

1 HB272
2 155818-1
3 By Representatives Colston, Melton, Moore (M), Scott,
4 McCampbell, Warren, Givan, Forte and Boyd
5 RFD: Public Safety and Homeland Security
6 First Read: 16-JAN-14

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8 SYNOPSIS: Under existing law, a driver of a vehicle
9 must stop upon meeting or overtaking from either
10 direction any school bus which has stopped on the
11 highway for the purpose of receiving or discharging
12 school children.

13 This bill would provide that the failure to
14 stop upon meeting or overtaking from either
15 direction any school bus which has stopped on the
16 highway for the purpose of receiving or discharging
17 school children may be enforced by means of video
18 images.

19 This bill would provide a civil penalty for
20 citations.

21 This bill would provide for notice and
22 procedures.

23 This bill would provide for a rebuttable
24 presumption.

25 This bill would provide for a transfer of
26 funds.
27

1 A BILL
2 TO BE ENTITLED
3 AN ACT
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5 To amend Section 32-5A-154, Code of Alabama 1975,
6 relating to the duty of the driver of a vehicle meeting or
7 overtaking a school bus and reporting of violations; to
8 provide that the failure to stop upon meeting or overtaking
9 from either direction any school bus which has stopped on the
10 highway for the purpose of receiving or discharging school
11 children may be enforced by means of video images; to provide
12 a civil penalty; to provide for notice and procedures; to
13 provide for a rebuttable presumption; and to provide for a
14 transfer of funds.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Section 32-5A-154, Code of Alabama 1975,
17 is amended to read as follows:

18 "§32-5A-154.

19 "(a) The driver of a vehicle upon meeting or
20 overtaking from either direction any school bus which has
21 stopped for the purpose of receiving or discharging any school
22 children on a highway, on a roadway, on school property, or
23 upon a private road or any church bus which has stopped for
24 the purpose of receiving or discharging passengers shall bring
25 the vehicle to a complete stop before reaching the school or
26 church bus when there is in operation on the school or church
27 bus a visual signal as specified in Section 32-5A-155. The

1 driver shall not proceed until the school or church bus
2 resumes motion or is signaled by the school or church bus
3 driver to proceed or the visual signals are no longer
4 actuated.

5 "(b) Every bus used for the transportation of school
6 children shall bear upon the front and rear thereof plainly
7 visible signs containing the words "school bus" in letters not
8 less than eight inches in height, and in addition shall be
9 equipped with visual signals meeting the requirements of
10 Section 32-5A-155, which shall be actuated by the driver of
11 the school bus only when the vehicle is stopped for the
12 purpose of receiving or discharging school children. The
13 visual signals shall not be actuated at any other time.

14 "(c) (1) Every bus used for the transportation of
15 passengers to or from church shall bear upon the front and
16 rear thereof plainly visible signs containing the words
17 "church bus" in letters not less than eight inches in height.
18 Visual signals meeting the requirements of Section 32-5A-155,
19 on a church bus, if any, may be actuated by the driver of the
20 church bus only when the vehicle is stopped for the purpose of
21 receiving or discharging passengers.

22 "(2) A bus operated by the Association for Retarded
23 Citizens of Alabama, or an affiliate thereof, transporting its
24 clients shall be considered a bus to which this section is
25 applicable.

26 "(d) The driver of a vehicle upon a divided highway
27 having four or more lanes which permits at least two lanes of

1 traffic to travel in opposite directions need not stop the
2 vehicle upon meeting a school or church bus which is stopped
3 in the opposing roadway or if the school or church bus is
4 stopped in a loading zone which is a part of or adjacent to
5 such highway and where pedestrians are not permitted to cross
6 the roadway.

7 "(e) If the driver of any vehicle is witnessed by a
8 peace officer or the driver of a school bus to have violated
9 this section and the identity of the driver of the vehicle is
10 not otherwise apparent, it shall be an inference that the
11 person in whose name such vehicle is registered committed the
12 violation. In the event that charges are filed against
13 multiple owners of a motor vehicle, only one of the owners may
14 be convicted and court costs may be assessed against only one
15 of the owners. If the vehicle which is involved in the
16 violation is registered in the name of a rental or leasing
17 company and the vehicle is rented or leased to another person
18 at the time of the violation, the rental or leasing company
19 may rebut the inference by providing the peace officer or
20 prosecuting authority with a copy of the rental or lease
21 agreement in effect at the time of the violation.

22 "(f) (1) Upon first conviction, a person violating
23 subsection (a) shall be punished by a fine of not less than
24 one hundred fifty dollars (\$150) nor more than three hundred
25 dollars (\$300).

26 "(2) On a second conviction, a person convicted of
27 violating subsection (a) shall be punished by a fine of not

1 less than three hundred dollars (\$300) nor more than five
2 hundred dollars (\$500) and shall complete at least 100 hours
3 of community service. In addition, the Director of the
4 Department of Public Safety shall suspend the driving
5 privileges or driver's license of the person convicted for a
6 period of 30 days.

7 "(3) On a third conviction, a person convicted of
8 violating subsection (a) shall be punished by a fine of not
9 less than five hundred dollars (\$500) nor more than one
10 thousand dollars (\$1,000) and shall complete at least 200
11 hours of community service. In addition, the Director of the
12 Department of Public Safety shall suspend the driving
13 privileges or driver's license of the person convicted for a
14 period of 90 days.

15 "(4) On a fourth or subsequent conviction, a person
16 convicted of violating subsection (a) shall be guilty of a
17 Class C felony and punished by a fine of not less than one
18 thousand dollars (\$1,000) nor more than three thousand dollars
19 (\$3,000). In addition to the other penalties authorized, the
20 Director of the Department of Public Safety shall revoke the
21 driving privileges or driver's license of the person convicted
22 for a period of one year.

23 "(g) (1) As used in this subsection, the following
24 words have the following meanings:

25 "a. OWNER. The registrant of a motor vehicle, except
26 that the term may not include a motor vehicle rental company
27 when a motor vehicle registered by the company is being

1 operated by another person under a rental agreement with the
2 company.

3 "b. RECORDED IMAGES. Images recorded by a video
4 recording device mounted on a school bus with a clear view of
5 vehicles passing the bus on either side and showing the date
6 and time the recording was made and an electronic symbol
7 showing the activation of amber lights, flashing red lights,
8 stop arms, and brakes.

9 "c. VIDEO RECORDING DEVICE. A camera capable of
10 recording digital images showing the date and time of the
11 images so recorded.

12 "(2) Subsection (a) may be enforced by using
13 recorded images as provided in this subsection.

14 "(3) For the purpose of enforcement pursuant to this
15 subsection:

16 "a. The driver of a motor vehicle shall be liable
17 for a civil monetary penalty if the vehicle is found, as
18 evidenced by recorded images, to have been operated in
19 disregard or disobedience of subsection (a) and the disregard
20 or disobedience was not otherwise authorized by law. The
21 amount of the fine shall be three hundred dollars (\$300) for a
22 first offense, seven hundred fifty dollars (\$750) for a second
23 offense, and one thousand dollars (\$1,000) for each subsequent
24 offense in a five-year period.

25 "b. The law enforcement agency authorized to enforce
26 this section shall send by regular mail addressed to the owner

1 of the motor vehicle postmarked no later than 10 days after
2 the date of the alleged violation all of the following:

3 "1. A citation for the alleged violation, which
4 shall include the date and time of the violation, the location
5 of the infraction, the amount of civil monetary penalty
6 imposed, and the date by which the civil monetary penalty
7 shall be paid.

8 "2. An image taken from the recorded image showing
9 the vehicle involved in the infraction.

10 "3. A copy of a certificate sworn to or affirmed by
11 a certified peace officer employed by a law enforcement agency
12 authorized to enforce this section and stating that, based
13 upon inspection of recorded images, the owner's motor vehicle
14 was operated in disregard or disobedience of subsection (a)
15 and that the disregard or disobedience was not otherwise
16 authorized by law.

17 "4. A statement of the inference provided by
18 subparagraph d. and of the means specified therein by which
19 the inference may be rebutted.

20 "5. Information advising the owner of the motor
21 vehicle of the manner and time in which liability as alleged
22 in the citation may be contested in court.

23 "6. A warning that failure to pay the civil monetary
24 penalty or to contest liability in a timely manner shall waive
25 any right to contest liability and result in a civil monetary
26 penalty.

1 "c. Proof that a motor vehicle was operated in
2 disregard or disobedience of subsection (a) shall be evidenced
3 by recorded images. A copy of a certificate sworn to or
4 affirmed by a certified peace officer employed by a law
5 enforcement agency and stating that, based upon inspection of
6 recorded images, a motor vehicle was operated in disregard or
7 disobedience of subsection (a) and that the disregard or
8 disobedience was not otherwise authorized by law shall be
9 prima facie evidence of the facts contained therein.

10 "d. Liability under this subsection shall be
11 determined based upon preponderance of the evidence. Prima
12 facie evidence that the vehicle described in the citation
13 issued pursuant to this subsection was operated in violation
14 of subsection (a) together with proof that the defendant was
15 at the time of the violation the registered owner of the
16 vehicle shall permit the trier of fact in its discretion to
17 infer that the owner of the vehicle was the driver of the
18 vehicle at the time of the alleged violation. An inference may
19 be rebutted if the owner of the vehicle presents any of the
20 following:

21 "1. Testifies under oath in open court or submits to
22 the court a sworn notarized statement that he or she was not
23 the operator of the vehicle at the time of the alleged
24 violation and identifies the name of the operator of the
25 vehicle at the time of the alleged violation.

26 "2. Presents to the court a certified copy of a
27 police report showing that the vehicle had been reported to

1 the police as stolen prior to the time of the alleged
2 violation.

3 "(4) A violation for which a civil penalty is
4 imposed pursuant to this subsection may not be considered a
5 moving traffic violation for the purpose of points assessment.
6 The violation shall be deemed noncriminal, and imposition of a
7 civil penalty pursuant to this subsection may not be deemed a
8 conviction and may not be made a part of the operating record
9 of the person upon whom the liability is imposed, nor shall it
10 be used for any insurance purposes in the provision of motor
11 vehicle insurance coverage.

12 "(5) If a person summoned by regular mail fails to
13 appear on the date of return set out in the citation and has
14 not paid the penalty for the violation or filed a police
15 report or notarized statement, then he or she shall then be
16 summoned a second time by certified mail with a return receipt
17 requested. The second summons shall include all information
18 required by this subsection for the initial summons and shall
19 include a new date of return. If a person summoned by
20 certified mail again fails to appear on the date of return set
21 out in the second citation and has to pay the penalty or file
22 an appropriate document for rebuttal, the person summoned
23 shall have waived the right to contest the violation and shall
24 be liable for the civil monetary penalty.

25 "(6) Any court having jurisdiction over violations
26 of subsection (a) shall have jurisdiction over cases arising
27 under this subsection and shall be authorized to impose the

1 civil monetary penalty provided by this subsection. Except as
2 otherwise provided in this subsection, the provisions of law
3 governing jurisdiction, procedure, defenses, adjudication,
4 appeal, and payment and distribution of penalties otherwise
5 applicable to violations of subsection (a) shall apply to
6 enforcement under this subsection.

7 "(7) Recorded images made for purposes of this
8 subsection may not be a public record.

9 "(8) A governing authority may not impose a civil
10 penalty under this subsection on the owner of a motor vehicle
11 if the operator of the vehicle was arrested or issued a
12 citation and notice to appear by a peace officer for the same
13 violation.

14 "(9) A school system may enter into an
15 intergovernmental agreement with a local governing authority
16 to offset expenses regarding the implementation and ongoing
17 operation of video recording devices serving the purpose of
18 capturing recorded images of motor vehicles unlawfully passing
19 a school bus.

20 "~~(g)~~ (h) Any law to the contrary notwithstanding, the
21 Alabama habitual felony offender law shall not apply to a
22 conviction of a felony pursuant to subsection (f), and a
23 conviction of a felony pursuant to subsection (f) shall not be
24 a felony conviction for purposes of the enhancement of
25 punishment pursuant to Alabama's habitual felony offender law.

26 "~~(h)~~ (i) All fines and penalties imposed pursuant to
27 this section shall be forwarded immediately upon collection by

1 the officer of the court who collects the proceeds to the
2 general fund of the respective agency that enforced this
3 section.

4 "~~(i)~~ (j) Neither reckless driving nor any other
5 traffic infraction is a lesser included offense under a charge
6 of overtaking and passing a school bus or church bus."

7 Section 2. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.