

SCHOOL BUS:
VEHICLES, MOTOR:
HIGHWAYS:
TRAFFIC:

Driver of school bus must stop his bus on the unpaved portion (shoulder) of the highway in discharging or taking on passengers, except when impracticable to do so. In event that it is impracticable to stop on shoulder of road, he may stop school bus on paved portion of highway only if school bus is plainly visible for at least 300 feet in each direction to drivers of other vehicles upon the highway. In such event, he may stop bus on paved portion of highway for only such time as is actually necessary to take on and discharge passengers.

March 2, 1961

Honorable Fred Dannov
Assistant Prosecuting Attorney
Boone County
Courthouse
Columbia, Missouri



Dear Mr. Dannov:

This is in reply to your letter of February 11, 1961, addressed to this office, which states in part:

"A situation has arisen in regard to the prosecution of violators passing school busses stopped for the discharge or loading of children (Sec. 304.050). This county's practice has been to advise the drivers that if prosecution is wanted, the drivers will have to stop on the traveled portion of the highway. This is in opposition to the practice of the State Patrol which tells the schools that the driver is to pull to the shoulder off of the road if possible.

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"The position of the patrol is different. They read the statute as making the duty of the bus driver to stop on the shoulder, unless such shoulder does not permit stopping. They feel the stopping on the shoulder increases the safety factor. They cite as controlling an opinion of the Attorney General to William Brown, Prosecuting Attorney of Sedalia, Missouri on April 15, 1950.

"In any event, for consistency and uniformity and because the statute is unclear as it

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states 'on the highway' and was enacted in 1957, seven years after the Attorney General's opinion, this office requests clarification as to the meaning of the statute as to where the drivers are to stop to unload and load."

Section 304.050, V.A.M.S., states as follows:

"1. The driver of a vehicle upon a highway 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 children and whose driver has in the manner prescribed by law given the signal to stop, shall stop the vehicle before reaching such school bus and shall not proceed until such school bus resumes motion, or until signalled by its driver to proceed.

"3. No driver of a school bus shall take on or discharge passengers while the vehicle is upon the road or highway proper unless the vehicle so stopped is plainly visible for at least three hundred feet in each direction to drivers of other vehicles upon the highway and then only for such time as is actually necessary to take on and discharge passengers."

Section 304.015, V.A.M.S., provides for the parking and stopping of motor vehicles on Missouri highways. Said statute states:

"1. All vehicles not in motion shall be placed with their right side as near the right-hand side of the highway as practicable, except on streets of municipalities where vehicles are obliged to move in one direction only or parking of motor vehicles is regulated by ordinance."

Pursuant to Section 304.025, V.A.M.S., the definition of the word "highway" is as follows:

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"2. The word 'highway' whenever used in sections 304.014 to 304.026, shall mean any public road or thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality."

The word "highways" as used in the Motor Vehicle Laws, has been the subject of judicial comment in this state. In Crocker vs. Jett, 93 SW2d 74, loc. cit. 76, the following reference is made to the word:

"It is pertinent to observe in this connection that the word 'highways' is used in the statute in its popular, rather than its technical, sense, and is intended to include all highways traveled by the public, regardless of their legal status. Phillips v. Henson, 326 Mo. 282, 30 S.W. (2d) 1065."

In LaRue v. Borrman et al., 22 N.Y.S. 2d 209, the question for determination was a proper definition of the word "highway." The shoulders were held to be an integral part of the highway in the following language, l.c. 213:

"The shoulder of a highway is a part of the highway and may be used for travel."

Therefore, it may be stated that, as a result of the statutory definition quoted above and the liberal interpretation given by our courts, the word "highway" would include the shoulders of the highway in addition to the paved or traveled portion of said highway.

The word "practicable" as used in the Motor Vehicle Act is defined in Lauck v. Reis, 310 Mo. 184, l.c. 201, as synonymous with "possible and feasible." In Klohr v. Edwards, 94 SW2d 99, its meaning was compared with the word "practical," and the court stated, l.c. 104:

" * * * Though there is a difference in the strict lexical meaning of the two words, they are not uncommonly used as synonymous; that is, as meaning feasible, or capable of being done or accomplished.

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It is obviously in this sense that the word 'practical' is used in the instruction, and it could hardly be otherwise understood in the connection in which it is used. 49 C.J. 1309, 1310."

It thus follows that the driver of a motor vehicle may stop his motor vehicle on the paved portion of the highway, as near the right-hand side of the said paved portion of the highway thereof as practicable, only when the condition of the highway at the stopping point where it would be impracticable for the said driver to stop the said motor vehicle off of the said paved portion.

Section 301.010(23), V.A.M.S., defines a school bus as follows:

"'School bus,' any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes."

In this connection, the right or privilege of a school bus to stop on the highway would be guided by the rule applying to "motor vehicles" under the statute, i.e., school busses could not stop on paved portion of highway unless impracticable to do so, unless there is specific legislation concerning said school busses.

Section 304.050, V.A.M.S., states as follows:

"1. The driver of a vehicle upon a highway 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 children and whose driver has in the manner prescribed by law given the signal to stop, shall stop the vehicle before reaching such school bus and shall not proceed until such school bus resumes motion, or until signalled by its driver to proceed.

* * * *

"3. No driver of a school bus shall take on or discharge passengers while the vehicle

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is upon the road or highway proper unless the vehicle so stopped is plainly visible for at least three hundred feet in each direction to drivers of other vehicles upon the highway and then only for such time as is actually necessary to take on and discharge passengers."
(Underlining ours.)

It is to be noted that the Legislature used the phrase "on the highway" in Section 304.050(1), V.A.M.S., and "upon the road or highway proper" in Section 304.050(3), V.A.M.S.

Therefore, it is evident that the intention of the Legislature in Section 304.050(3) was to lay down the conditions which must be observed when the driver of a school bus is authorized to stop the bus on the paved portion of the highway because it is impracticable to stop on the shoulder.

CONCLUSION

The driver of a school bus must stop his bus on the unpaved portion (shoulder) of the highway in discharging or taking on passengers, except when impracticable to do so. In the event that it is impracticable to stop the school bus on the shoulder of the road, he may stop his school bus on the paved portion of the highway only if his school bus is plainly visible for at least three hundred feet in each direction to drivers of other vehicles upon the highway. In such event, however, he may stop said bus on the paved portion of the highway for only such time as is actually necessary to take on and discharge passengers.

This opinion supersedes the opinion rendered by this office on April 15, 1950, to William F. Brown, Prosecuting Attorney, Pettis County, Sedalia, Missouri, which opinion is hereby withdrawn.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, George W. Draper, II.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

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