

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3117

**FISCAL
NOTE**

By Delegate Riley

[Introduced March 04, 2025; referred to the
Committee on Energy and Public Works then the
Judiciary]

A BILL to amend and reenact §17C-6-1 and §17C-6-7a of the Code of West Virginia, 1931, as amended; and to amend said code by adding a new section, designated §17C-6-7b, relating to establishing a program for camera assisted speed enforcement in active work zones on public highways in this state; authorizing the commissioner of highways to set speed limits in work zones on public highways; establishing use of work zone speed control systems as an exception to the prohibition against photo monitoring devices for traffic law enforcement; establishing duty of vehicle operators to ensure lawful operation of their vehicles on public highways; defining terms; authorizing the use of work zone speed control systems to assist certified law enforcement officers with enforcement of speed restrictions in active work zones; specifying lawful uses of equipment and setting conditions upon their operation; establishing specification and restrictions for machine functions; and correcting references to other sections.

Be it enacted by the Legislature of West Virginia:

ARTICLE	6.	SPEED	RESTRICTIONS.
§17C-6-1.	Speed	limitations	generally; penalty.

(a) No person may drive a vehicle on a highway at a speed greater than is reasonable and prudent under the existing conditions and the actual and potential hazards. In every event speed shall be controlled as necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highways in compliance with legal requirements and the duty of all persons to use due care.

(b) Where no special hazard exists that requires lower speed for compliance with subsection (a) of this section, the speed of any vehicle not in excess of the limits specified in this section or established as authorized in this ~~section~~ article is lawful, but any speed in excess of the limits specified in this subsection or established as authorized in this ~~section~~ article is unlawful.

The following speed limits apply:

(1) Fifteen miles per hour in a school zone during school recess or while children are going

to or leaving school during opening or closing hours. A school zone is all school property, including school grounds and any street or highway abutting the school grounds and extending one hundred twenty-five feet along the street or highway from the school grounds and, in the case of school property not abutting a street or highway but accessed through a right-of-way granted for entrance to school property, a school zone established by an engineering study conducted by the Division of Highways is all school property, including school grounds and any property within the access right-of-way, and extending one hundred twenty-five feet along the street or highway from the entrance to the access right-of-way. The West Virginia Division of Highways shall erect signage indicating the place of entry and exit of each school zone. Upon a formal vote and a written request by a county board of education to expand a school zone to a road that is adjacent to school property or from the entrance to an access right-of-way, the West Virginia Division of Highways shall expand the school zone by erecting new signage indicating the expanded school zone's location and speed limit within ninety days of receiving the request: *Provided*, That the school zone may not be expanded more than one hundred twenty-five feet along an adjacent road unless the division determines that the additional extension is needed and necessary for the safety of the school children. The speed restriction does not apply to vehicles traveling on a controlled-access highway which is separated from the school or school grounds by a fence or barrier approved by the Division of Highways;

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

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

The speeds set forth in this section may be altered as authorized in §17C-6-2, and §17C-6-3, and §17C-6-7b of this code.

(c) The driver of every vehicle shall, consistent with the requirements of subsection (a) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when

approaching a hill crest, when traveling upon any narrow or winding roadway, and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(d) The speed limit on controlled access highways and interstate highways, where no special hazard exists that requires a lower speed, shall be not less than 55 miles per hour and the speed limits specified in subsection (b) of this section do not apply.

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

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

(g) If an owner or driver is arrested under the provisions of this section for the offense of driving above the posted speed limit on a controlled access highway or interstate highway and if the evidence shows that the motor vehicle was being operated at 10 miles per hour or less above

the speed limit, then, upon conviction thereof, that person shall be fined not more than \$5, plus court costs.

(h) Any person operating a commercial motor vehicle engaged in the transportation of coal on the coal resource transportation road system who violates subsection (a), (b), or (c) of this section shall, upon conviction, be subject to fines in triple the amount otherwise provided in subsection (e) of this section.

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

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

90 operating a commercial vehicle.

§17C-6-7a. Prohibition of the use of traffic law photo-monitoring devices to detect or prove

traffic law violations; exceptions.

1 (a) As used in this section "traffic law photo-monitoring device" means an electronic
2 system consisting of a photographic, video, or electronic camera and a means of sensing the
3 presence of a motor vehicle that automatically produces photographs, videotape, or digital images
4 of the vehicle, its operator, or its license plate.

5 (b) ~~No~~ Except as provided in §17C-6-7b of this code, a police officer may not utilize a traffic
6 law photo-monitoring device to determine compliance with, or to detect a violation of, a municipal
7 or county ordinance or any provision of this code that governs or regulates the operation of motor
8 vehicles.

9 (c) A violation of a municipal or county ordinance or any provision of this code that governs
10 or regulates the operation of motor vehicles may not be proved by evidence obtained by the use of
11 a traffic law photo-monitoring device.

12 (d) The provisions of this section do not prohibit the use of any device designed to measure
13 and indicate the speed of a moving object by means of microwaves or reflected light to obtain
14 evidence to prove the speed of a motor vehicle pursuant to §17C-6-7 of this code.

15 (e) The provisions of this section do not prohibit use of a traffic law photo-monitoring device
16 for any other lawful purposes other than to obtain evidence to prove violations of municipal or
17 county ordinances or any provision of this code governing or regulating the operation of motor
18 vehicles.

§17C-6-7b. Speed monitoring in construction and work zones.

1 (a) Definitions. — As used in this section:

2 "Active work zone" means a work zone, as defined in this section, in which construction,
3 repair, maintenance, or traffic control personnel are present;

4 "Multi-lane, high-speed highway" means any highway with more than one vehicle lane in

each direction of travel, with or without a physical separation between the lanes in opposite directions, and with a posted speed limit of 55 miles per hour or greater for ordinary conditions;

"Recorded image" means a still or video image recorded by a work zone speed control system on a photographic, film, electronic, videotape, or any other medium;

"System administrator" means the entity, either the Division of Highways or a business contracted by the division, that is authorized to maintain records of speed limit violations in active work zones to assist certified law enforcement officers with enforcement of traffic laws;

"Work zone" means a segment of a highway where highway construction, repair, maintenance, utility work, or a related activity, including the placement, installation, maintenance, or removal of a work zone traffic control device, is being performed, regardless of whether workers are present, and that is identified as a temporary traffic control zone by traffic control devices that are placed or installed in general conformance with the state manual and specifications adopted for a uniform system of traffic control devices; and

"Work zone speed control system" means a device having one or more motor vehicle sensors connected to a camera system capable of producing recorded images of motor vehicles traveling at or above a predetermined speed in or approaching a work zone.

(b) Work zone speed restrictions. — The commissioner of highways may determine and declare a reasonable and safe speed limit for vehicles transiting a work zone on any highway that is lower than the lawful speed limit on the unobstructed portions of the highway.

(c) Operator's duty and enforcement. —

(1) The operator of every motor vehicle has a duty to ensure that his or her vehicle is not driven above the posted speed limit in an active work zone. If a vehicle is driven on a public highway in an active work zone above the posted speed limit for that work zone, the operator of the vehicle may be subject to a civil penalty as provided in §17C-6-1 of this code.

(2) The Division of Highways is authorized to deploy a work zone speed control system to monitor vehicle speeds work in work zones and to assist certified law enforcement officers with

enforcement of speed limit restrictions in active work zones on multi-lane, high-speed highways: *Provided*, that only certified law enforcement officers may issue citations to operators of motor vehicles as provided in this section.

(d) Active and inactive work zones. —

(1) An automated work zone speed control system may be used to collect vehicle speed data in highway work zones for research and statistical purposes but may not be used to record vehicle identification or speed information to be used as evidence in a speed limit violation proceeding or as probable cause to pursue or stop a vehicle for a speed limit violation.

(2) A work zone speed control system may be used to enforce speed limit restrictions in active work zones on multilane, high-speed highways under the following conditions:

(A) The work zone speed control system is capable of communicating with a certified law enforcement officer in real time;

(B) A notice identifying the location of the work zone speed control system is posted on the West Virginia 511 traffic information website and the notice on the website shall remain throughout the period of use;

(C) At least two conspicuous road signs are placed at a reasonable distance in accordance with the state manual on uniform traffic control devices before the work zone alerting drivers that a speed monitoring system may be in operation in the work zone; and

(D) The citation issued by a certified law enforcement occurs contemporaneously with, or as soon as practicable after, any record of violation made by the automated work zone speed control system.

(e) System specifications. —

(1) A work zone speed control system shall undergo an annual calibration check performed by an independent calibration laboratory. Documentation of the calibration checks shall be maintained by the agency, division, or company that operates that work zone speed control system.

57 (2) A work zone speed control system may not be utilized in such a manner as to take a
58 frontal view recorded image of the vehicle as evidence of having committed a violation.

59 (3) Notwithstanding any other provision of this chapter to the contrary, camera equipment
60 deployed as part of a work zone speed control system shall be incapable of automated or user-
61 controlled remote surveillance by means of recorded video images. Recorded images collected as
62 part of the work zone speed control system enforcement system shall only record speed violations
63 and may not be used for any other purpose but may include video of the area enforced when
64 triggered by a violation under the provisions of this section and transmitted to a certified law
65 enforcement officer in real time.

66 (f) Notice of violation by a certified law enforcement officer and civil penalty. —

67 (1) A certified law enforcement officer may issue a citation to an operator of a motor vehicle
68 based upon his or her own physical inspection of recorded images and the speed measurement
69 produced by a work zone speed control system.

70 (2) The civil penalties for a violation of the provisions of this section are the same as
71 provided for in §17C-6-1 of this code.

72 (3) An admission of violation under this section shall not for the purposes of this section:

73 (A) Become part of the driving record of the operator upon whom the penalty is imposed;

74 (B) Be used by any insurer licensed to do business in this state that would negatively
75 impact an operator's insurability; or

76 (C) Cause or result in the imposition of surcharge points in the provision of motor vehicle
77 insurance coverage issued in this state.

NOTE: The purpose of this bill is to establish a program for camera assisted speed enforcement in active work zones in this state to be implemented by the West Virginia Division of Highways in cooperation with certified law enforcement agencies.

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