

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2154

By Delegate Anderson

[Introduced January 11, 2023; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §17C-15-49 of the Code of West Virginia, 1931, as amended,
2 relating to admissibility of certain evidence in a civil action for damages; and allowing the
3 admission of the use or nonuse of a safety belt on the issues of negligence, contributory
4 negligence, comparative negligence and failure to mitigate damages.

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 15 passengers or
6 less, including the driver, except that the term does not include a motorcycle, a trailer, or any motor
7 vehicle which is not required on the date of the enactment of this section under a federal motor
8 vehicle safety standard to be equipped with a belt system. The provisions of this section apply to
9 all passenger vehicles manufactured after January 1, 1967, and being 1968 models and newer.

10 (b) The required use of safety belts as provided in this section does not apply to a duly
11 appointed or contracted rural mail carrier of the United States Postal Service who is actually
12 making mail deliveries or to a passenger or operator with a physically disabling condition whose
13 physical disability would prevent appropriate restraint in the safety belt if the condition is duly
14 certified by a physician who states the nature of the disability as well as the reason the restraint is
15 inappropriate. The Division of Motor Vehicles shall adopt rules, in accordance with §29A-3-1 *et*
16 *seq.* of this code, to establish a method to certify the physical disability and to require use of an
17 alternative restraint system where feasible or to waive the requirement for the use of any restraint
18 system.

19 (c) Any person who violates the provisions of this section shall be fined \$25. No court costs
20 or other fees may be assessed for a violation of this section.

21 ~~(d) Notwithstanding any other provision of this code to the contrary, no points may be~~
22 ~~entered on any driver's record maintained by the Division of Motor Vehicles as a result of a~~
23 ~~violation of this section~~

24 (d) (1) The Legislature declares that the purpose of this subsection is to allow, in any civil
25 action for damages, the admission of evidence of a motor vehicle occupant's use or nonuse of a
26 safety belt to assess that occupant's percentage of fault or mitigation of damages, and to abrogate
27 any common-law rule that no violation of the duty of reasonable care may be construed from a
28 passenger vehicle occupant's failure to wear a safety belt. The Legislature further declares that
29 the decisions of the Supreme Court of Appeals of West Virginia in *Wright v. Hanley*, Case No.
30 18609 (W. Va. Dec. 5, 1989), *Miller v. Jeffrey*, Case No. 30254 (W. Va. Oct. 25, 2002), *Estep v.*
31 *Mike Ferrell Ford Lincoln-Mercury, Inc.*, Case No. 33810 (W. Va. Dec. 10, 2008), and any other
32 decisions of the Supreme Court of West Virginia inconsistent with this legislation, are contrary to
33 the Legislature's intent and is overruled by the enactment of this provision.

34 (2) The use or nonuse of a safety belt by any driver or passenger is admissible in any civil
35 action or proceeding for damages as evidence of negligence, contributory negligence,
36 comparative negligence or failure to mitigate damages.

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

43 (f) This section does not abrogate or alter the provisions of §17C-15-46 of this code relating
44 to the mandatory use of child passenger safety devices.

NOTE: The purpose of this bill is to allow admission of evidence in a civil action of the use or nonuse of a safety belt on the issues of negligence, contributory negligence, comparative negligence and failure to mitigate damages.

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