

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2822

FISCAL
NOTE

BY DELEGATES ROHRBACH, LOVEJOY, HORNBUCKLE,
MANDT, D. KELLY, DEAN, CAMPBELL AND LINVILLE

[Introduced February 1, 2019; Referred
to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §17C-5-3a, relating to creating an enhanced penalty for certain aggravated
3 serious traffic offenses; requiring a person to first be convicted of the underlying offense
4 before the enhanced penalty is permitted to be assessed; and prohibiting the enhanced
5 penalty from increasing a misdemeanor offense to a felony offense.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-3a. Enhanced penalty for endangering children.

1 Any person convicted of an offense contained in §17C-5-2 or §17C-5-3 of this code is
2 subject to a potential enhanced penalty if the conduct that led to the conviction created a severe
3 and imminent danger to one or more minors outside the vehicle. The question of whether or not
4 the person is subject to the enhanced penalty is to be decided by the trier of fact in the same
5 manner as the underlying offense. If the trier of fact determines that the conduct created a severe
6 and imminent danger to one or more minors outside the vehicle, then the person may be
7 sentenced to confinement of up to one year in a correctional facility in addition to the penalty
8 imposed for the underlying conviction: *Provided*, That this enhanced penalty cannot subject a
9 person convicted of a misdemeanor offense to more than one-year confinement total. This
10 enhanced penalty is not a separate crime and cannot change a misdemeanor offense into a felony
11 offense.

NOTE: The purpose of this bill is to create an enhanced penalty for persons convicted of DUI or reckless driving when the conduct creates a severe and imminent danger to one or more minors outside the vehicle.

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