

H. B. 2861

(By Delegates Manchin, Longstreth and Caputo)

[Introduced February 20, 2015; referred to the

Committee on Roads and Transportation then the Judiciary.]

**FISCAL
NOTE**

A BILL to amend and reenact §17C-6-7 of the Code of West Virginia, 1931, as amended, relating to evidence of speed by the use of a device designed to measure and indicate the speed of a motor vehicle.

Be it enacted by the Legislature of West Virginia:

That §17C-6-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6. SPEED RESTRICTIONS.

§17C-6-7. Prima facie evidence of speed by devices employing microwaves or reflected light; placing of signs relative to radar or laser.

(a) The speed of a motor vehicle may be proved by with evidence obtained by use of law-enforcement officers using any device designed to measure and indicate or record the speed of a moving object by means of microwaves or reflected light. ~~when such evidence is obtained by members of the State Police, by police officers of incorporated municipalities in classes one, two and~~

1 ~~three, as defined in chapter eight-a of this code, by police officers of incorporated class four~~
2 ~~municipalities except upon controlled access or partially controlled access highways, and by the~~
3 ~~sheriff and his or her deputies.~~

4 (b) Law-enforcement officers of incorporated class four municipalities are prohibited from
5 using speed measuring devices authorized by subsection (a) on controlled access or partially
6 controlled access highways.

7 ~~(c) The Evidence~~ of the speed of a motor vehicle so obtained pursuant to this section shall
8 be accepted as prima facie evidence of the speed of the vehicle: ~~Provided, That the evidence of speed~~
9 ~~is if~~ obtained and detected by:

10 (1) A certified law-enforcement officer; or

11 (2) The chief executive of an incorporated class four municipal law-enforcement agency, who
12 has completed training for speed measuring devices used to obtain the speed of the motor vehicle
13 established under subsection (d).: ~~Provided, however, That~~

14 (d) The Governor's Committee on Crime, Delinquency and Correction shall, ~~on or before~~
15 January 1, 2012, establish or certify an eight-hour training and certification program and standards
16 for speed measuring device training. ~~that certified law-enforcement officers who utilize speed~~
17 measuring devices must complete or otherwise satisfy in order for any evidence of speed detected
18 by a speed measuring device put forward by the officer to be accepted of prima facie evidence. All
19 certified law-enforcement officers must have completed or otherwise satisfied the requirements of
20 this section prior to January 1, 2013.

21 (e) In order to inform and educate the public generally that speed of motor vehicles operating
22 within the state is being tested by radar or laser mechanisms, the Division of Highways shall locate

1 and place suitable and informative stationary and movable signs at strategic points on and along
2 highways in each county of the state giving notice to the public that such radar or laser mechanisms
3 are in use.

4 (f) For the purposes of this section:

5 (1) The terms “law-enforcement officer” and “chief executive” have the same meaning given
6 those terms in section one, article twenty-nine, chapter thirty of this code; and

7 (2) “Certified law-enforcement officer” means a person who is certified as a law-enforcement
8 officer pursuant to section five, article twenty-nine, chapter thirty of this code.

NOTE: The purpose of this bill is to clarify what evidence obtained by law-enforcement officers, with instruments using microwaves or reflected light, may be used to prove the speed of a motor vehicle.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.