



Romney Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

FINE INCREASE, FAILURE TO STOP FOR SCHOOL BUS

House Bill 5290 as enrolled
Public Act 103 of 1998
Third Analysis (5-29-98)

Sponsor: Rep. Paul Tesanovich
House Committee: Transportation
**Senate Committee: Transportation and
Tourism**

THE APPARENT PROBLEM:

Throughout the nation, drivers are required to stop for buses whose flashing red lights serve as a signal that the school bus is unloading children. Nonetheless, drivers sometimes overtake school buses, ignoring their flashing red lights, and the passengers cannot safely debark. The National Association for Pupil Transportation Directors has noted that this unlawful behavior is the most prevalent cause of death among what are sometimes called pupil transportation children.

According to the Motor Carrier Division of the Michigan State Police, there are 21,000 school buses in Michigan and they transport 850,000 school children each day. Although the extent of the problem in Michigan is not known, traffic safety experts report an increasing incidence of violations. During the 1996-97 school year, there was one fatality and one serious injury when vehicles bypassed school buses, and according to law enforcement officers, at least one fatality each year seems to have been a persistent and unacceptable norm.

A recent study in Florida estimated that as many as 10,000 vehicles bypass school buses there during each year. In order to more accurately document the incidence of the problem, and to design better regulatory and public education responses to punish and prevent the problem, safety officers in Indiana and Illinois have undertaken ride-along programs. Such a program is about to begin in Farmington Hills.

In the Farmington Hills School District, a large suburban district in southeastern Michigan where 9,000 students ride school buses each day, bus drivers have begun tabulating the number of drivers who bypass their school buses. The Farmington Hills bus fleet has more than 100 drivers. When possible, those drivers record the license plate number of those who unlawfully pass their stopped buses, and fax that

information to the Farmington Hills Police Department. The police then mail the owner of the vehicle a ticket. (The owner is presumed to be the violator.) During the 1996-97 school year, 108 tickets were issued to violators using this law enforcement approach. During the coming school year, bus drivers and community police plan to further document the extent of the problem. To do so, the Farmington Hills Police Department has received a \$10,000 grant from the fiscal year 1997-98 federal highway safety funds, administered by the Department of State Police Office of Highway Safety Planning. The funds will allow officers to ride the 20- to 30-stop bus routes, systematically record and videotape violators, issue tickets, and also use their documentation to design a cable public service community education campaign. Some argue that a greater deterrent is needed in order to heighten awareness of the law, to reduce the violations, and also to penalize those who would ignore the law and risk the death of school children.

THE CONTENT OF THE BILL:

House Bill 5290 would amend the Michigan Vehicle Code to require a judge, district court referee, or district court magistrate to order a higher fine and costs when a person violates the law that prohibits overtaking a school bus. Specifically, the court would be required to set a \$100 to \$500 civil fine, and assess court costs to the violator. The bill would take effect August 15, 1998.

Currently the law specifies that violators are subject to a civil fine of not more than \$100 and court costs. Under the bill, a person would have to be ordered to pay court costs, as provided in the code, and a civil fine of at least \$100 but not more than \$500, for violating Section 682 of the code, under which a driver is responsible for a civil infraction for failing to

House Bill 5290 (5-29-98)

stop for a school bus that is stopped and displaying flashing red lights, for improperly passing a stopped school bus at certain intersections, or for violating a substantially corresponding local ordinance. (In addition to this penalty, the portion of the vehicle code that describes unacceptable driving practices near school buses [MCL 257.682] also provides that the court may order the violator to perform up to 100 hours of community service work at a school.)

MCL 257.907

FISCAL IMPLICATIONS:

The Senate Fiscal Agency notes that the fiscal impact of this bill on state and local governments is indeterminate because fines collected under this proposal would vary based on two factors: the number of tickets given and the size of fines assessed for violations of this statute. The data needed to estimate these figures are not available.

However, the distributions of these fines would vary based on whether an individual was charged with a violation of Section 682 of the Michigan Vehicle Code (MCL 257.682) or a "local ordinance substantially corresponding" to this section as allowed under the bill.

Section 909 of the vehicle code (MCL 257.909) states that civil fines ordered for violations of the code "shall be exclusively applied to the support of public libraries and county law libraries" or the localities in which those violations were committed.

Revenues collected by local units of government for violations of corresponding local ordinances may be distributed at the prerogative of that government and need not be distributed in support of local libraries. (3-26-98)

ARGUMENTS:

For:

The fine assessed against drivers who overtake a school bus is too low. In fact, higher civil fines can be assessed by district judges against those who litter. Certainly overtaking a school bus that has stopped at the roadside to allow school children to debark is a more grievous offense than is littering. When a driver endangers the safety of children, his or her behavior merits a stronger penalty than the current law now allows district judges to impose.

Against:

The bill would set a mandatory minimum civil fine of \$100. Under the bill, judges or magistrates would be required to impose at least that penalty. Many in the law enforcement community claim that when mandatory minimum penalties are required by law, and when judges find either that the penalties are too severe, or that their discretionary sentencing power is infringed upon, the judge is sometimes apt to ignore the mandatory minimum fine altogether, and dismiss the charge. It is possible that the mandatory minimum fine to be imposed under this bill would have that effect. To eliminate this unintended possibility, it would be wiser to avoid setting a mandatory minimum fine, but instead to increase the maximum possible fine to \$500.

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.