

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 622

FISCAL
NOTE

BY SENATOR BOSO

[Introduced February 19, 2018; Referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend and reenact §17C-15-49 of the Code of West Virginia, 1931, as amended,
2 relating to imposing additional costs on violations of statutes requiring safety-belt usage
3 in motor vehicles; creating a special revenue fund in the State Treasury to be known as
4 the Emergency Medical Services Equipment and Training Fund; specifying the purposes
5 for which amounts in the fund may be expended; providing that balances in the fund at
6 the end of a fiscal year do not revert to the General Revenue Fund; and authorizing the
7 Office of Emergency Medical Services to expend amounts deposited into the fund.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. EQUIPMENT.

§17C-15-49. Operation of vehicles with safety belts; exception; penalty; civil actions; educational program by West Virginia State Police.

1 (a) A person may not operate a passenger vehicle on a public street or highway of this
2 state unless the person, any passenger in the back seat under 18 years of age, and any
3 passenger in the front seat of the passenger vehicle is restrained by a safety belt meeting
4 applicable federal motor vehicle safety standards. For the purposes of this section, the term
5 "passenger vehicle" means a motor vehicle which is designed for transporting ten passengers or
6 less, including the driver, except that the term does not include a motorcycle, a trailer, or any
7 motor vehicle which is not required on the date of the enactment of this section under a federal
8 motor vehicle safety standard to be equipped with a belt system. The provisions of this section
9 apply to all passenger vehicles manufactured after January 1, 1967, and being 1968 models and
10 newer.

11 (b) The required use of safety belts as provided herein does not apply to a duly appointed
12 or contracted rural mail carrier of the United States Postal Service who is actually making mail
13 deliveries or to a passenger or operator with a physically disabling condition whose physical
14 disability would prevent appropriate restraint in the safety belt if the condition is duly certified by
15 a physician who states the nature of the disability as well as the reason the restraint is

16 inappropriate. The Division of Motor Vehicles shall adopt rules, in accordance with the provisions
17 of chapter 29A of this code, to establish a method to certify the physical disability and to require
18 use of an alternative restraint system where feasible or to waive the requirement for the use of
19 any restraint system.

20 (c) Any person who violates the provisions of this section shall be fined \$25. No court
21 costs or other fees may be assessed for a violation of this section: Provided, That for any
22 conviction of a violation of the provisions of this section, the circuit court, magistrate court, or
23 municipal court shall impose a court cost in the amount of \$10. The costs collected shall be
24 deposited into a special revenue fund to be known as the Emergency Medical Services Equipment
25 and Training Grant Fund within the State Treasury. Expenditures from the fund by the Office of
26 Emergency Medical Services, Bureau for Public Health, Department of Health and Human
27 Resources are authorized from collections. The fund may only be used for purposes of providing
28 grants to equip and train emergency medical service personnel or emergency medical service
29 providers, as defined in §16-4C-3 of this code. Any balance remaining in the fund at the end of
30 any fiscal year does not revert to the General Revenue Fund, but remains in the Emergency
31 Medical Services Equipment and Training Grant Fund.

32 (d) A violation of this section is not admissible as evidence of negligence or contributory
33 negligence or comparative negligence in any civil action or proceeding for damages, and is not
34 admissible in mitigation of damages: *Provided*, That the court may, upon motion of the defendant,
35 conduct an in camera hearing to determine whether an injured party's failure to wear a safety belt
36 was a proximate cause of the injuries complained of. Upon a finding by the court, the court may
37 then, in a jury trial, by special interrogatory to the jury, determine: (1) That the injured party failed
38 to wear a safety belt; and (2) that the failure to wear the safety belt constituted a failure to mitigate
39 damages. The trier of fact may reduce the injured party's recovery for medical damages by an
40 amount not to exceed five percent thereof. In the event the plaintiff stipulates to the reduction of
41 five percent of medical damages, the court shall make the calculations and the issue of mitigation

42 of damages for failure to wear a safety belt may not be presented to the jury. In all cases, the
43 actual computation of the dollar amount reduction shall be determined by the court.

44 (e) Notwithstanding any other provision of this code to the contrary, no points may be
45 entered on any driver's record maintained by the Division of Motor Vehicles as a result of a
46 violation of this section.

47 (f) The Governor's Highway Safety Program, in cooperation with the West Virginia State
48 Police and any other state departments or agencies and with county and municipal law-
49 enforcement agencies, shall initiate and conduct an educational program designed to encourage
50 compliance with safety belt usage laws. This program shall be focused on the effectiveness of
51 safety belts, the monetary savings and the other benefits to the public from usage of safety belts
52 and the requirements and penalties specified in this law.

53 (g) Nothing contained in this section abrogates or alters the provisions of §17C-15-46 of
54 this code relating to the mandatory use of child passenger safety devices.

NOTE: The purpose of this bill is to impose additional court costs of \$10 on violators of statutes requiring safety belt usage, to be used to provide grants to equip and train emergency medical service personnel or emergency medical service providers.

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