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HOUSE BILL NO. 1723

Offered January 11, 2023

Prefiled January 9, 2023

A BILL to amend and reenact §§ 46.2-844 and 46.2-859 of the Code of Virginia, relating to passing stopped school buses; purpose of stop; prima facie evidence.

Patrons—Simonds and Kory; Senator: Vogel

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; penalty.

A. The driver of a motor vehicle approaching from any direction 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 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 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.

Recorded images from a video-monitoring system that show the bus was stopped with at least one warning device prescribed in § 46.2-1090 activated shall be considered prima facie evidence that the bus was stopped for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons.

B. 1. For purposes of this ~~subsection~~ section, "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of § 46.2-859. All such systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.

2. 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,

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HB1723

59 including the address to which the affidavit is to be sent. If the summoned person fails to appear on the
60 date of return set out in the summons mailed pursuant to this section, the summons shall be executed in
61 the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by
62 mailing shall be instituted for failure to appear on the return date of the summons. Any summons
63 executed for violation of this section shall provide to the person summoned at least 30 business days
64 from the mailing of the summons to inspect information collected by a video-monitoring system in
65 connection with the violation.

66 3. Any private vendor contracting with a school division pursuant to this subsection may impose and
67 collect an administrative fee in addition to the civil penalty imposed for a violation of subsection A and
68 payable pursuant to this subsection, so as to recover the expenses of collecting any unpaid civil penalty
69 when such penalty remains due more than 30 days after the date of the mailing of the summons and
70 notice. The administrative fee shall be reasonably related to the actual cost of collecting the civil penalty
71 and shall not exceed \$100 per violation. The operator of the vehicle shall pay the unpaid civil penalty
72 and any administrative fee detailed in a notice or citation issued by the private vendor. If paid no later
73 than 60 days after the date of the mailing of the summons and notice, the administrative fee shall not
74 exceed \$25.

75 4. Any private vendor contracting with a school division pursuant to this subsection may enter into
76 an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision
77 B 30 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles
78 that improperly pass stopped school buses. Information provided to such private vendor shall be
79 protected in a database with security comparable to that of the Department of Motor Vehicles' system
80 and used only for enforcement against individuals who violate the provisions of this section. The school
81 division shall annually certify compliance with this subdivision and make all records pertaining to such
82 system available for inspection and audit by the Commissioner of Highways or the Commissioner of the
83 Department of Motor Vehicles or their designee. Any person who discloses personal information in
84 violation of the provisions of this subdivision shall be subject to a civil penalty of \$1,000 per disclosure.
85 Any unauthorized use or disclosure of such personal information shall be grounds for termination of the
86 agreement between the Department of Motor Vehicles and the private vendor.

87 **§ 46.2-859. Passing a stopped school bus; prima facie evidence.**

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

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

106 *Evidence that the bus was stopped with at least one warning device prescribed in § 46.2-1090*
107 *activated shall be considered prima facie evidence that the bus was stopped for the purpose of taking on*
108 *or discharging children, the elderly, or mentally or physically handicapped persons.*