

HOUSE BILL NO. 366

INTRODUCED BY D. HAWK, T. WELCH, J. COHENOUR, E. KERR-CARPENTER, J. CARLSON, R.
MARSHALL, R. FITZGERALD, E. BOLDMAN, B. USHER

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE PENALTIES FOR ILLEGALLY PASSING A
STOPPED SCHOOL BUS; PROVIDING INCREASING PENALTIES FOR FIRST, SECOND, AND THIRD AND
SUBSEQUENT OFFENSES; AND AMENDING SECTION 61-8-351, MCA."

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

Section 1. Section 61-8-351, MCA, is amended to read:

"61-8-351. Meeting or passing school bus -- vehicle operator liability for violation -- penalty. (1)

(a) When a school bus that has stopped on the roadway or street to receive or discharge school children has actuated flashing red lights as specified in 61-9-402, a driver of a motor vehicle that is approaching the school bus from either direction:

- (i) shall stop the motor vehicle not less than approximately 30 feet from the school bus; and
- (ii) may not proceed past the school bus until the school bus ceases operation of its flashing red lights.

(b) A driver of a motor vehicle may not overtake a stopped school bus on the right side of the school bus.

(2) When a school bus that is preparing to stop on the highway or street to receive or discharge school children has actuated flashing amber lights as specified in 61-9-402, a driver of a motor vehicle that is approaching the school bus from either direction shall slow to a rate of speed that is reasonable under the conditions existing at the point of operation and must be prepared to stop on the actuation of flashing red lights when the school bus has stopped.

(3) Each bus used for the transportation of school children must bear upon the front and rear plainly visible signs containing the words "SCHOOL BUS" in letters not less than 8 inches in height.

(4) (a) Each bus used for the transportation of school children must be equipped with visual

1 signals meeting the requirements of 61-9-402. Amber flashing lights must be actuated by the driver
2 approximately 150 feet in cities and approximately 500 feet in other areas before the bus is stopped to receive
3 or discharge school children on the highway or street. Red lights must be actuated by the driver of the school
4 bus only when the school bus is stopped on the highway or street to receive or discharge school children.

5 (b) A school district board of trustees may adopt a policy prohibiting the operation of amber or red
6 lights when a school bus is stopped at the school site to receive or discharge school children and the receipt or
7 discharge does not involve street crossing by the children. The lights may not be operated in violation of that
8 policy.

9 (c) If a school bus is stopped outside of the roadway and the school bus will receive or discharge
10 school children in a location outside of the roadway, the school bus may not actuate the flashing red lights so
11 long as the school children do not enter the roadway.

12 (5) (a) When a school bus route includes a bus stop that requires a school child to cross a
13 roadway, the school bus must be equipped with an extended stop arm that partially obstructs the roadway. A
14 school child may not cross a roadway to enter or exit from a school bus unless the roadway has been partially
15 obstructed by the extended stop arm.

16 (b) The extended stop arm must be equipped with additional flashing red lights as specified in 61-
17 9-402 and must be capable of extending a distance of at least 54 inches from the school bus at a height of not
18 less than 36 inches.

19 (c) The board of trustees shall approve each school bus stop that requires a school child to cross
20 a roadway.

21 (d) A school bus that experiences a mechanical problem or an emergency that requires the school
22 bus to stop at a nondesignated bus stop is not subject to the requirements of this subsection (5).

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

26 (7) The driver of a motor vehicle upon a highway with separate roadways need not stop upon
27 meeting or passing a school bus that is on a different roadway or when upon a controlled-access highway and
28 the school bus is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians

1 are not permitted to cross the roadway.

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

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

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

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

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

10 (b) A report under subsection (8)(a) constitutes particularized suspicion under 46-5-401(1) that an
11 operator of the vehicle committed a violation of this section.

12 (c) A person who observes a violation of this section may file a written or oral complaint with the
13 county sheriff's office. At the sheriff's discretion, the report may be transferred to the highway patrol or city
14 police department. The report must be investigated by a peace officer, and the investigating officer shall contact
15 the reporting party within 30 days to provide an update on the status or outcome of the investigation.

16 (9) (a) ~~Violation of subsection (1)(a) is punishable upon conviction by a fine of not more than~~
17 ~~\$500.~~ A person who violates subsection (1)(a) is guilty of a misdemeanor and is subject to the following
18 penalties:

19 (i) for a first offense, a fine of not less than \$500 or more than \$1,000, a sentence of community
20 service of not less than 50 hours or more than 100 hours, or both;

21 (ii) for a second offense, a fine of not less than \$2,000 \$1,000 or more than \$3,000 \$2,000, a
22 sentence of community service of not less than 100 hours or more than 200 hours, or both; and

23 (iii) for a third or subsequent offense, a fine of not less than \$5,000 \$3,000 or more than \$10,000
24 \$5,000, a sentence of imprisonment for a term of not less than 30 days, or both.

25 (b) Violation of subsection (1)(b) is a misdemeanor and is punishable on conviction by a fine of not
26 more than \$1,000, by imprisonment for not more than 6 months, or both.

27 (c) ~~It is a violation of subsection (5) for the~~ A driver of a motor vehicle to make WHO MAKES contact
28 with any portion of a ~~stopped~~ school bus STOPPED PURSUANT TO SUBSECTION (5), including MAKING CONTACT WITH

1 an extended stop arm, or ~~to make contact with~~ a school child within 30 feet of a school bus. ~~A violation under~~
2 ~~this subsection (9)(c) is~~ GUILTY OF a misdemeanor and is ~~punishable on conviction by a fine of not more than~~
3 ~~\$500~~ SUBJECT TO THE PENALTIES ALLOWED IN SUBSECTION (9)(A)."

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