

HOUSE BILL NO. 492

INTRODUCED BY S. VINTON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MOTOR VEHICLE VIOLATIONS WHEN OVERTAKING A SCHOOL BUS; ALLOWING A VIDEO RECORDING MADE ON A SCHOOL BUS TO SUBSTANTIATE A WRITTEN REPORT OF A MOTOR VEHICLE VIOLATION WHEN OVERTAKING A SCHOOL BUS; CREATING AN INFERENCE THAT THE OWNER OR LESSEE OF A MOTOR VEHICLE WAS THE OPERATOR AT THE TIME OF THE VIOLATION WHEN THE LICENSE PLATE NUMBER OF THE MOTOR VEHICLE IS KNOWN; CREATING A CIVIL PENALTY; AND AMENDING SECTIONS 61-8-206 AND 61-8-351, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-8-206, MCA, is amended to read:

"61-8-206. Local traffic control devices. (1) Local authorities in their respective jurisdictions shall place and maintain traffic control devices upon highways under their jurisdiction that they consider necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances or to regulate, warn, or guide traffic. All traffic control devices must conform to the state manual and specifications.

(2) (a) An automated enforcement system designed to detect traffic violations that is attached to a traffic control device may not be used to enforce traffic laws.

(b) Subsection (2)(a) does not apply to automated enforcement systems attached to traffic control devices at railroad grade crossings or cameras located on school buses."

Section 2. Section 61-8-351, MCA, is amended to read:

"61-8-351. Meeting or passing school bus -- vehicle operator liability for violation -- penalty. (1) Upon overtaking from either direction a school bus that has stopped on the highway or street to receive or discharge school children, a driver of a motor vehicle:

(a) shall stop the motor vehicle not less than approximately 30 feet before reaching the school bus when there is in operation on the bus a visual flashing red signal as specified in 61-9-402; and

(b) may not proceed until the children have entered the school bus or have alighted and reached the side of the highway or street and until the school bus ceases operation of its visual flashing red signal.

1 (2) The driver of a motor vehicle shall slow to a rate of speed that is reasonable under the conditions
2 existing at the point of operation and must be prepared to stop when meeting or overtaking from either direction
3 a school bus that is preparing to stop on the highway or street to receive or discharge school children as indicated
4 by flashing amber lights as specified in 61-9-402.

5 (3) Each bus used for the transportation of school children must bear upon the front and rear plainly
6 visible signs containing the words "SCHOOL BUS" in letters not less than 8 inches in height and, in addition, must
7 be equipped with visual signals meeting the requirements of 61-9-402. Amber flashing lights must be actuated
8 by the driver approximately 150 feet in cities and approximately 500 feet in other areas before the bus is stopped
9 to receive or discharge school children on the highway or street. Red lights must be actuated by the driver of the
10 school bus whenever but only whenever the school bus is stopped on the highway or street whether inside or
11 outside the corporate limits of any city or town to receive or discharge school children. However, a school district
12 board of trustees may, in its discretion, adopt a policy prohibiting the operation of amber or red lights when a
13 school bus is stopped at the school site to receive or discharge school children and the receipt or discharge does
14 not involve street crossing by the children. The lights may not be operated in violation of that policy.

15 (4) The requirements that a driver of a motor vehicle shall stop when a school bus receives or discharges
16 school children under subsection (1) and the requirements that amber and red lights must be actuated by a
17 school bus driver under subsection (3) do not apply when a school bus receives or discharges school children
18 in a designated school bus pullout on a state highway. A designated school bus pullout must meet the following
19 requirements:

20 (a) The pullout must be located on a roadway separated by a physical barrier, such as a guardrail, raised
21 median, drainage ditch, or irrigation ditch.

22 (b) The separate roadway must be designed, constructed, and signed specifically for use by school
23 buses, with sufficient space for safe ingress and egress from the main traveled way.

24 (c) The pullout must be approved by the local affected school district, by a resolution of the district
25 trustees, and by the district superintendent as a mandatory school bus stop for receiving and discharging school
26 children.

27 (5) When a school bus is being operated upon a highway for purposes other than the actual
28 transportation of children either to or from school or for school functions, all markings on the bus indicating
29 "SCHOOL BUS" must be covered or concealed.

30 (6) The driver of a motor vehicle upon a highway with separate roadways need not stop upon meeting

1 or passing a school bus that is on a different roadway or when upon a controlled-access highway and the school
2 bus is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians are not
3 permitted to cross the roadway.

4 (7) (a) A person who observes a violation of this section may prepare a written, in addition to an oral,
5 report indicating that a violation has occurred. The report may contain information concerning the violation,
6 including:

7 (i) the time and approximate location at which the violation occurred;

8 (ii) the license plate number and color of the motor vehicle involved in the violation;

9 (iii) identification of the motor vehicle as a passenger car, truck, bus, motorcycle, or other type of motor
10 vehicle; and

11 (iv) a description of the person operating the motor vehicle when the violation occurred.

12 (b) A video recording may be used to substantiate a report filed under subsection (7)(a) and may be used
13 to specifically substantiate the information in subsections (7)(a)(i) through (7)(a)(iv) as long as the video recording
14 shows the school bus's warning lights and the license plate of the vehicle committing the violation.

15 ~~(b)(c)~~ A report under subsection (7)(a) constitutes particularized suspicion under 46-5-401(1) that an
16 operator of the vehicle committed a violation of this section.

17 (8) (a) If the identity of the person operating the motor vehicle in violation of this section is unknown but
18 the motor vehicle's license plate number is known, it may be inferred that the owner or lessee of the motor vehicle
19 was the operator at the time of the violation for purposes of a probable cause determination.

20 (b) If there is more than one owner or lessee associated with the motor vehicle's registration, the
21 inference created by subsection (8)(a) must be applied to the first owner or lessee listed on the registration.

22 (c) If an owner or lessee is charged with violating this section based on subsection (8)(a) or (8)(b), the
23 owner or lessee is subject to a civil penalty of up to \$500 and the violation may not be counted as a moving
24 violation under 61-11-203(2)(m) for purposes of suspending a driver's license.

25 ~~(8)(9) Violation~~ Except as provided in subsection (8)(c), a violation of subsection (1) is punishable upon
26 conviction by a fine of not more than \$500."

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