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HOUSE BILL NO. 1417

Offered January 11, 2017

Prefiled October 18, 2016

A BILL to amend and reenact §§ 46.2-844, 46.2-859, and 46.2-1040 of the Code of Virginia, relating to requirements of drivers approaching or immediately preceding a school bus.

Patrons—Ware (By Request) and Kory

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-844, 46.2-859, and 46.2-1040 of the Code of Virginia are amended and reenacted as follows:

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

A. The driver of a motor vehicle approaching from any direction *or immediately preceding* a clearly marked 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, who, in violation of § 46.2-859, fails to stop, *flash all four turn signals simultaneously to signal approaching motorists of the existing hazard whenever such vehicle is equipped with a device that will cause the four turn signals to flash simultaneously*, and remain stopped until all such persons are clear of the highway, private road, or school driveway 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 10 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.) 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. Such presumption shall be rebutted if (i) the owner of the vehicle files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation, or (iii) a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section is presented prior to the return date established on the summons issued pursuant to this section to the court adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise admissible evidence.

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.

B. A locality may, by ordinance, authorize the school division of the locality to install and operate a video-monitoring system in or on the school buses operated by the division or to contract with a private vendor to do so on behalf of the school division for the purpose of recording violations of subsection A. Such ordinance may direct that any civil penalty levied for a violation of subsection A shall be payable to the local school division. In any locality that has adopted such an ordinance, a summons for a violation of subsection A may be executed as provided in § 19.2-76.2 and, notwithstanding the provisions of § 19.2-76, the summons may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle contained in the records of the Department. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection A and (ii) instructions for filing such an affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.

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59 For purposes of this subsection, "video-monitoring system" means a system with one or more camera
60 sensors and computers installed and operated on a school bus that produces live digital and recorded
61 video of motor vehicles being operated in violation of § 46.2-859. All such systems installed shall, at a
62 minimum, produce a recorded image of the license plate and shall record the activation status of at least
63 one warning device as prescribed in § 46.2-1090 and the time, date, and location of the vehicle when
64 the image is recorded.

65 **§ 46.2-859. Passing a stopped school bus; prima facie evidence.**

66 A person driving a motor vehicle shall stop such vehicle when approaching, from any direction, *or*
67 *immediately preceding* any school bus ~~which~~ *that* is stopped on any highway, private road or school
68 driveway for the purpose of taking on or discharging children, the elderly, or mentally or physically
69 handicapped persons; ~~and~~. *The driver of such vehicle shall remain stopped and flash all four turn signals*
70 *simultaneously to signal approaching motorists of the existing hazard whenever such vehicle is equipped*
71 *with a device that will cause the four turn signals to flash simultaneously* until all the persons are clear
72 of the highway, private road or school driveway and the bus is put in motion; any person violating the
73 foregoing is guilty of reckless driving. The driver of a vehicle, however, need not stop when
74 approaching a school bus if the school bus is stopped on the other roadway of a divided highway, on an
75 access road, or on a driveway when the other roadway, access road, or driveway is separated from the
76 roadway on which he is driving by a physical barrier or an unpaved area. The driver of a vehicle also
77 need not stop when approaching *or immediately preceding* a school bus ~~which~~ *that* is loading or
78 discharging passengers from or onto property immediately adjacent to a school if the driver is directed
79 by a law-enforcement officer or other duly authorized uniformed school crossing guard to pass the
80 school bus. This section shall apply to school buses ~~which~~ *that* are equipped with warning devices
81 prescribed in § 46.2-1090 and are painted yellow with the words "School Bus" in black letters at least
82 eight inches high on the front and rear thereof. Only school buses ~~which~~ *that* are painted yellow and
83 equipped with the required lettering and warning devices shall be identified as school buses.

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

87 **§ 46.2-1040. Hazard lights.**

88 Motor vehicles, trailers, and semitrailers, when temporarily stopped on the traveled or paved portion
89 of the highway so as to create a traffic hazard, shall flash all four turn signals simultaneously to signal
90 approaching motorists of the existing hazard whenever such vehicle is equipped with a device ~~which~~
91 *that* will cause the four turn signals to flash simultaneously. All four turn signals may be flashed
92 simultaneously on a vehicle slowed or stopped at the scene of a traffic hazard, when traveling as part of
93 a funeral procession, *when temporarily stopped in accordance with § 46.2-859*, or when traveling at a
94 speed of ~~thirty~~ 30 miles per hour or less. Except for vehicles traveling as part of a funeral procession,
95 all four turn signals shall not be flashed simultaneously while the vehicle is traveling faster than ~~thirty~~
96 30 miles per hour.

97 School buses shall flash all four turn signals when approaching and stopping at railroad grade
98 crossings.