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## SENATE BILL NO. 868

Senate Amendments in [ ] - January 24, 2023

Prefiled January 2, 2023

A *BILL to amend and reenact § 46.2-844 of the Code of Virginia, relating to passing stopped school buses; civil penalty.*

Patron Prior to Engrossment—Senator Cosgrove

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

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

**§ 46.2-844. Passing stopped school buses; prima facie evidence; civil 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 \$250 ] ; ~~and any [ \$50 ]~~ . *Such person shall not be liable for court costs. Any prosecution pursuant to this section shall be instituted and conducted in the same manner as prosecutions for traffic infractions.*

*Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. Any finding in a general district court that an operator has violated this subsection shall be appealable to the circuit court in a civil proceeding.*

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 [ 40 30 ] [ ~~business~~ ] 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. 1. For purposes of this subsection, "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

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59 presumption that he was the operator of the vehicle at the time of the alleged violation through the  
60 filing of an affidavit as provided in subsection A and (ii) instructions for filing such an affidavit,  
61 including the address to which the affidavit is to be sent. If the summoned person fails to appear on the  
62 date of return set out in the summons mailed pursuant to this section, the summons shall be executed in  
63 the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by  
64 mailing shall be instituted for failure to appear on the return date of the summons. Any summons  
65 executed for violation of this section shall provide to the person summoned at least 30 business days  
66 from the mailing of the summons to inspect information collected by a video-monitoring system in  
67 connection with the violation.

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

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