

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4349

BY DELEGATES HILL, STATLER, STANSBURY, KESSINGER,

DUKE, ESPINOSA, SHOTT, FAIRCLOTH, UPSON AND BLAIR

[Introduced February 2, 2016; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §17C-12-7 of the Code of West Virginia, 1931, as amended, relating
 2 to increasing the penalties for overtaking and passing a school bus stopped for the
 3 purpose of receiving and discharging children, and providing penalties in the event that
 4 the driver of the passing vehicle cannot be ascertained.

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~~ \$250 or more than ~~\$500~~
 13 \$750, or confined in jail not more than six months, or both fined and confined. Upon conviction of
 14 a second violation of subsection (a), the driver shall be fined \$500, or confined in jail not more
 15 than six 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 and lose his or her driver's license for no less than three months
18 nor more than six months.

19 (c) If, as evidenced by a video recording system, the identity of the driver cannot be
20 ascertained, then the registration plate number of the vehicle as recorded by a video recording
21 system or as provided in a sworn affidavit by a school bus driver, establishes a rebuttable
22 presumption for civil enforcement purposes that the owner or lessee of the vehicle was operating
23 the vehicle, and a fine of not less than \$50 nor more than \$200 may be assessed against the
24 owner.

25 (1) If a violation of this section occurs:

26 (A) The owner or operator of the school bus shall provide information concerning the
27 registration plate number to a magistrate of the county where the violation occurred.

28 (B) The Division of Motor Vehicles shall prepare and mail a notice of violation as follows:

29 (i) The notice of violation shall be sent by certified mail or personally served by a local law-
30 enforcement official to each person listed as owner;

31 (ii) The notice shall be mailed, postage prepaid, to the address shown on the vehicle
32 registration, which is presumed to be the last known address of the owner or owners;

33 (iii) Notice shall be mailed or served no later than ten days after either the date of the
34 violation or the date that a lessor provides sufficient information to identify who the lessee is.

35 (iv) Personal service is not required.

36 (v) The notice shall contain the following:

37 (I) Information advising the person of the violation, when and where it occurred and that
38 the violation may be contested.

39 (II) A warning advising the person receiving the notice:

40 (aa) That failure to contest the manner and time provided is an admission of liability;

41 (bb) That a default judgment may be entered on the notice; and

42 (cc) That a violation of this section may subject the owner or operator to civil penalties,
43 administrative fees, administrative hearing costs and collection fees and costs.

44 (2) Notwithstanding other provisions of this code to the contrary, this subsection does not
45 subject the owner or lessee to any criminal liability or any further administrative or other penalties
46 for the offense.

47 ~~(e)~~(d) In addition to the penalties prescribed in subsections (b) of this section, the
48 Commissioner of Motor Vehicles shall, upon conviction, suspend the drivers license of the person
49 so convicted:

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

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

52 or

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

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

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

63 ~~(f)~~(g) Every bus used for the transportation of school children shall bear upon the front and
64 rear of the bus a plainly visible sign containing the words "school bus" in letters not less than eight
65 inches in height. When a contract school bus is being operated upon a highway for purposes
66 other than the actual transportation of children either to or from school, all markings on the
67 contract school bus indicating "school bus" shall be covered or concealed. Any school bus sold

68 or transferred to another owner by a county board of education, agency or individual shall have
69 all flashing warning lights disconnected and all lettering removed or permanently obscured, except
70 when sold or transferred for the transportation of school children.

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

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

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

NOTE: The purpose of this bill is to increase the penalties for overtaking and passing a school bus stopped for the purpose of receiving and discharging children, and provide penalties in the event that the driver of the passing vehicle cannot be ascertained.

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