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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993

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ENROLLED

Com. Sub. for
HOUSE BILL No. 2098

(By Delegate Mr. Specker, Mr. Chambers,
+ Del. Burk + Kessel)

— ● —

Passed March 16, 1993

In Effect 90 Days From Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2098

(By MR. SPEAKER, MR. CHAMBERS, AND
DELEGATES BURK AND KESSEL)

[Passed March 16, 1993; in effect 90 days from passage.]

AN ACT to amend article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section forty-nine, relating to the mandatory use of safety belts in the front seat of passenger vehicles; mandating the use of safety belts for all passengers in the back seat of passenger vehicles who are under the age of eighteen years; defining the term "passenger vehicle" for purposes of said section; creating exceptions for certain disabled persons and United States rural postal service carriers; providing a penalty for a violation of said section; limiting the enforcement of such violation to a secondary action when the driver of a motor vehicle has been detained for probable cause of violating another section of this code; providing that evidence of a violation of this section is not admissible to prove negligence, contributory negligence or comparative negligence or to mitigate damages; exception; when certain damages may be mitigated; establishing procedure for reducing certain damages; prohibiting the entry of points on a driver's record for a violation of this section; mandating the governor's highway safety program, in cooperation with other governmental

agencies, to initiate and conduct safety courses and educational programs encouraging compliance with safety belt usage laws; and clarifying the effect of this section on existing provisions governing the use of child passenger safety devices.

Be it enacted by the Legislature of West Virginia:

That article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section forty-nine, to read as follows:

ARTICLE 15. EQUIPMENT.

§17C-15-49. Operation of vehicles with safety belts; exception; penalty; civil actions; educational program by department of public safety.

1 (a) Effective the first day of September, one thousand
2 nine hundred ninety-three, a person may not operate a
3 passenger vehicle on a public street or highway of this
4 state unless the person, any passenger in the back seat
5 under eighteen years of age, and any passenger in the
6 front seat of such passenger vehicle is restrained by a
7 safety belt meeting applicable federal motor vehicle
8 safety standards. For the purposes of this section, the
9 term "passenger vehicle" means a motor vehicle which
10 is designed for transporting ten passengers or less,
11 including the driver, except that such term does not
12 include a motorcycle, a trailer, or any motor vehicle
13 which is not required on the date of the enactment of
14 this section under a federal motor vehicle safety
15 standard to be equipped with a belt system. The
16 provisions of this section shall apply to all passenger
17 vehicles manufactured after the first day of January,
18 one thousand nine hundred sixty-seven, and being 1968
19 models and newer.

20 (b) The required use of safety belts as provided herein
21 does not apply to a duly appointed or contracted rural
22 mail carrier of the United States postal service who is
23 actually making mail deliveries or to a passenger or
24 operator with a physically disabling condition whose

25 physical disability would prevent appropriate restraint
26 in such safety belt if the condition is duly certified by
27 a physician who shall state the nature of the disability
28 as well as the reason such restraint is inappropriate. The
29 division of motor vehicles shall adopt rules, in accordance
30 with the provisions of chapter twenty-nine-a of
31 this code, to establish a method to certify the physical
32 disability and to require use of an alternative restraint
33 system where feasible or to waive the requirement for
34 the use of any restraint system.

35 (c) Any person who violates the provisions of this
36 section shall be fined not more than twenty-five dollars.
37 No court costs or other fees shall be assessed for a
38 violation of this section. Enforcement of this section
39 shall be accomplished only as a secondary action when
40 a driver of a passenger vehicle has been detained for
41 probable cause of violating another section of this code.

42 (d) A violation of this section is not admissible as
43 evidence of negligence or contributory negligence or
44 comparative negligence in any civil action or proceeding
45 for damages, and shall not be admissible in mitigation
46 of damages: *Provided*, That the court may, upon motion
47 of the defendant, conduct an in camera hearing to
48 determine whether an injured party's failure to wear a
49 safety belt was a proximate cause of the injuries
50 complained of. Upon such a finding by the court, the
51 court may then, in a jury trial, by special interrogatory
52 to the jury, determine (1) that the injured party failed
53 to wear a safety belt and (2) that the failure to wear the
54 safety belt constituted a failure to mitigate damages.
55 The trier of fact may reduce the injured party's recovery
56 for medical damages by an amount not to exceed five
57 percent thereof. In the event the plaintiff stipulates to
58 the reduction of five percent of medical damages, the
59 court shall make the calculations and the issue of
60 mitigation of damages for failure to wear a safety belt
61 shall not be presented to the jury. In all cases, the actual
62 computation of the dollar amount reduction shall be
63 determined by the court.

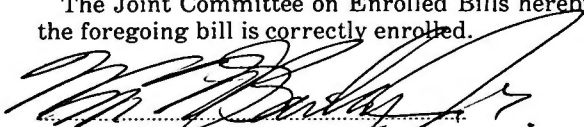
64 (e) Notwithstanding any other provision of this code
65 to the contrary, no points may be entered on any driver's

66 record maintained by the division of motor vehicles as
67 a result of a violation of this section.

68 (f) Commencing the first day of July, one thousand
69 nine hundred ninety-three, the governor's highway
70 safety program, in cooperation with the division of
71 public safety and any other state departments or
72 agencies and with county and municipal law-enforce-
73 ment agencies, shall initiate and conduct an educational
74 program designed to encourage compliance with safety
75 belt usage laws. This program shall be focused on the
76 effectiveness of safety belts, the monetary savings and
77 the other benefits to the public from usage of safety belts
78 and the requirements and penalties specified in this law.

79 (g) Nothing contained in this section shall be
80 construed to abrogate or alter the provisions of section
81 forty-six of this article, relating to the mandatory use
82 of child passenger safety devices.

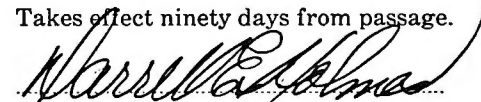
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

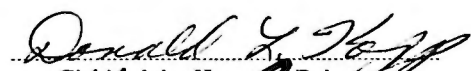

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Chairman Senate Committee

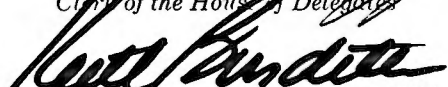

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Chairman House Committee


Originating in the House.

Takes effect ninety days from passage.

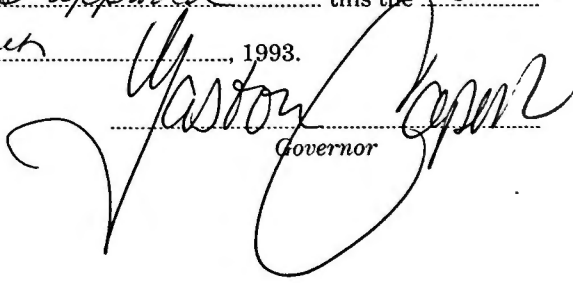

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker of the House of Delegates

The within is approved this the 23rd
day of March 1993.


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Governor

PRESENTED TO THE

GOVERNOR

Date 3/9/93

Time 2:06 pm