

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

House Bill 4042

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AND FRICH

[Reported down February 14, 2018; Referred to the

Committee on Education then the Judiciary.]

1 A BILL to amend and reenact §17C-6-1 of the Code of West Virginia, 1931, as amended, relating
2 to redefining school zone.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. SPEED RESTRICTIONS.

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

1 (a) No person may drive a vehicle on a highway at a speed greater than is reasonable and
2 prudent under the existing conditions and the actual and potential hazards. In every event speed
3 shall be controlled as necessary to avoid colliding with any person, vehicle or other conveyance
4 on or entering the highways in compliance with legal requirements and the duty of all persons to
5 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 is unlawful. The following
10 speed limits apply:

11 (1) Fifteen miles per hour in a school zone during school recess or while children are going
12 to or leaving school during opening or closing hours. A school zone is all school property, including
13 school grounds and any street or highway abutting the school grounds and extending one
14 hundred twenty-five feet along the street or highway from the school grounds and, in the case of
15 school property not abutting a street or highway but accessed through a right-of-way granted for
16 entrance to school property, a school zone is all school property, including school grounds and
17 any property within the access right-of-way, and extending one hundred twenty-five feet along the
18 street or highway from the entrance to the access right-of-way. The West Virginia Division of
19 Highways shall erect signage indicating the place of entry and exit of each school zone. Upon a
20 formal vote and a written request by a county board of education to expand a school zone to a
21 road that is adjacent to school property or from the entrance to an access right-of-way, the West

22 Virginia Division of Highways shall expand the school zone by erecting new signage indicating
23 the expanded school zone's location and speed limit within ninety days of receiving the request:
24 *Provided*, That the school zone may not be expanded more than one hundred twenty-five feet
25 along an adjacent road unless the division determines that the additional extension is needed and
26 necessary for the safety of the school children. The speed restriction does not apply to vehicles
27 traveling on a controlled-access highway which is separated from the school or school grounds
28 by a fence or barrier approved by the Division of Highways;

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

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

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

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

40 (d) The speed limit on controlled access highways and interstate highways, where no
41 special hazard exists that requires a lower speed, shall be not less than fifty-five miles per hour
42 and the speed limits specified in subsection (b) of this section do not apply.

43 (e) Unless otherwise provided in this section, any person who violates the provisions of
44 this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than
45 \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200;
46 and, upon a third or subsequent conviction within two years thereafter, shall be fined not more
47 than \$500: *Provided*, That if the third or subsequent conviction is based upon a violation of the

48 provisions of this section where the offender exceeded the speed limit by fifteen miles per hour
49 or more, then upon conviction, shall be fined not more than \$500 or confined in jail for not more
50 than six months, or both fined and confined.

51 (f) Any person who violates the provisions of subdivision (1), subsection (b) of this section
52 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor
53 more than \$500: *Provided*, That if the conviction is based upon a violation of the provisions of
54 subdivision (1), subsection (b) of this section where the offender exceeded the speed limit by
55 fifteen miles per hour or more in the presence of one or more children, then upon conviction, shall
56 be fined not less than \$100 nor more than \$500 or confined in jail for not more than six months,
57 or both fined and confined: *Provided, however, That* if the signage required by subdivision (1) is
58 not present in the school zone at the time of the violation, then any person who violates said
59 provision is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than
60 \$25.

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

66 (h) Any person operating a commercial motor vehicle engaged in the transportation of coal
67 on the coal resource transportation road system who violates subsection (a), (b) or (c) of this
68 section shall, upon conviction, be subject to fines in triple the amount otherwise provided in
69 subsection (e) of this section.

70 (i) If an owner or driver is convicted under the provisions of this section for the offense of
71 driving above the speed limit on a controlled access highway or interstate highway of this state
72 and if the evidence shows that the motor vehicle was being operated at ten miles per hour or less
73 above the speed limit, then notwithstanding the provisions of section four, article three, chapter

74 seventeen-b of this code, a certified abstract of the judgment on the conviction shall not be
75 transmitted to the Division of Motor Vehicles: *Provided*, That the provisions of this subsection do
76 not apply to conviction of owners or drivers who have been issued a commercial driver's license
77 as defined in chapter seventeen-e of this code, if the offense was committed while operating a
78 commercial vehicle.

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

NOTE: The purpose of this bill is to redefine school zone to facilitate placement of school zone signs.

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