

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 3454**

By Delegates Hornbuckle, Walker, and E. Pritt

[Introduced February 14, 2023; 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 modifying the criminal penalties for overtaking or passing a stopped school bus loading or  
 3 unloading children with warning signals engaged.

*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: *Provided*,  
 18 That the criminal penalty of confinement in jail for a driver convicted pursuant to this subsection

19 applies only when the law enforcement officer issuing the citation can attest that person was  
20 driving the vehicle at the time of the violation.

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

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

34 (e) 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 and who was found to have been driving the vehicle at the time of the violation:

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

NOTE: The purpose of this bill is to make the criminal penalty of confinement in jail and the administrative penalty of driver's license suspension only apply for a conviction of passing or overtaking a school bus loading or unloading children applicable to persons known to have been driving the vehicle at the time of the violation.

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