

PASSING STOPPED SCHOOL BUS—STRIKING A PERSON CAUSING DEATH.—G.S. § 20-217.
FELONY.

The defendant has been charged with striking a person and causing the death of that person while passing a stopped school bus.

For you to find the defendant guilty of this offense, the State must prove six things beyond a reasonable doubt:

First, that a school bus¹ was being operated on a [street] [highway] [public vehicular area].²

Second, that the school bus bore upon its front and rear a plainly visible sign containing the words "school bus".

Third, that this school bus was [displaying an activated or extended mechanical stop sign] [flashing its red stoplights] and was stopped for the purpose of receiving or discharging passengers.

Fourth, that the defendant was the driver of a vehicle approaching this school bus on the same [street] [highway] [public vehicular area].

Fifth, that the defendant willfully [moved the defendant's vehicle] [[passed] [attempted to pass] the school bus] with the defendant's vehicle] before [the mechanical stop signal of the bus had been withdrawn] and [the flashing red stoplights had been turned off] and before the school bus had started to move.

1. School bus includes public school buses transporting children or school personnel, privately owned buses transporting children, and public school buses transporting senior citizens.

2. G.S. 20-217(c) provides that "the driver of a vehicle traveling in the opposite direction from the school bus, upon any road, highway or city street, that has been divided into two roadways, so constructed as to separate vehicular traffic between the two roadways by an intervening space (including a center lane for left turns if the roadway consists of at least four more lanes) or by a physical barrier, need not stop upon meeting and passing any school bus that has stopped in the roadway across the dividing space or physical barrier."

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And Sixth, that the defendant struck the victim causing the victim's death.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date a school bus was being operated on a [street] [highway] [public vehicular area], that it bore upon its front and rear a plainly visible sign containing the words "school bus", that this school bus was [displaying an activated or extended mechanical stop sign] [flashing its red stoplights] and was stopped for the purpose of discharging or receiving passengers, that a vehicle being operated by the defendant approached this school bus on the same [street] [highway] [public vehicular area], that the defendant willfully [moved the defendant's vehicle] [[passed] [attempted to pass] this school bus with the defendant's vehicle] before [the mechanical stop signal had been withdrawn] and [the flashing red stoplights had been turned off] and the school bus had started to move, and that the defendant struck the victim causing the victim's death, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.³

3. If there is evidence to support the submission of a lesser included offense, this last phrase would be amended as follows: "If you do not so find or have a reasonable doubt as to one or more of these things, then you would not return a verdict of guilty of striking a person and causing death while passing a stopped school bus, but would consider whether the defendant is guilty of"