

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2901

2015 Carryover

(BY DELEGATES MOFFATT, FOLK, R. PHILLIPS AND
HOWELL)

[Introduced January 13, 2016; referred to the
Committee on Roads and Transportation then the
Judiciary.]

1 A BILL to amend and reenact §17C-6-1, §17C-6-2 and §17C-6-3 of the Code of West Virginia,
 2 1931, as amended, all relating to the establishment of state speed restrictions; authorizing
 3 the Commissioner of Highways to determine the appropriate speed limit that is reasonable
 4 or safe under the conditions found to exist at any intersection or other place or upon any
 5 part of a highway, upon the basis of an engineering and traffic investigation; requiring
 6 commissioner to raise speeds on rural interstate highways if it is safe to do so; and when
 7 local authorities may alter speed limits.

Be it enacted by the Legislature of West Virginia:

1 That §17C-6-1, §17C-6-2 and §17C-6-3 of the Code of West Virginia, 1931, as amended,
 2 be amended and reenacted, all to read as follows:

ARTICLE 6. SPEED RESTRICTIONS.

§17C-6-1. Speed limitations generally; penalty.

1 (a) ~~No~~ A person may not drive a vehicle on a highway at a speed greater than is
 2 reasonable and prudent under the existing conditions and the actual and potential hazards. In
 3 every event speed shall be so controlled as may be necessary to avoid colliding with any person,
 4 vehicle or other conveyance on or entering the highways in compliance with legal requirements
 5 and the duty of all persons to use due care.

6 (b) Where no special hazard exists that requires lower speed for compliance with
 7 subsection (a) of this section, the speed of any vehicle not in excess of the limits specified in this
 8 section or established as authorized in this section is lawful, but any speed in excess of the limits
 9 specified in this subsection or established as authorized in this section or as otherwise determined
 10 and established by the commissioner upon the basis of an engineering and traffic investigation is
 11 unlawful. The following speed limits apply:

12 (1) Fifteen miles per hour in a school zone during school recess or while children are going

13 to or leaving school during opening or closing hours. A school zone is all school property,
14 including school grounds and any street or highway abutting the school grounds and extending
15 one hundred twenty-five feet along the street or highway from the school grounds. The speed
16 restriction does not apply to vehicles traveling on a controlled-access highway which is separated
17 from the school or school grounds by a fence or barrier approved by the Division of Highways nor
18 does the speed restriction apply when school is not in session; and

19 (2) Twenty-five miles per hour in any business or residence district; ~~and~~

20 ~~(3) Fifty-five miles per hour on open country highways, except as otherwise provided by~~
21 ~~this chapter.~~

22 The speeds set forth in this section may be altered as authorized in sections two and three
23 of this article.

24 (c) The driver of every vehicle shall, consistent with the requirements of subsection (a) of
25 this section, drive at an appropriate reduced speed when approaching and crossing an
26 intersection or railway grade crossing, when approaching and going around a curve, when
27 approaching a hill crest, when traveling upon any narrow or winding roadway and when a special
28 hazard exists with respect to pedestrians or other traffic or by reason of weather or highway
29 conditions.

30 (d) The speed limit on controlled access highways and interstate highways, where no
31 special hazard exists that requires a lower speed, shall be not less than fifty-five miles per hour
32 but may be higher as determined by the commissioner upon the basis of an engineering and
33 traffic investigation and the speed limits specified in subsection (b) of this section do not apply:
34 Provided, That the commissioner shall conduct an engineering and traffic investigation on
35 interstate highways located in rural areas of the state by July 1, 2015, to determine if the speed
36 limit in those areas may be safely raised to seventy-five miles per hour. If it is determined by the

37 commissioner upon the basis of that engineering and traffic investigation that the speed can be
38 safely raised, then the commissioner shall do so effective July 1, 2015.

39 (e) Unless otherwise provided in this section, any person who violates the provisions of
40 this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than
41 \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200;
42 and, upon a third or subsequent conviction within two years thereafter, shall be fined not more
43 than \$500: *Provided*, That if the third or subsequent conviction is based upon a violation of the
44 provisions of this section where the offender exceeded the speed limit by fifteen miles per hour
45 or more, then upon conviction, shall be fined not more than \$500 or confined in ~~the county or~~
46 ~~regional~~ jail for not more than six months, or both fined and confined.

47 (f) Any person who violates the provisions of subdivision (1), subsection (b) of this section
48 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor
49 more than \$500: *Provided*, That if the conviction is based upon a violation of the provisions of
50 subdivision (1), subsection (b) of this section where the offender exceeded the speed limit by
51 fifteen miles per hour or more in the presence of one or more children, then upon conviction, shall
52 be fined not less than \$100 nor more than \$500 or confined in ~~the regional or county~~ jail for not
53 more than six months, or both fined and confined.

54 (g) If an owner or driver is arrested under the provisions of this section for the offense of
55 driving above the posted speed limit on a controlled access highway or interstate highway and if
56 the evidence shows that the motor vehicle was being operated at ten miles per hour or less above
57 the speed limit, then, upon conviction thereof, that person shall be fined not more than \$5, plus
58 court costs.

59 (h) Any person operating a commercial motor vehicle engaged in the transportation of coal
60 on the coal resource transportation road system who violates subsection (a), (b) or (c) of this

61 section shall, upon conviction, be subject to fines in triple the amount otherwise provided in
62 subsection (e) of this section.

63 (i) If an owner or driver is convicted under the provisions of this section for the offense of
64 driving above the speed limit on a controlled-access highway or interstate highway of this state
65 and if the evidence shows that the motor vehicle was being operated at ten miles per hour or less
66 above the speed limit, then notwithstanding the provisions of section four, article three, chapter
67 seventeen-b of this code, a certified abstract of the judgment on the conviction ~~shall~~ may not be
68 transmitted to the Division of Motor Vehicles: *Provided*, That the provisions of this subsection
69 do not apply to conviction of owners or drivers who have been issued a commercial driver's license
70 as defined in chapter seventeen-e of this code, if the offense was committed while operating a
71 commercial vehicle.

72 (j) If an owner or driver is convicted in another state for the offense of driving above the
73 maximum speed limit on a controlled-access highway or interstate highway and if the maximum
74 speed limit in the other state is less than the maximum speed limit for a comparable controlled-
75 access highway or interstate highway in this state, and if the evidence shows that the motor
76 vehicle was being operated at ten miles per hour or less above what would be the maximum
77 speed limit for a comparable controlled-access highway or interstate highway in this state, then
78 notwithstanding the provisions of section four, article three, chapter seventeen-b of this code, a
79 certified abstract of the judgment on the conviction shall not be transmitted to the Division of Motor
80 Vehicles or, if transmitted, shall not be recorded by the division, unless within a reasonable time
81 after conviction, the person convicted has failed to pay all fines and costs imposed by the other
82 state: *Provided*, That the provisions of this subsection do not apply to conviction of owners or
83 drivers who have been issued a commercial driver's license as defined in chapter seventeen-e of
84 this code, if the offense was committed while operating a commercial vehicle.

§17C-6-2. Establishment of state speed zones.

1 ~~Whenever~~ The ~~state road~~ commissioner shall determine the appropriate speed limit upon
 2 the basis of an engineering and traffic investigation that ~~any speed limit set forth in this article is~~
 3 ~~greater or less than~~ is reasonable or safe under the conditions found to exist at any intersection
 4 or other place or upon any part of a highway, ~~said~~ the commissioner may determine and declare
 5 a reasonable and safe speed limit ~~thereat~~ which shall be effective at all times or during hours of
 6 daylight or darkness or at such other times as may be determined when appropriate signs giving
 7 notice thereof are erected at ~~such~~ the intersection or other place or part of the highway.

§17C-6-3. When local authorities may alter speed limits.

1 (a) *At intersection.* -- Whenever local authorities within their respective jurisdictions
 2 determine upon the basis of an engineering and traffic investigation that the speed permitted
 3 under this chapter at any intersection is greater than is reasonable or safe under the conditions
 4 found to exist at ~~such~~ an intersection, ~~such~~ the local authority subject to subsection (e) of this
 5 section shall determine and declare a reasonable and safe speed limit ~~thereat~~ at the intersection,
 6 which shall be effective at all times or during hours of daylight or darkness or at such other times
 7 as may be determined when appropriate signs giving notice thereof are erected at such
 8 intersection or upon the approaches thereto.

9 (b) *Authority to increase twenty-five mile limit.* -- Local authorities in their respective
 10 jurisdictions may ~~in their discretion~~, but subject to subsection (e) of this section, authorize by
 11 ordinance higher speeds than those stated in section one of this article upon through highways
 12 or upon highways or portions thereof where there are no intersections or between widely spaced
 13 intersections, which higher speed shall be effective at all times or during hours of daylight or at
 14 such other times as may be determined when signs are erected giving notice of the authorized
 15 speed, but local authorities shall do not have authority to modify or alter the basic rule set forth in

16 subsection (a), section one of this article or in any event to authorize by ordinance a speed in
17 excess of ~~fifty-five miles per hour~~ the limit determined appropriate by the commissioner .

18 (c) *Authority to decrease ~~fifty-five mile~~ speed limit.* -- Whenever local authorities within
19 their respective jurisdictions determine upon the basis of an engineering and traffic investigation
20 that the speed under this chapter upon open country highway outside a business or residence
21 district is greater than is reasonable or safe under the conditions found to exist upon such street
22 or highway, the local authority may determine and declare a reasonable and safe limit thereon
23 but in no event less than thirty-five miles per hour and subject to subsection (e) of this section,
24 which reduced limit shall be effective at all times or during hours of darkness or at other times as
25 may be determined when appropriate signs giving notice thereof are erected upon such street or
26 highway.

27 (d) *Authority to decrease twenty-five mile limit.* -- A municipality may ~~in its discretion~~, but
28 subject to subsection (e) of this section, authorize by ordinance lower speeds than those stated
29 in subdivision (2), subsection (b), section one of this article upon local dedicated rights-of-way in
30 a residential district or portions thereof, which lower speed shall be effective at all times or during
31 hours of daylight or at such other times as may be determined when signs are erected giving
32 notice of the authorized speed.

33 (e) *Alteration of limits on state highways in municipalities.* -- Alteration of limits on state
34 highways or extensions thereof in a municipality by local authorities ~~shall~~ are not ~~be~~ effective until
35 ~~such~~ the alteration has been approved by the Commissioner of Highways.

NOTE: The purpose of this bill is to authorize the Commissioner of Highways to determine the appropriate speed limit that is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a highway, based on an engineering and traffic investigation. The bill requires the commissioner to raise speeds on rural interstate highways if it is safe to do so. The bill also states when local authorities may alter speed limits.

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