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SENATE BILL NO. 1248

Offered January 12, 2011

Prefiled January 12, 2011

A BILL to amend and reenact §§ 46.2-844 and 46.2-859 of the Code of Virginia, relating to passing a stopped school bus; penalty.

Patrons—Vogel and Petersen

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-844 and 46.2-859 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-844. Passing stopped school buses; penalty; prima facie evidence.

The driver of a motor vehicle approaching from any direction a clearly marked school bus which is stopped on any highway, private road, or school driveway for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons, who, in violation of § 46.2-859, fails to stop his vehicle at the school bus, and remain stopped until all such persons are clear of the highway, private road or school driveway and the bus is put in motion, is subject to a civil penalty of \$250, and any prosecution shall be instituted and conducted in the same manner as prosecutions for traffic infractions.

A prosecution or proceeding under § 46.2-859 is a bar to a prosecution or proceeding under this section for the same act and a prosecution or proceeding under this section is a bar to a prosecution or proceeding under § 46.2-859 for the same act.

In any prosecution for which a summons charging a violation of this section was issued within ten days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) of this title shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred.

The testimony of the school bus driver, the supervisor of school buses or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

§ 46.2-859. Passing a stopped school bus; prima facie evidence.

A person is guilty of reckless driving who fails to stop, when approaching from any direction, any school bus which is stopped on any highway, private road or school driveway for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons, and to remain stopped until all the persons are clear of the highway, private road or school driveway and the bus is put in motion. The driver of a motor vehicle who fails to (i) bring his motor vehicle to a complete stop at a school bus that is stopped on any highway, private road, or school driveway for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons and (ii) remain stopped until all the persons are clear of the highway, private road, or school driveway and the bus is put in motion is guilty of reckless driving. The driver of a vehicle, however, need not stop when approaching a school bus if the school bus is stopped on the other roadway of a divided highway, on an access road, or on a driveway when the other roadway, access road, or driveway is separated from the roadway on which he is driving by a physical barrier or an unpaved area. The driver of a vehicle also need not stop when approaching a school bus which is loading or discharging passengers from or onto property immediately adjacent to a school if the driver is directed by a law-enforcement officer or other duly authorized uniformed school crossing guard to pass the school bus. This section shall apply to school buses which are equipped with warning devices prescribed in § 46.2-1090 and are painted yellow with the words "School Bus" in black letters at least eight inches high on the front and rear thereof. Only school buses which are painted yellow and equipped with the required lettering and warning devices shall be identified as school buses.

The testimony of the school bus driver, the supervisor of school buses or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

2. That an emergency exists and this act is in force from its passage.

INTRODUCED

SB1248