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CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws - School Bus Passenger Safety Act**

3 FOR the purpose of authorizing a law enforcement agency to issue through the mail a
4 citation providing for a civil penalty based on certain reports of school bus
5 operators concerning the failure to stop for a school vehicle; establishing a
6 maximum civil penalty; modifying the jurisdiction of the District Court of
7 Maryland for a certain purpose and providing that recipients of citations under
8 this Act may elect to stand trial before the District Court; requiring the District
9 Court to prescribe a certain penalty and certain ~~forms~~ citation form; requiring
10 the Motor Vehicle Administration, in consultation with the State Department of
11 Education, to prescribe a certain form to report a certain violation to a law
12 enforcement agency; prescribing certain procedures relating to infractions,
13 adjudications, and penalties; prescribing an alternative procedure whereby a
14 person receiving a citation involving certain classes of vehicles may provide
15 certain information to the District Court; authorizing a law enforcement agency
16 to reissue a citation based on certain information received from the District
17 Court; requiring the District Court to provide certain information to the Motor
18 Vehicle Administration (MVA) and authorizing the MVA to refuse to register or
19 reregister, or to suspend the registration of a vehicle under certain
20 circumstances; providing that a civil penalty does not result in the assessment of
21 points by the MVA and may not be considered in the provision of motor vehicle
22 insurance; modifying provisions relating to issuance of warnings; altering the
23 number of points assessed by the MVA following a criminal conviction relating to
24 failure to stop for a school vehicle; defining a certain term; and generally
25 relating to the enforcement of the prohibition against passing a stopped school

1 vehicle under certain circumstances.

2 BY repealing and reenacting, with amendments,
3 Article - Courts and Judicial Proceedings
4 Section 4-401(13)
5 Annotated Code of Maryland
6 (1998 Replacement Volume)

7 BY repealing and reenacting, with amendments,
8 Article - Transportation
9 Section 16-402(a)(5), 21-706.1, and 26-401
10 Annotated Code of Maryland
11 (1998 Replacement Volume and 1998 Supplement)

12 BY repealing and reenacting, without amendments,
13 Article - Transportation
14 Section 21-706
15 Annotated Code of Maryland
16 (1998 Replacement Volume and 1998 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Courts and Judicial Proceedings**

20 4-401.

21 Except as provided in § 4-402 of this subtitle, and subject to the venue
22 provisions of Title 6 of this article, the District Court has exclusive original civil
23 jurisdiction in:

24 (13) A proceeding for a civil infraction under § 21-202.1 OR § 21-706.1 of
25 the Transportation Article.

26 **Article - Transportation**

27 16-402.

28 (a) After the conviction of an individual for a violation of Article 27, § 388, §
29 388A, or § 388B of the Code, or of the vehicle laws or regulations of this State or of any
30 local authority, points shall be assessed against the individual as of the date of
31 violation and as follows:

32 (5) Failing to stop for a school vehicle with alternately flashing
33 red warning lights..... [2] 3 points

1 21-706.

2 (a) If a school vehicle has stopped on a roadway and is operating the
3 alternately flashing red warning lights specified in § 22-228 of this article, the driver
4 of any other vehicle meeting or overtaking the school vehicle shall stop at least 20 feet
5 from the rear of the school vehicle, if approaching the school vehicle from its rear, or
6 at least 20 feet from the front of the school vehicle, if approaching the school vehicle
7 from its front.

8 (b) If a school vehicle has stopped on a roadway and is operating the
9 alternately flashing red warning lights specified in § 22-228 of this article, the driver
10 of any other vehicle meeting or overtaking the school vehicle may not proceed until
11 the school vehicle resumes motion or the alternately flashing red warning lights are
12 deactivated.

13 (c) This section does not apply to the driver of a vehicle on a divided highway,
14 if the school vehicle is on a different roadway.

15 21-706.1.

16 (a) (1) IN THIS SECTION, "OWNER" MEANS THE REGISTERED OWNER OF A
17 MOTOR VEHICLE OR A LESSEE OF A MOTOR VEHICLE UNDER A LEASE OF 6 MONTHS
18 OR MORE.

19 (2) "OWNER" DOES NOT INCLUDE A MOTOR VEHICLE RENTAL OR
20 LEASING COMPANY OR A HOLDER OF A SPECIAL REGISTRATION PLATE ISSUED
21 UNDER PART III OF TITLE 13, SUBTITLE 9 OF THIS ARTICLE.

22 (B) (1) If a school bus operator witnesses a violation of § 21-706 of this
23 subtitle, ~~WITHIN 3 DAYS~~ 24 HOURS OF THE VIOLATION the operator may [promptly]
24 report the violation to a law enforcement agency exercising jurisdiction where the
25 violation occurred.

26 (2) The report, to the extent possible, shall include:

27 (i) [Information pertaining to the identity of the alleged violator;

28 (ii)] The license number and color of the vehicle involved in the
29 violation;

30 [(iii)] (II) The DATE, [time] TIME, and location at which the
31 violation occurred; and

32 [(iv)] (III) An identification of the vehicle as an automobile, station
33 wagon, truck, bus, motorcycle, or other type of vehicle.

34 [(b)] (C) (1) UNLESS THE DRIVER OF THE MOTOR VEHICLE RECEIVED A
35 CITATION FROM A POLICE OFFICER AT THE TIME OF THE VIOLATION, THE OWNER
36 OR, IN ACCORDANCE WITH SUBSECTION (H)(2) OF THIS SECTION, THE DRIVER OF A

1 MOTOR VEHICLE THAT IS THE SUBJECT OF A REPORT UNDER SUBSECTION (B) OF
2 THIS SECTION IS SUBJECT TO A CIVIL PENALTY NOT TO EXCEED \$200.

3 (2) FOR PURPOSES OF THIS SECTION, THE DISTRICT COURT SHALL
4 PRESCRIBE:

5 (I) A UNIFORM CITATION FORM CONSISTENT WITH SUBSECTION
6 (D)(1) OF THIS SECTION; AND

7 (II) THE AMOUNT OF THE CIVIL PENALTY TO BE INSERTED ON THE
8 CITATION AND TO BE PAID BY PERSONS WHO CHOOSE TO PAY THE CIVIL PENALTY
9 WITHOUT APPEARING IN DISTRICT COURT; ~~AND~~.

10 ~~(H)~~ (3) THE ADMINISTRATION, IN CONSULTATION WITH THE
11 STATE DEPARTMENT OF EDUCATION, SHALL PRESCRIBE A FORM FOR SCHOOL BUS
12 OPERATORS TO USE TO REPORT A VIOLATION OF § 21-706 OF THIS SUBTITLE TO A
13 LAW ENFORCEMENT AGENCY.

14 (D) WITHIN 2 WEEKS OF RECEIVING A COMPLETE REPORT FROM A SCHOOL
15 BUS OPERATOR UNDER SUBSECTION (B) OF THIS SECTION, A LAW ENFORCEMENT
16 AGENCY MAY MAIL TO THE OWNER ALLEGED TO BE LIABLE UNDER SUBSECTION
17 (C)(1) OF THIS SECTION:

18 (1) A CITATION WHICH SHALL INCLUDE:

19 (I) THE NAME AND ADDRESS OF THE REGISTERED OWNER OF THE
20 VEHICLE;

21 (II) THE REGISTRATION NUMBER AND DESCRIPTION OF THE
22 VEHICLE AS REPORTED BY THE SCHOOL BUS OPERATOR;

23 (III) THE VIOLATION CHARGED;

24 (IV) THE DATE, TIME, AND LOCATION OF THE VIOLATION;

25 (V) THE AMOUNT OF THE CIVIL PENALTY IMPOSED AND THE DATE
26 BY WHICH THE CIVIL PENALTY MUST BE PAID; AND

27 (VI) A STATEMENT ADVISING THE OWNER:

28 1. OF THE MANNER IN WHICH LIABILITY MAY BE
29 CONTESTED IN THE DISTRICT COURT; AND

30 2. THAT FAILURE TO PAY THE CIVIL PENALTY OR TO
31 CONTEST LIABILITY IN A TIMELY MANNER MAY RESULT IN REFUSAL OR SUSPENSION
32 OF THE MOTOR VEHICLE REGISTRATION; AND

33 (2) A COPY OF THE REPORT SUBMITTED BY THE SCHOOL BUS OPERATOR.

1 (E) IN ACCORDANCE WITH INSTRUCTIONS ON THE CITATION, A PERSON WHO
2 RECEIVES THE CITATION MAY PAY THE CIVIL PENALTY OR ELECT TO STAND TRIAL
3 FOR THE ALLEGED VIOLATION.

4 (F) (1) A REPORT OF THE SCHOOL BUS OPERATOR SHALL BE EVIDENCE OF
5 THE FACTS CONTAINED IN THE REPORT AND SHALL BE ADMISSIBLE IN ANY
6 PROCEEDING UNDER THIS SECTION.

7 (2) ADJUDICATION OF LIABILITY SHALL BE BASED ON A
8 PREPONDERANCE OF EVIDENCE.

9 (3) (I) THE DISTRICT COURT MAY CONSIDER IN DEFENSE OF A
10 VIOLATION:

11 1. SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,
12 THAT THE MOTOR VEHICLE OR REGISTRATION PLATES OF THE MOTOR VEHICLE
13 WERE STOLEN BEFORE THE VIOLATION OCCURRED AND WERE NOT UNDER THE
14 CONTROL OR POSSESSION OF THE OWNER AT THE TIME OF THE VIOLATION;

15 2. SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH
16 AND SUBSECTION (G) OF THIS SECTION, EVIDENCE THAT THE PERSON NAMED IN THE
17 CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION; AND

18 3. ANY OTHER EVIDENCE THAT THE DISTRICT COURT
19 DEEMS PERTINENT.

20 (II) TO SATISFY THE EVIDENTIARY BURDEN UNDER
21 SUBPARAGRAPH (I)1 OF THIS PARAGRAPH, THE PERSON NAMED IN THE CITATION
22 SHALL SUBMIT TO THE DISTRICT COURT PROOF THAT A POLICE REPORT ON THE
23 STOLEN MOTOR VEHICLE OR STOLEN REGISTRATION PLATES WAS FILED IN A
24 TIMELY MANNER.

25 (III) TO SATISFY THE EVIDENTIARY BURDEN UNDER
26 SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, THE PERSON NAMED IN THE CITATION
27 SHALL PROVIDE TO THE DISTRICT COURT EVIDENCE TO THE SATISFACTION OF THE
28 COURT OF WHO WAS OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION,
29 INCLUDING, AT A MINIMUM, THE OPERATOR'S NAME AND CURRENT ADDRESS.

30 (G) (1) THE PROVISIONS OF THIS SUBSECTION APPLY ONLY TO A CITATION
31 THAT INVOLVES A CLASS E (TRUCK) VEHICLE WITH A REGISTERED GROSS WEIGHT
32 OF 26,001 POUNDS OR MORE, CLASS F (TRACTOR) VEHICLE, CLASS G (TRAILER)
33 VEHICLE OPERATED IN COMBINATION WITH A CLASS F (TRACTOR) VEHICLE, AND
34 CLASS P (PASSENGER BUS) VEHICLE.

35 (2) TO SATISFY THE EVIDENTIARY BURDEN UNDER SUBSECTION
36 (F)(3)(I)2 OF THIS SECTION, THE PERSON NAMED IN A CITATION MAY PROVIDE TO THE
37 DISTRICT COURT A LETTER, SWORN TO OR AFFIRMED BY THE PERSON AND MAILED
38 BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, THAT:

1 (I) STATES THAT THE PERSON NAMED IN THE CITATION WAS NOT
2 OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION; AND

3 (II) PROVIDES THE NAME, ADDRESS, AND DRIVER'S LICENSE
4 IDENTIFICATION NUMBER OF THE PERSON WHO WAS OPERATING THE VEHICLE AT
5 THE TIME OF THE VIOLATION.

6 (H) (1) IF THE DISTRICT COURT FINDS THAT THE PERSON NAMED IN THE
7 CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION OR
8 RECEIVES EVIDENCE UNDER SUBSECTION (G)(2) OF THIS SECTION IDENTIFYING THE
9 PERSON DRIVING THE VEHICLE AT THE TIME OF THE VIOLATION, THE CLERK OF THE
10 COURT SHALL PROVIDE TO THE LAW ENFORCEMENT AGENCY ISSUING THE
11 CITATION A COPY OF ANY EVIDENCE SUBSTANTIATING WHO WAS OPERATING THE
12 VEHICLE AT THE TIME OF THE VIOLATION.

13 (2) WITHIN 2 WEEKS OF RECEIVING SUBSTANTIATING EVIDENCE FROM
14 THE DISTRICT COURT UNDER PARAGRAPH (1) OF THIS SUBSECTION, A LAW
15 ENFORCEMENT AGENCY MAY ISSUE A CITATION AS PROVIDED IN SUBSECTION (D) OF
16 THIS SECTION TO THE PERSON THAT THE EVIDENCE INDICATES WAS OPERATING
17 THE VEHICLE AT THE TIME OF THE VIOLATION.

18 (I) IF A PERSON FAILS TO COMPLY WITH A CITATION ISSUED UNDER THIS
19 SECTION OR FAILS TO PAY A CIVIL PENALTY, THE DISTRICT COURT SHALL NOTIFY
20 THE ADMINISTRATION AND THE ADMINISTRATION MAY REFUSE TO REGISTER OR
21 REREGISTER OR MAY SUSPEND THE REGISTRATION OF THE MOTOR VEHICLE.

22 (J) A VIOLATION FOR WHICH A CIVIL PENALTY IS IMPOSED UNDER THIS
23 SECTION:

24 (1) IS NOT A MOVING VIOLATION FOR THE PURPOSE OF ASSESSING
25 POINTS UNDER § 16-402 OF THIS ARTICLE AND MAY NOT BE RECORDED BY THE
26 ADMINISTRATION ON THE DRIVING RECORD OF THE OWNER OR DRIVER OF THE
27 VEHICLE; AND

28 (2) MAY NOT BE CONSIDERED IN THE PROVISION OF MOTOR VEHICLE
29 INSURANCE COVERAGE.

30 (K) [If the identity of the operator of the vehicle at the time the violation
31 occurred cannot be established, the] INSTEAD OF A CITATION, A law enforcement
32 agency [shall] MAY issue to the registered owner of the vehicle, a warning stating:

33 (1) That a report of a violation of § 21-706 of this subtitle was made to
34 the law enforcement agency and that the report described the owner's vehicle as the
35 vehicle involved in the violation;

36 (2) That there is insufficient evidence for the issuance of a citation;

37 (3) That the warning does not constitute a finding that the owner is
38 guilty of the violation; and

1 (4) The requirements of § 21-706 of this subtitle.

2 26-401.

3 If a person is taken before a District Court commissioner or is given a traffic
4 citation or a civil citation under § 21-202.1 OR § 21-706.1 of this article containing a
5 notice to appear in court, the commissioner or court shall be one that sits within the
6 county in which the offense allegedly was committed.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 1999.