

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2897**

BY DELEGATES C. THOMPSON, HARTMAN, DEAN, R.  
THOMPSON, LAVENDER-BOWE, ESTEP-BURTON, BOGGS,  
HORNBUCKLE, ROWAN, BROWN AND WALKER

[Introduced February 7, 2019; Referred  
to the Committee on Technology and Infrastructure  
then Education.]

1 A BILL to amend and reenact §17C-6-1 of the Code of West Virginia, 1931, as amended, relating  
 2 to driving restrictions in school zones; specifying that the speed limit restriction for school  
 3 zones applies during school recess or while children are going to or leaving school during  
 4 opening or closing hours and whenever school zone flashing beacons are active; requiring  
 5 that school zone flashing beacons be activated whenever students are present at a school  
 6 for student activities occurring outside of a school's regular hours of operation.

*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~~ a vehicle not  
 8 exceeding the speed limits specified in this section or established as authorized in this section is  
 9 lawful, but any speed ~~in excess of~~ exceeding the limits specified in this subsection or established  
 10 as authorized in this section is unlawful. The following 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 and whenever school zone flashing beacons  
 13 are active. School zone flashing beacons shall be active whenever students are present at a  
 14 school for student activities occurring outside of a school's regular hours of operation. A school  
 15 zone is all school property, including school grounds and any street or highway abutting the school  
 16 grounds and extending 125 feet along the street or highway from the school grounds and, in the  
 17 case of school property not abutting a street or highway but accessed through a right-of-way

18 granted for entrance to school property, a school zone established by an engineering study  
19 conducted by the Division of Highways is all school property, including school grounds and any  
20 property within the access right-of-way, and extending 125 feet along the street or highway from  
21 the entrance to the access right-of-way. The West Virginia Division of Highways shall erect  
22 signage indicating the place of entry and exit of each school zone. Upon a formal vote and a  
23 written request by a county board of education to expand a school zone to a road that is adjacent  
24 to school property or from the entrance to an access right-of-way, the West Virginia Division of  
25 Highways shall expand the school zone by erecting new signage indicating the expanded school  
26 zone's location and speed limit within 90 days of receiving the request: *Provided*, That the school  
27 zone may not be expanded more than 125 feet along an adjacent road unless the division  
28 determines that the additional extension is needed and necessary for the safety of the school  
29 children. The speed restriction does not apply to vehicles traveling on a controlled-access  
30 highway which is separated from the school or school grounds by a fence or barrier approved by  
31 the Division of Highways;

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

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

35 The speeds set forth in this section may be altered as authorized in §17C-6-2 and §17C-  
36 6-3 of this code.

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

43 (d) The speed limit on controlled access highways and interstate highways, where no

44 special hazard exists that requires a lower speed, shall be not less than 55 miles per hour and  
45 the speed limits specified in subsection (b) of this section do not apply.

46 (e) Unless otherwise provided in this section, any person who violates the provisions of  
47 this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than  
48 \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200;  
49 and, upon a third or subsequent conviction within two years thereafter, shall be fined not more  
50 than \$500: *Provided*, That if the third or subsequent conviction is based upon a violation of the  
51 provisions of this section where the offender exceeded the speed limit by 15 miles per hour or  
52 more, then upon conviction, shall be fined not more than \$500 or confined in jail for not more than  
53 six months, or both fined and confined.

54 (f) Any person who violates the provisions of subdivision (1), subsection (b) of this section  
55 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor  
56 more than \$500: *Provided*, That if the conviction is based upon a violation of the provisions of  
57 subdivision (1), subsection (b) of this section where the offender exceeded the speed limit by 15  
58 miles per hour or more in the presence of one or more children, then upon conviction, shall be  
59 fined not less than \$100 nor more than \$500 or confined in jail for not more than six months, or  
60 both fined and confined: *Provided, however*, That if the signage required by subdivision (1) is not  
61 present in the school zone at the time of the violation, then any person who violates said provision  
62 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$25.

63 (g) If an owner or driver is arrested under the provisions of this section for the offense of  
64 driving above the posted speed limit on a controlled access highway or interstate highway and if  
65 the evidence shows that the motor vehicle was being operated at ~~ten~~ 10 miles per hour or less  
66 above the speed limit, then, upon conviction thereof, that person shall be fined not more than \$5,  
67 plus court costs.

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

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

72 (i) If an owner or driver is convicted under the provisions of this section for the offense of  
73 driving above the speed limit on a controlled access highway or interstate highway of this state  
74 and if the evidence shows that the motor vehicle was being operated at 10 miles per hour or less  
75 above the speed limit, then notwithstanding the provisions of §17B-3-4 of this code, a certified  
76 abstract of the judgment on the conviction shall not be transmitted to the Division of Motor  
77 Vehicles: *Provided*, That the provisions of this subsection do not apply to conviction of owners or  
78 drivers who have been issued a commercial driver's license as defined in §17E-1-1 *et seq.* of this  
79 code, if the offense was committed while operating a commercial vehicle.

80 (j) If an owner or driver is convicted in another state for the offense of driving above the  
81 maximum speed limit on a controlled access highway or interstate highway and if the maximum  
82 speed limit in the other state is less than the maximum speed limit for a comparable controlled  
83 access highway or interstate highway in this state, and if the evidence shows that the motor  
84 vehicle was being operated at 10 miles per hour or less above what would be the maximum speed  
85 limit for a comparable controlled access highway or interstate highway in this state, then  
86 notwithstanding the provisions of §17B-3-4 of this code, a certified abstract of the judgment on  
87 the conviction shall not be transmitted to the Division of Motor Vehicles or, if transmitted, shall not  
88 be recorded by the division, unless within a reasonable time after conviction, the person convicted  
89 has failed to pay all fines and costs imposed by the other state: *Provided*, That the provisions of  
90 this subsection do not apply to conviction of owners or drivers who have been issued a  
91 commercial driver's license as defined in §17E-1-1 *et seq.* of this code, if the offense was  
92 committed while operating a commercial vehicle.

NOTE: The purpose of this bill is to ensure the safety of students participating in school activities outside of regular school hours by requiring activation of school zone flashing beacons whenever students are present at school for activities occurring outside of a

school's regular hours of operation.

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