

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4954

BY DELEGATE BARNHART

[Introduced February 11, 2020; Referred to the
Committee on Technology and Infrastructure then the
Judiciary]

1 A BILL to amend and reenact §17A-1-1 of the Code of West Virginia, 1931, as amended; to amend
 2 and reenact §17B-1-1 of said code; to amend and reenact §17C-1-3 and §17C-1-5a of
 3 said code; to amend said code by adding thereto a new section, designated §17C-1-70;
 4 and to amend and reenact §17C-11-1 and §17C-11-2 of said code, all relating to electric
 5 bicycles; defining electric bicycles and classes thereof; amending the definitions of motor
 6 vehicle, motorcycle and moped; providing that electric bicycles are subject to traffic laws
 7 to the same extent as bicycles; making operators of electric bicycles subject to the same
 8 special laws regarding bicycles; and prohibiting anyone under the age of 16 from operating
 9 class 3 electric bicycles on public roads.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,
 CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17A-1-1. Definitions.

1 Except as otherwise provided in this chapter, the following words and phrases, when used
 2 in this chapter, shall have the meanings respectively ascribed to them in this article:

3 (a) "Vehicle" means every device in, upon or by which any person or property is or may
 4 be transported or drawn upon a highway, excepting devices moved by human power or used
 5 exclusively upon stationary rails or tracks.

6 (b) "Motor vehicle" means every vehicle which is self propelled and every vehicle which is
 7 propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and
 8 "motor vehicle" excludes an electric bicycle as defined in §17C-1-70 of this code.

9 (c) "Motorcycle" means every motor vehicle, including motor-driven cycles and mopeds as
 10 defined in §17C-1-5 and §17C-1-5a of this code, having a saddle for the use of the rider and
 11 designed to travel on not more than three wheels in contact with the ground, but excluding a

12 tractor and an electric bicycle as defined in §17C-1-70 of this code.

13 (d) "School bus" means every motor vehicle owned by a public governmental agency and
14 operated for the transportation of children to or from school or privately owned and operated for
15 compensation for the transportation of children to or from school.

16 (e) "Bus" means every motor vehicle designed to carry more than seven passengers and
17 used to transport persons; and every motor vehicle, other than a taxicab, designed and used to
18 transport persons for compensation.

19 (f) "Truck tractor" means every motor vehicle designed and used primarily for drawing
20 other vehicles and not so constructed as to carry a load other than a part of the weight of the
21 vehicle and load so drawn.

22 (g) "Farm tractor" means every motor vehicle designed and used primarily as a farm
23 implement for drawing plows, mowing machines and other implements of husbandry.

24 (h) "Road tractor" means every motor vehicle designed, used or maintained for drawing
25 other vehicles and not so constructed as to carry any load thereon either independently or any
26 part of the weight of a vehicle or load so drawn.

27 (i) "Truck" means every motor vehicle designed, used or maintained primarily for the
28 transportation of property.

29 (j) "Trailer" means every vehicle with or without motive power designed for carrying
30 persons or property and for being drawn by a motor vehicle and so constructed that no part of its
31 weight rests upon the towing vehicle, but excluding recreational vehicles.

32 (k) "Semitrailer" means every vehicle with or without motive power designed for carrying
33 persons or property and for being drawn by a motor vehicle and so constructed that some part of
34 its weight and that of its load rests upon or is carried by another vehicle.

35 (l) "Pole trailer" means every vehicle without motive power designed to be drawn by
36 another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being
37 boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or

38 irregularly shaped loads such as poles, pipes or structural members capable, generally, of
39 sustaining themselves as beams between the supporting connections.

40 (m) "Specially constructed vehicles" means every vehicle of a type required to be
41 registered hereunder not originally constructed under a distinctive name, make, model or type by
42 a generally recognized manufacturer of vehicles and not materially altered from its original
43 construction.

44 (n) "Reconstructed vehicle" means every vehicle of a type required to be registered
45 hereunder materially altered from its original construction by the removal, addition, or substitution
46 of essential parts, new or used.

47 (o) "Essential parts" means all integral and body parts of a vehicle of a type required to be
48 registered hereunder, the removal, alteration, or substitution of which would tend to conceal the
49 identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

50 (p) "Foreign vehicle" means every vehicle of a type required to be registered hereunder
51 brought into this state from another state, territory, or country other than in the ordinary course of
52 business by or through a manufacturer or dealer and not registered in this state.

53 (q) "Implement of husbandry" means every vehicle which is designed for or adapted to
54 agricultural purposes and used by the owner thereof primarily in the conduct of his or her
55 agricultural operations, including, but not limited to, trucks used for spraying trees and plants:
56 *Provided*, That the vehicle may not be let for hire at any time.

57 (r) "Special mobile equipment" means every self-propelled vehicle not designed or used
58 primarily for the transportation of persons or property and incidentally operated or moved over the
59 highways, including, without limitation, road construction or maintenance machinery, ditch-digging
60 apparatus, stone crushers, air compressors, power shovels, graders, rollers, well drillers, wood-
61 sawing equipment, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling
62 graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls,
63 scrapers, drag lines, rock-drilling equipment, and earth-moving equipment. The foregoing

64 enumeration shall be deemed partial and may not operate to exclude other such vehicles which
65 are within the general terms of this subdivision.

66 (s) "Pneumatic tire" means every tire in which compressed air is designed to support the
67 load.

68 (t) "Solid tire" means every tire of rubber or other resilient material which does not depend
69 upon compressed air for the support of the load.

70 (u) "Metal tire" means every tire the surface of which in contact with the highway is wholly
71 or partly of metal or other hard, nonresilient material.

72 (v) "Commissioner" means the Commissioner of Motor Vehicles of this state.

73 (w) "Division" means the Division of Motor Vehicles of this state acting directly or through
74 its duly authorized officers and agents.

75 (x) "Person" means every natural person, firm, copartnership, association, or corporation.

76 (y) "Owner" means a person who holds the legal title to a vehicle, or in the event a vehicle
77 is the subject of an agreement for the conditional sale or lease thereof with the right of purchase
78 upon performance of the conditions stated in the agreement and with an immediate right of
79 possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is
80 entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed the
81 owner for the purpose of this chapter.

82 (z) "Nonresident" means every person who is not a resident of this state.

83 (aa) "Dealer" or "dealers" is a general term meaning, depending upon the context in which
84 used, either a new motor vehicle dealer, used motor vehicle dealer, factory-built home dealer,
85 recreational vehicle dealer, trailer dealer, or motorcycle dealer, as defined in §17A-6-1 of this
86 code, or all of the dealers or a combination thereof and, in some instances, a new motor vehicle
87 dealer or dealers in another state.

88 (bb) "Registered dealer" or "registered dealers" is a general term meaning, depending
89 upon the context in which used, either a new motor vehicle dealer, used motor vehicle dealer,

90 house trailer dealer, trailer dealer, recreational vehicle dealer or motorcycle dealer, or all of the
91 dealers or a combination thereof, licensed under the provisions of §17A-6-1 *et seq.* of this code.

92 (cc) "Licensed dealer" or "licensed dealers" is a general term meaning, depending upon
93 the context in which used, either a new motor vehicle dealer, used motor vehicle dealer, house
94 trailer dealer, trailer dealer, recreational vehicle dealer, or motorcycle dealer, or all of the dealers
95 or a combination thereof, licensed under the provisions of §17A-6-1 *et seq.* of this code.

96 (dd) "Transporter" means every person engaged in the business of delivering vehicles of
97 a type required to be registered hereunder from a manufacturing, assembling, or distributing plant
98 to dealers or sales agents of a manufacturer.

99 (ee) "Manufacturer" means every person engaged in the business of constructing or
100 assembling vehicles of a type required to be registered hereunder at a place of business in this
101 state which is actually occupied either continuously or at regular periods by the manufacturer
102 where his or her books and records are kept and a large share of his or her business is transacted.

103 (ff) "Street" or "highway" means the entire width between boundary lines of every way
104 publicly maintained when any part thereof is open to the use of the public for purposes of vehicular
105 travel.

106 (gg) "Motorboat" means any vessel propelled by an electrical, steam, gas, diesel or other
107 fuel-propelled or -driven motor, whether or not the motor is the principal source of propulsion, but
108 may not include a vessel which has a valid marine document issued by the bureau of customs of
109 the United States government or any federal agency successor thereto.

110 (hh) "Motorboat trailer" means every vehicle designed for or ordinarily used for the
111 transportation of a motorboat.

112 (ii) "All-terrain vehicle"(ATV) means any motor vehicle designed for off-highway use and
113 designed to travel on not less than three low-pressure or nonhighway tires, is fifty inches or less
114 in width and intended by the manufacturer to be used by a single operator or is specifically
115 designed by the manufacturer with seating for each passenger. "All-terrain vehicle" and "ATV"

116 does not include mini trucks, golf carts, riding lawnmowers, or tractors.

117 (jj) "Travel trailer" means every vehicle, mounted on wheels, designed to provide
118 temporary living quarters for recreational, camping, or travel use of such size or weight as not to
119 require special highway movement permits when towed by a motor vehicle and of gross trailer
120 area less than four hundred square feet.

121 (kk) "Fold-down camping trailer" means every vehicle consisting of a portable unit
122 mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by
123 another vehicle and unfold at the camp site to provide temporary living quarters for recreational,
124 camping or travel use.

125 (ll) "Motor home" means every vehicle, designed to provide temporary living quarters, built
126 into an integral part of or permanently attached to a self-propelled motor vehicle, chassis or van
127 including: (1) Type A motor home built on an incomplete truck chassis with the truck cab
128 constructed by the second stage manufacturer; (2) Type B motor home consisting of a van-type
129 vehicle which has been altered to provide temporary living quarters; and (3) Type C motor home
130 built on an incomplete van or truck chassis with a cab constructed by the chassis manufacturer.

131 (mm) "Snowmobile" means a self-propelled vehicle intended for travel primarily on snow
132 and driven by a track or tracks in contact with the snow and steered by a ski or skis in contact
133 with the snow.

134 (nn) "Recreational vehicle" means a motorboat, motorboat trailer, all-terrain vehicle, travel
135 trailer, fold-down camping trailer, motor home, or snowmobile.

136 (oo) "Mobile equipment" means every self-propelled vehicle not designed or used primarily
137 for the transportation of persons or property over the highway but which may infrequently or
138 incidentally travel over the highways among job sites, equipment storage sites, or repair sites,
139 including farm equipment, implements of husbandry, well drillers, cranes, and wood-sawing
140 equipment.

141 (pp) "Factory-built home" includes mobile homes, house trailers, and manufactured

142 homes.

143 (qq) "Manufactured home" has the same meaning as the term is defined in §21-9-2 of this
144 code which meets the federal Manufactured Housing Construction and Safety Standards Act of
145 1974 (42 U. S. C. § 5401, *et seq.*), effective on June 15, 1976, and the federal manufactured
146 home construction and safety standards and regulations promulgated by the Secretary of the
147 United States Department of Housing and Urban Development.

148 (rr) "Mobile home" means a transportable structure that is wholly, or in substantial part,
149 made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and
150 installation on a building site and designed for long-term residential use and built prior to
151 enactment of the federal Manufactured Housing Construction and Safety Standards Act of 1974
152 (42 U. S. C. § 5401, *et seq.*), effective on June 15, 1976, and usually built to the voluntary industry
153 standard of the American National Standards Institute (ANSI) -- A119.1 standards for mobile
154 homes.

155 (ss) "House trailers" means all trailers designed and used for human occupancy on a
156 continual nonrecreational basis, but may not include fold-down camping and travel trailers, mobile
157 homes or manufactured homes.

158 (tt) "Parking enforcement vehicle" means a motor vehicle which does not fit into any other
159 classification of vehicle in this chapter, has three or four wheels and is designed for use in an
160 incorporated municipality by a city, county, state or other governmental entity primarily for parking
161 enforcement or other governmental purposes with an operator area with sides permanently
162 enclosed with rigid construction and a top which may be convertible, sealed beam headlights,
163 turn signals, brake lights, horn, at least one rearview mirror on each side and such other
164 equipment that will enable it to pass a standard motorcycle vehicle inspection.

165 (uu) "Low-speed vehicle" means a four-wheeled motor vehicle whose attainable speed in
166 one mile on a paved level surface is more than twenty miles per hour but not more than twenty-
167 five miles per hour.

168 (vv) "Utility terrain vehicle" means any motor vehicle with four or more low-pressure or
169 nonhighway tires designed for off-highway use and is greater than fifty inches in width. "Utility
170 terrain vehicle" does not include mini trucks, golf carts, riding lawnmowers or tractors.

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17B-1-1. Definitions.

1 The following words and phrases when used in this chapter, for the purpose of this
2 chapter, have the meanings respectively ascribed to them in this article:

1 *Autocycle.* — Every fully or partially enclosed motorcycle that is equipped with safety belts,
2 rollover protection, a rearview mirror, automotive seating, a steering wheel and equipment
3 otherwise required on a motorcycle and which has no more than three wheels in contact with the
4 roadway at any one time;

5 *Cancellation.* — Means that a driver's license is annulled and terminated because of some
6 error or defect or because the licensee is no longer entitled to that license, but the cancellation of
7 a license is without prejudice and application for a new license may be made at any time after
8 such cancellation;

9 *Chauffeur.* — Every person who is employed by another for the principal purpose of driving
10 a motor vehicle and every person who drives a school bus transporting school children or any
11 motor vehicle when in use for the transportation of persons or property for compensation;

12 *Commissioner.* — The Commissioner of Motor Vehicles of this state;

13 *Division.* — The Division of Motor Vehicles of this state acting directly or through its duly
14 authorized officers or agents;

15 *Driver.* — Means any person who drives, operates or is in physical control of a motor
16 vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required
17 to hold a driver's license;

18 *Driver's license.* — Means any permit or license issued by this state to a person which
19 authorizes the person to drive a motor vehicle of a specific class or classes subject to any
20 restriction or endorsement contained thereon;

21 *Farm tractor.* — Every motor vehicle designed and used primarily as a farm implement for
22 drawing plows, mowing machines and other implements of husbandry;

23 *Motorcycle.* — Every motor vehicle having a seat or saddle for the use of the rider and
24 designed to travel on not more than three wheels in contact with the ground, but excluding a farm
25 tractor as defined herein, a moped as defined in §17C-1-5a of this code, a snowmobile as defined
26 in §17A-1-1(mm) of this code and an all-terrain vehicle as defined in §17A-1-1(ii) of this code;

27 *Motor vehicle.* — Every vehicle which is self-propelled and every vehicle which is propelled
28 by electric power obtained from overhead trolley wires, but not operated upon rails and "motor
29 vehicle" excludes an electric bicycle as defined in §17C-1-70 of this code;

30 *9-1-1 system.* — Means an emergency telephone system or enhanced emergency
31 telephone system as defined in §24-6-2 of this code;

32 *Nonresident.* — Every person who is not a resident of this state;

33 *Operator.* — Every person, other than a chauffeur, who drives or is in actual physical
34 control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle
35 being towed by a motor vehicle;

36 *Owner.* — A person who holds the legal title of a vehicle or in the event a vehicle is the
37 subject of an agreement for the conditional sale or lease thereof with the right of purchase upon
38 performance of the conditions stated in the agreement and with an immediate right of possession
39 vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession,
40 then the conditional vendee or lessee or mortgagor is the owner for the purpose of this chapter;

41 *Person.* — Every natural person, firm, copartnership, association or corporation;

42 *Revocation.* — Means that the driver’s license and privilege to drive a motor vehicle on
43 the public highways are terminated and shall not be renewed or restored, except that an
44 application for a new license may be presented and acted upon by the division after the expiration
45 of at least one year after the date of revocation, except as otherwise provided in §17C-5A-2 of
46 this code;

47 *School bus.* — Every motor vehicle owned by a public governmental agency and operated
48 for the transportation of children to or from school or privately owned and operated for
49 compensation for the transportation of children to or from school;

50 *Street or highway.* — The entire width between the boundary lines of every way publicly
51 maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

52 *Suspension.* — Suspension means that the driver’s license and privilege to drive a motor
53 vehicle on the public highways are temporarily withdrawn but only during the period of the
54 suspension;

55 *Vehicle.* — Every device in, upon or by which any person or property is or may be
56 transported or drawn upon a public highway, excepting devices moved by human power or used
57 exclusively upon stationary rails or tracks;

58 *Wireless communication device.* — Means a handheld device used to access a wireless
59 telephone service or a text messaging device.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17C-1-3. Motor vehicle.

1 “Motor vehicle” means every vehicle which is self-propelled and every vehicle which is
2 propelled by electric power obtained from overhead trolley wires, but not operated upon rails,

3 ~~except motorized wheelchairs~~ and the term “motor vehicle” excludes motorized wheelchairs and
4 electric bicycles.

§17C-1-5a. Moped.

1 “Moped” means every motorcycle or motor-driven cycle unless otherwise specified in this
2 chapter, which is equipped with two or three wheels, foot pedals to permit muscular propulsion
3 and an independent power source providing a maximum of two brake horsepower, but excluding
4 electric bicycles as defined in §17C-1-70 of this code. If a combustion engine is used, the
5 maximum piston or rotor displacement shall be 50 cubic centimeters regardless of the number of
6 chambers in such power source. The power source shall be capable of propelling the vehicle,
7 unassisted, at a speed not to exceed 30 miles per hour on a level road surface and shall be
8 equipped with a power drive system that functions directly or automatically only, not requiring
9 clutching or shifting by the operator after the drive system is engaged.

§17C-1-70. Electric bicycle.

1 “Electric bicycle” means a bicycle equipped with fully operable pedals, a saddle or seat for
2 the rider, and an electric motor of less than 750 watts that meets the requirements of one of the
3 following three classes:

4 “Class 1 electric bicycle” means an electric bicycle equipped with a motor that provides
5 assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle
6 reaches the speed of 20 miles per hour;

7 “Class 2 electric bicycle” means an electric bicycle equipped with a motor that may be
8 used exclusively to propel the bicycle, and that is not capable of providing assistance when the
9 bicycle reaches the speed of 20 miles per hour.

10 “Class 3 electric bicycle” means an electric bicycle equipped with a motor that provides
11 assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle
12 reaches the speed of 28 miles per hour.

ARTICLE 11. OPERATION OF BICYCLES, ELECTRIC BICYCLES, AND PLAY

VEHICLES.

§17C-11-1. Obedience to article; duty of parents and guardians; applicability of article to bicycles and electric bicycles.

1 (a) It is a misdemeanor for any person to do any act forbidden or fail to perform any act
2 required in this article.

3 (b) The parent of any child and the guardian of any ward shall not authorize or knowingly
4 permit any such child or ward to violate any of the provisions of this chapter.

5 (c) ~~These regulations applicable to bicycles shall apply whenever a bicycle is~~ The
6 provisions of this article apply to every bicycle and electric bicycle operated upon any highway or
7 upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein:
8 Provided, That a municipality, local authority or state agency having jurisdiction over a bicycle or
9 multiuse path may prohibit the operation of motorized vehicles and electric bicycles on that path.

§17C-11-2. Traffic laws apply to persons riding bicycles and electric bicycles.

1 (a) Every person riding a bicycle or electric bicycle upon a roadway shall be granted all of
2 the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this
3 chapter, except as to special regulations in this article and except as to those provisions of this
4 chapter which by their nature can have no application.

5 (b) No person under the age of 16 may operate a class 3 electric bicycle upon a public
6 road. A person under the age of 16 may ride as a passenger on a class 3 electric bicycle that is
7 designed to accommodate passengers.

NOTE: The purpose of this bill is to update highway and vehicle laws to include electric bicycles. The bill provides definitions for different classes of electric bicycles, updates other definitions, and specifies how traffic laws and rights-of-way apply to the operation of electric bicycles.

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