24 subsection (a) of this section, under the provisions of this subsection, where the sole evidence
25 against the owner or lessee is the presence of the vehicle at the scene at the time of the offense
26 shall only be subject to the applicable fine set forth in subsection (b) of this section upon
27 conviction: *Provided, however*, That the offenses set forth in subsections (f) and (g) of this section
28 are separate and distinct from that set forth in subsection (a) of this section.

29 (d) Notwithstanding any provision of this section to the contrary, a prosecution of a charge
30 under subsection (c) of this section may be brought against any registered owner or lessee of the
31 vehicle.

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

34 ~~(e)~~ (f) In addition to the penalties prescribed in subsection (b) of this section, the
35 Commissioner of Motor Vehicles shall, upon conviction, suspend the driver's license of the person
36 so convicted:

37 (1) Of a first offense under subsection (b) of this section, for a period of 60 days;

38 (2) Of a second offense under subsection (b) of this section, for a period of 180 days; or

39 (3) Of a third or subsequent offense under subsection (b) of this section, for a period of one
40 year.

41 ~~(f)~~ (g) Any driver of a vehicle who willfully violates the provisions of subsection (a) of this
42 section and the violation causes serious bodily injury to any person other than the driver, is guilty of
43 a felony and, upon conviction, shall be confined in a state correctional facility not less than one

44 year nor more than three years and fined not less than \$2,000 nor more than \$5,000.

45 ~~(g)~~ (h) Any driver of a vehicle who willfully violates the provisions of subsection (a) of this
46 section, and the violation causes death, is guilty of a felony and, upon conviction, shall be confined
47 in a state correctional facility not less than one year nor more than 10 years and fined not less than
48 \$5,000 nor more than \$10,000.

49 ~~(h)~~ (i) Every bus used for the transportation of school children shall bear upon the front and
50 rear of the bus a plainly visible sign containing the words "school bus" in letters not less than eight
51 inches in height. When a contract school bus is being operated upon a highway for purposes other
52 than the actual transportation of children either to or from school, all markings on the contract
53 school bus indicating "school bus" shall be covered or concealed. Any school bus sold or
54 transferred to another owner by a county board of education, agency or individual shall have all
55 flashing warning lights disconnected and all lettering removed or permanently obscured, except
56 when sold or transferred for the transportation of school children: *Provided*, That every county
57 board of education shall install forward-facing and rear-facing cameras on all school buses
58 purchased on or after July 1, 2019, for the purpose of enforcing this section and for any other
59 lawful purpose.

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

63 ~~(j)~~ (k) The State Board of Education shall promulgate a rule in accordance with the
64 provisions of §29A-3B-1 *et seq.* of this code governing the idling of school buses.

NOTE: The purpose of this bill is to provide that when a registered owner or lessee, of a motor vehicle that vehicle is involved in the overtaking and passing a stopped school, is charged for a violation and misdemeanor offense, the state is not relieved of its burden of proof.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.