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April 24, 2018

Honorable Chad Nimmer
Representative, 178th District
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RE: HB 978/AP

Dear Chairman Nimmer:

I write in response to your inquiry concerning the construction of Code Section 40-6-163(b), as amended by HB 978/AP (2018), specifically regarding whether a driver is required to stop upon meeting or passing a school bus that is on the other side of a turn lane.

Under current law, Code Section 40-6-163(b) provides:

(b) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway [....]

Code Section 40-1-1(53) provides that:

(53) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" shall refer to any such roadway separately, but not to all such roadways collectively.

Therefore, under current law, the driver of a vehicle upon a highway need not stop upon meeting or passing a school bus if the school bus is on a different roadway from the driver; meaning, if there is a berm (a raised strip of ground) or a shoulder or any other portion of land that is not improved, designed, or ordinarily used for vehicular travel between the roadway that the driver is upon and the roadway that the school bus is upon, the driver need not stop.

Code Section 40-6-163(b), as amended by HB 978/AP (2018), reads as follows:

(b) The driver of a vehicle upon a highway with separate roadways or a divided highway, including, but not limited to, a highway divided by a turn lane, need not stop upon meeting or passing a school bus which is on a different roadway or on another half of a divided highway, [....]

Pursuant to Code Section 40-1-1(13), "'divided highway' means a highway divided into two or more roadways by leaving an intervening space or by a physical barrier or by a clearly indicated dividing section so constructed as to impede vehicular traffic."

"In construing statutes, their ordinary signification shall be applied to all words, except in certain defined cases." *Jones v. Darby*, 174 Ga. 71, 72 (1931). Moreover, "it is well settled in this jurisdiction that all statutes are presumed to be enacted by the legislature with full knowledge of the existing condition of the law and with reference to it; that they are to be construed in connection and in harmony with the existing law; and that their meaning and effect will be determined in connection...with reference to other statutes...." *Spence v. Rowell*, 213 Ga. 145, 150 (1957).

As for "a highway divided by a turn lane," a proper construction of Code Section 40-6-163(b), as amended by HB 978/AP (2018), would appear to be that the driver of a vehicle upon such a highway not stop if the turn lane incorporates a berm or shoulder or intervening space or physical barrier that impedes vehicular traffic to the other roadway that the school bus is upon. The "including, but not limited to" language of Code Section 40-6-163(b), as amended by HB 978/AP (2018), would appear to indicate that "a highway divided by a turn lane" purports to clarify or to give an example of "separate roadways" and "divided highway." Hence, the turn lane spoken of in Code Section 40-6-163(b), as amended by HB 978/AP (2018), would appear to require that it be a turn lane on a separate roadway from the school bus.

In essence, given the definition of "divided highway" for Title 40, which incorporates the concept of a highway with separate roadways as already provided for under current law in Code Section 40-6-163(b), and given that "including, but not limited to, a highway divided by a turn lane" can only be applicable to a turn lane on a separate roadway from the school bus, Code Section 40-6-163(b), as amended by HB 978/AP (2018), would not seem to effect a substantive change from current law. Some type of berm or shoulder or intervening space or physical barrier indicating two distinct roadways would still seem to be required before a driver need not stop upon meeting or passing a school bus on a highway.

Let me know if you have any further questions regarding this matter.

Honorable Chad Nimmer
April 24, 2018
Page 3

Sincerely,



Julius B. Tolbert
Deputy Legislative Counsel

Approved for release: 

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