

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 2364**

BY DELEGATES HAMILTON, AMBLER, A. EVANS, STATLER,

R. ROMINE, HICKS, RODIGHEIRO, HAMRICK, ELDRIDGE,

LYNCH AND FRICH

[Passed April 6, 2017; in effect ninety days from passage.]



1 AN ACT to amend and reenact §3-1-37 of the Code of West Virginia, 1931, as amended and to  
2 amend and reenact §3-9-9 of said Code, all relating to restrictions on presence and  
3 conduct at or within one hundred feet of polls; prohibiting persons other than voters and  
4 election officials from being or remaining within one hundred feet of entrance of polling  
5 place while polls open; permitting person delivering voter to polling place to discharge  
6 voter within one hundred feet of entrance of polling place; requiring person delivering voter  
7 to remove vehicle one hundred feet until the voter is to be transported from polling place  
8 or another voter delivered; permitting vehicles delivering voters who require assistance to  
9 remain within one hundred feet of entrance until voter is to be transported from polling  
10 place; defining electioneering; prohibiting electioneering in or within one hundred feet of  
11 polling place on election day; prohibiting electioneering in or within one hundred feet of  
12 early voting polling places during early voting periods; providing exceptions to  
13 electioneering prohibitions for persons upon his or her private property; clarifying that  
14 electioneering on private property near polling places must conform to other existing laws  
15 and ordinances; and making stylistic changes to outdated language.

*Be it enacted by the Legislature of West Virginia:*

1 That §3-1-37 of the Code of West Virginia, 1931, as amended, be amended and reenacted  
2 and that §3-9-9 of said Code be amended and reenacted; all to read as follows:

**ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

**§3-1-37. Restrictions on presence and conduct at polls.**

1 (a) Except as otherwise provided in this section, no person, other than the election officers  
2 and voters going to the election room to vote and returning therefrom, may be or remain within  
3 one hundred feet of the outside entrance to the building housing the polling place while the polls  
4 are open. This subsection does not apply to persons who reside or conduct business within such  
5 distance of the entrance to the building housing the polling place, while in the discharge of their

6 legitimate business, or to persons whose business requires them to pass and repass within one  
7 hundred feet of such entrance.

8 (b) A person who is delivering a voter to a polling place by motor vehicle may drive such  
9 vehicle to a convenient and accessible location to discharge the voter, notwithstanding that the  
10 location is within one hundred feet of the outside entrance to the building housing the polling  
11 place. Upon discharging such voter from the vehicle, the person shall remove the vehicle from  
12 within one hundred feet of the entrance until such time as the voter is to be transported from the  
13 polling place or another voter delivered: *Provided*, That vehicles delivering voters who require  
14 assistance by reason of blindness, disability or advanced age may remain within one hundred  
15 feet of the entrance until such time as the voter is to be transported from the polling place.

16 (c) The election commissions shall limit the number of voters in the election room so as to  
17 preserve order. No person may approach nearer than five feet to any booth or compartment while  
18 the election is being held, except the voters to prepare their ballots, or the poll clerks when called  
19 on by a voter to assist in the preparation of his or her ballot, and no person, other than election  
20 officers and voters engaged in receiving, preparing and depositing their ballots, may be permitted  
21 to be within five feet of any ballot box, except by authority of the board of election commissioners,  
22 and then only for the purpose of keeping order and enforcing the law.

23 (d) Not more than one person may be permitted to occupy any booth or compartment at  
24 one time. No person may remain in or occupy a booth or compartment longer than may be  
25 necessary to prepare his or her ballot, and in no event longer than five minutes, except that any  
26 person who claims a disability pursuant to section thirty-four of this article shall have additional  
27 time up to ten additional minutes to prepare his or her ballot. No voter, or person offering to vote,  
28 may hold any conversation or communication with any person other than the poll clerks or  
29 commissioners of election, while in the election room.

30 (e) The provisions of this section do not apply to persons rendering assistance to blind  
31 voters as provided in section thirty-four of this article or to any child fourteen years of age or

32 younger who accompanies a parent, grandparent or legal guardian who is voting. Any dispute  
33 concerning the age of a child accompanying a parent, grandparent or legal guardian who is voting  
34 shall be determined by the election commissioners.

**ARTICLE 9. OFFENSES AND PENALTIES.**

**§3-9-9. Electioneering defined; unlawful acts at polling places; exceptions; penalties.**

1 (a) As used in this section, "electioneering" means the displaying of signs or other  
2 campaign paraphernalia, the distribution of campaign literature, cards, or handbills, the soliciting  
3 of signatures to any petition, or the solicitation of votes for or against any bona fide candidate or  
4 ballot question in a manner which expressly advocates the election or defeat of the candidate or  
5 expressly advocates the passage or defeat of the ballot question. "Electioneering" does not  
6 include exit polling, so long as persons conducting exit polling are not otherwise engaging in  
7 electioneering activities described above, or bumper stickers or signs affixed to a person's vehicle  
8 which is parked within or passing through a distance of one hundred feet of the entrance to a  
9 polling place while such person is voting or transporting any voter to the polls.

10 (b) No officer of election may disclose to any person the name of any candidate for whom  
11 a voter has voted. No officer of election may do any electioneering on election day.

12 (c) No person may do any electioneering on election day within any polling place, or within  
13 one hundred feet of the outside entrance to the building housing the polling place. No person may  
14 do any electioneering in the polling place or within one hundred feet of the outside entrance of  
15 any polling place where early voting is conducted during the period in which early voting is offered  
16 during the hours while such early voting is actually taking place. Nothing in this subsection shall  
17 prohibit a citizen from doing any electioneering upon his or her own private property, regardless  
18 of distance from the polling place, so long as that electioneering conforms to other existing laws  
19 and ordinances.

20 (d) No person may apply for or receive any ballot in any polling place, other than that in  
21 which the person is entitled to vote, nor may any person examine a ballot which any voter has

22 prepared for voting, or solicit the voter to show the same, nor ask, nor make any arrangement,  
23 directly or indirectly, with any voter, to vote an open ballot. No person, except a commissioner of  
24 election, may receive from any voter a ballot prepared by him or her for voting. No voter may  
25 receive a ballot from any person other than one of the poll clerks; nor may any person other than  
26 a poll clerk deliver a ballot to a commissioner of election to be voted by such commissioner. No  
27 voter may deliver any ballot to a commissioner of election to be voted, except the one he or she  
28 receives from the poll clerk. No voter may place any mark upon his or her ballot, or suffer or permit  
29 any other person to do so, by which it may be afterward identified as the ballot voted by him or  
30 her.

31 (e) Whoever violates any provision of this section shall be guilty of a misdemeanor and,  
32 on conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in jail  
33 for not more than one year, or both fined and confined.

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

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2017.

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*Governor*