

Senate Bill No. 177

(By Senators Walters, Blair, Boley, Carmichael, Cole, Sypolt,
Wells and Nohe)

[Introduced February 15, 2013; referred to the Committee on
Education; and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §18-8-2 of the Code of West Virginia,
1931, as amended, relating to penalties for primary and
secondary school students for excessive tardy minutes.

Be it enacted by the Legislature of West Virginia:

That §18-8-2 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-2. Offenses; penalties; cost of prosecution.

Any person who, after receiving due notice, shall fail to
cause a child or children under eighteen years of age in that
person's legal or actual charge to attend school in violation of
the provisions of this article or without just cause, shall be
guilty of a misdemeanor and, shall, upon conviction of a first
offense, be fined not less than \$50 nor more than \$100 together

1 with the costs of prosecution, or required to accompany the child
2 to school and remain through the school day for so long as the
3 magistrate or judge may determine is appropriate. The magistrate
4 or judge, upon conviction and pronouncing sentence, may delay the
5 sentence for a period of sixty school days provided the child is in
6 attendance everyday during said sixty-day period. Following the
7 sixty-day period, if ~~said~~ the child was present at school for every
8 school day, the delayed sentence may be suspended and not enacted.
9 Upon conviction of a second offense, a fine may be imposed of not
10 less than \$50 nor more than \$100 together with the costs of
11 prosecution and the person may be required to accompany the child
12 to school and remain throughout the school day until such time as
13 the magistrate or judge may determine is appropriate or confined in
14 jail not less than five nor more than twenty days. Every day a
15 child is out of school contrary to the provisions of this article
16 shall constitute a separate offense. Magistrates shall have
17 concurrent jurisdiction with circuit courts for the trial of
18 offenses arising under this section.

19 Any person eighteen years of age or older who is enrolled in
20 school who, after receiving due notice, fails to attend school in
21 violation of the provisions of this article or without just cause,
22 shall be guilty of a misdemeanor and shall, upon conviction of a
23 first offense, be fined not less than \$50 nor more than \$100
24 together with the costs of prosecution and required to attend

1 school and remain throughout the school day. The magistrate or
2 judge, upon conviction and pronouncing sentence, may delay the
3 imposition of a fine for a period of sixty school days provided the
4 person is in attendance every day during ~~said~~ the sixty-day period.
5 Following the sixty-day period, if ~~said~~ the student was present at
6 school everyday, the delayed sentence may be suspended and not
7 enacted. Upon conviction of a second offense, a fine may be
8 imposed of not less than \$50 nor more than \$100 together with the
9 costs of prosecution and the person may be required to go to school
10 and remain throughout the school day until such time as the person
11 graduates or withdraws from school or confined in jail not less
12 than five nor more than twenty days. Every day a student is out of
13 school contrary to the provisions of this article shall constitute
14 a separate offense. Magistrates shall have concurrent jurisdiction
15 with circuit courts for the trial of offenses arising under this
16 section.

17 Upon conviction of a third offense, any person eighteen years
18 of age or older who is enrolled in school shall be withdrawn from
19 school during the remainder of that school year. Enrollment of
20 that person in school during the next school year or years
21 thereafter shall be conditional upon all absences being excused as
22 defined in law, state board policy and county board of education
23 policy. More than one unexcused absence of ~~such a~~ the student
24 shall be grounds for the director of attendance to authorize the

1 school to withdraw the person for the remainder of the school year.
2 Magistrates shall have concurrent jurisdiction with circuit courts
3 for the trial of offenses arising under this section.

4 All unexcused tardy minutes shall be calculated by all West
5 Virginia Public Schools, primary and secondary and counted as
6 absences toward student's school attendance record effective at the
7 beginning of the 2013/2014 school year. All unexcused minutes a
8 student is tardy at the beginning of a school day shall be
9 calculated and recorded and when the minutes for any student
10 reaches half a school day then the student will be charged with
11 half an absence. Those absences any student accumulates from tardy
12 minutes shall be counted and enforced exactly as unexcused absences
13 that are eligible for prosecution for guardians and students. The
14 accumulated absences from unexcused tardy minutes shall be enforced
15 and prosecuted to the same extent as stated for absences in this
16 section.

NOTE: The purpose of this bill is to assess penalties for excessive tardy minutes for primary and secondary school students.

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