

# **WEST VIRGINIA LEGISLATURE**

**2016 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 13**

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

[Originating in the Committee on the Judiciary;

Reported January 20, 2016.]

1 A BILL to amend and reenact §17C-12-7 of the Code of West Virginia, 1931, as amended, relating  
2 to offense of overtaking and passing school bus stopped for the purpose of receiving and  
3 discharging children; creating rebuttable inference for charging purposes that registered  
4 owner or lessee was operating vehicle in the event that the driver of the passing vehicle  
5 cannot be ascertained at time of alleged offense; and clarifying that service of process is  
6 pursuant to West Virginia Rule of Criminal Procedure 4 where identity of operator is not  
7 determined at the scene.

*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 \$150 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 \$500, or confined in jail not more than six  
15 months, or both fined and confined. Upon conviction of a third or subsequent violation of  
16 subsection (a), the driver shall be fined \$500, and confined not less than twenty-four hours in jail  
17 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.

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

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

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

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

31 or

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

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

38 ~~(e)~~(g) Any driver of a vehicle who willfully violates the provisions of subsection (a) of this

39 section, and the violation causes death, is guilty of a felony and, upon conviction, shall be confined  
40 in a state correctional facility not less than one year nor more than ten years and fined not less  
41 than \$1,000 nor more than \$3,000.

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

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

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

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