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BUS—SCHOOL—FOUR OR MORE LANE HIGHWAYS—DRIVER OF MOTOR VEHICLE APPROACHING SCHOOL BUS—RECEIVING OR DISCHARGING SCHOOL CHILDREN — MUST STOP IF APPROACHING ON SAME SIDE OF HIGHWAY ON WHICH BUS IS STOPPED—NEED NOT STOP IF APPROACHING ON OPPOSITE SIDE OF HIGHWAY FROM WHICH BUS IS STOPPED. i.e., APPROACHING FROM FRONT OR MEETING BUS.

SYLLABUS:

On four or more lane highways, a driver of a motor vehicle, approaching a school bus which is receiving or discharging school children, must stop if approaching on the same side of the highway on which such bus is stopped, i. e., overtaking such bus, but need not stop if approaching on the opposite side of the highway from which such bus is stopped, i. e., approaching from the front or meeting such bus.

Columbus, Ohio, March 21, 1952

Col. George Mingle, Superintendent, Ohio State Highway Patrol
Columbus, Ohio

Dear Sir:

I am in receipt of your request for my opinion, reading in part as follows:

“* * * Are motorists required to stop for school buses that are discharging or taking on school children on four or more lane highways?”

Section 6307-73, General Code, as last amended by the 98th General Assembly by Amended Substitute House Bill No. 9, effective October 21, 1949, reads as follows:

“A. Except as provided in paragraph ‘B’ of this section, the driver of a vehicle upon a highway outside the limits of a municipal corporation, upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school child shall stop the vehicle not less than ten feet from such school bus and shall not proceed until such school bus resumes motion or until signaled by the driver to proceed.

“B. School buses operating on highways with four or more traffic lanes shall receive and discharge all school children on their residence side of the highway.

“No school bus driver shall start his bus until after any child who may have alighted therefrom shall have reached a place of safety on his residence side of the road.”

From a casual reading of this section, it appears that one of three possibilities necessarily is the answer to your question. A motorist may approach a stopped school bus either from the front or from the rear. Your question, therefore, is whether on four or more lane highways, Section 6307-73, General Code, (1) requires that such motorist must stop in either event, i.e., must stop whether approaching the bus from the front or the rear; (2) requires only that such motorist must stop when approaching the school bus from the rear; or (3) does not require the motorist to stop in either event.

Before discussing in detail the provisions of existing Section 6307-73, General Code, it might be well to trace its legislative history. Prior to its last amendment in 1949, Section 6307-73 read as follows:

“The driver of a vehicle, when approaching the front or rear of a school bus that has come to a stop upon a highway outside the limits of a municipal corporation, while in the act of receiving or discharging any school child shall stop such vehicle not less than ten feet from such school bus and keep such vehicle stationary until such child has entered said bus or has alighted and reached the side of such highway. No school bus driver shall start his bus until after any child who may have alighted therefrom shall have reached a place of safety.”

It is clear that under old Section 6307-73, a motorist was required to stop for a school bus receiving or discharging school children, whether approaching from the front or the rear and regardless of the number of lanes of the highway. This result was criticised by many on the basis that a motorist approaching from the front of a standing school bus on a wide highway, and particularly a divided highway, would pass such bus at a point so far away as not to be reasonably aware of the fact that such school bus had stopped. At the same time, old Section 6307-73 was criticised by others on the basis that the school children were not protected adequately by its provisions since the motorist was required to remain stationary “until such child has entered said bus or has alighted and reached the side of such highway.” The “side of such highway” had been held by the courts to mean that when a child alighted from the bus and stood even momentarily on the side of the highway where alighting, the motorist was free to resume movement, even though the child lived across the road and would have to cross to reach his home.

Apparently, with the latter criticism in mind, House Bill No. 9 was introduced in the 98th General Assembly. This bill proposed to amend Section 6307-73 by requiring the motorist to keep his vehicle stationary until the child had alighted and “reached a place of safety on the side of such highway on which his place of residence is located,” and by providing that the school bus driver should not start his bus until the child “has reached his residence side of the road.”

After reference to committee, Substitute House Bill No. 9 emanated therefrom. This bill contained three paragraphs, A, B, and C, and apparently was drafted in an attempt to eliminate both of the criticisms of old

Section 6307-73 heretofore discussed. Paragraph A was identical to paragraph A of existing Section 6307-73, as enacted by the passage of Amended Substitute House Bill No. 9. Paragraph B read as follows:

“B. The driver of a vehicle on a highway with four or more traffic lanes need not stop when he is approaching the front of a school bus which has stopped on a highway for the purpose of receiving or discharging any school child. The driver of all other vehicles on such highways, proceeding in the same direction as the school bus, shall comply with paragraph ‘A’ of this section.”

Paragraph C was identical to paragraph B as finally enacted. This bill passed the House but was amended on motion from the floor of the Senate, by the deletion of paragraph B and the substitution of paragraph C for the former paragraph B. Senate Journal, July 14, 1949, page 1084. The House then concurred in such amendment and the bill was passed as Amended Substitute Bill No. 9 on that same day.

Had Substituted House Bill No. 9 been enacted into law containing as it did paragraphs A, B and C, the answer to your question would have been abundantly clear. Or, had the General Assembly, at the same time that the language of paragraph B was deleted also deleted from paragraph A the language “Except as provided in paragraph ‘B’,” the answer to your question would have been different, but equally clear. The difficulty in arriving at an intelligent answer to your question arises from the fact that, as originally drafted, the language in paragraph A “Except as provided in paragraph ‘B’ ” had reference to entirely different language than that contained in paragraph B as finally enacted.

I turn now to a discussion of the specific language of existing Section 6307-73. Paragraph A sets forth, as a general rule of law, that the driver of a vehicle upon a highway outside of a municipal corporation must stop for a school bus receiving or discharging school children upon meeting or overtaking such bus *from either direction*. It also provides that such motorist shall not proceed until the school bus resumes motion or until signaled by the driver of the school bus to proceed. The latter provision, of course, eliminates one fault of the old section wherein the motorist could proceed when the child reached the “side of the highway.”

Paragraph A provides a course of conduct for the *driver of the vehicle meeting or overtaking a school bus* and not for the school bus driver. It provides that such driver is required to follow such course of

conduct "Except as provided in paragraph 'B'." This would indicate that paragraph B should contain language specifically prescribing a different course of conduct for the driver of such vehicle. Paragraph B of Substitute House Bill No. 9 did just that. By its terms it specifically prescribed a different set of rules to be followed by the driver of such vehicle on a highway of four or more traffic lanes. On the other hand, paragraph C of Substitute House Bill No. 9 (now paragraph B of Section 6307-73) provided certain rules of conduct to be followed by the *driver of the school bus* on highways with four or more traffic lanes.

We find, therefore, that paragraph A of Section 6307-73 provides a course of conduct or set of rules to be followed by the driver of a vehicle meeting or overtaking a stopped school bus "Except as provided in paragraph 'B'" and that such paragraph B does not contain any language specifically prescribing any other course of conduct or set of rules for such driver, but, instead, prescribes a course of conduct to be followed by the school bus driver on four or more lane highways. From a strict grammatical interpretation of Section 6307-73, it would appear that a motorist would be required to stop for a standing school bus whether approaching from the front or from the rear, regardless of the number of lanes of such highway. Such a construction would also be in accord with the probable intent of the author of the motion on the floor of the Senate to delete paragraph B of Substitute House Bill No. 9. Regardless of actual mental intent, however, I am limited in my interpretation to the language of the statute as enacted. Such a strict grammatical interpretation would have the effect of *completely* eliminating from paragraph A the language "Except as provided in paragraph 'B'." Because this is a criminal statute, required to be strictly construed against the state and in favor of a defendant, I am impelled to the conclusion that *some* meaning must be given to the language of exceptions as enacted.

Giving *some* meaning to such language, it may be urged that the effect of such language is to say that since paragraph B, as finally enacted, makes reference to highways of four or more traffic lanes, the exception provided in paragraph A would relieve *all* drivers on such highways from the requirement of stopping for school busses. Since, as pointed out above, a strict grammatical interpretation of the language of Section 6307-73 would require *all* drivers to *stop* regardless of the number of lanes of the highway, any effect to be given to the language of exception must be dependent upon implication. The specific language of existing para-

graph B provides that on highways of four or more lanes the school busses "shall receive and discharge school children on their residence side of the highway."

Recognizing that *some* meaning must be given to the exception provided in paragraph A, how would such language affect the course of conduct of the driver of the private vehicle? By requiring the school bus to stop on the residence side of a highway of four or more lanes, the other side of such highway, by implication, is opened up to the movement of traffic. The residence side on which the bus is required to stop is not so opened, however. It is common knowledge that in this day of ever increasing speed, most traffic accidents involving school busses or children entering or leaving such busses are caused by vehicles approaching such busses from the rear. In fact, you have informed me that over eighty per cent of such accidents involve this factual situation. I must reject, therefore, the contention that Section 6307-73 does not require that the driver of any vehicle on a four or more lane highway stop for a school bus loading or discharging school children, regardless of whether he is approaching such bus from the front or the rear.

While this question is not free from doubt, my conclusion is that on four or more lane highways, a driver of a motor vehicle, approaching a school bus which is receiving or discharging school children, must stop if approaching on the same side of the highway on which such bus is stopped, i.e., overtaking such bus, but need not stop if approaching on the opposite side of the highway from which such bus is stopped, i.e., approaching from the front or meeting such bus.

I am fully cognizant of the fact that my conclusion, in practical operative effect, restores to such Section 6307-73 the language deleted from Substitute House Bill No. 9 by the Senate amendment of July 14, 1949. For the reasons set out above, however, I believe that in a criminal statute *some* effect must be given to the language of the exception contained in paragraph A. Faced with the choice of either giving effect to the language of the statute as *enacted*, or giving effect to the deletion of the language from a bill during its course from original introduction to final passage by the General Assembly, I, of course, must choose the former. In any event, a person charged with overtaking and passing a standing school bus on a four or more lane highway can not escape con-

viction on the ground that, by the deletion of paragraph B of Substitute House Bill No. 9, the General Assembly intended that motorists be required to stop when proceeding in either direction on such a highway.

Respectfully,

C. WILLIAM O'NEILL
Attorney General