

H. B. 2901

(By Delegates Moffatt, Folk, R. Phillips, Howell and Westfall)

[Introduced February 24, 2015; referred to the

Committee on Roads and Transportation then the Judiciary.]

A BILL to amend and reenact §17C-6-1, §17C-6-2 and §17C-6-3 of the Code of West Virginia, 1931, as amended, all relating to the establishment of state speed restrictions; authorizing the Commissioner of Highways to determine the appropriate speed limit that is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a highway, upon the basis of an engineering and traffic investigation; requiring commissioner to raise speeds on rural interstate highways if it is safe to do so; and when local authorities may alter speed limits.

Be it enacted by the Legislature of West Virginia:

That §17C-6-1, §17C-6-2 and §17C-6-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 6. SPEED RESTRICTIONS.

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

(a) ~~No~~ A person may not drive a vehicle on a highway at a speed greater than is reasonable

1 and prudent under the existing conditions and the actual and potential hazards. In every event speed
2 shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other
3 conveyance on or entering the highways in compliance with legal requirements and the duty of all
4 persons to use due care.

5 (b) Where no special hazard exists that requires lower speed for compliance with subsection
6 (a) of this section, the speed of any vehicle not in excess of the limits specified in this section or
7 established as authorized in this section is lawful, but any speed in excess of the limits specified in
8 this subsection or established as authorized in this section or as otherwise determined and established
9 by the commissioner upon the basis of an engineering and traffic investigation is unlawful. The
10 following speed limits apply:

11 (1) Fifteen miles per hour in a school zone during school recess or while children are going
12 to or leaving school during opening or closing hours. A school zone is all school property, including
13 school grounds and any street or highway abutting the school grounds and extending one hundred
14 twenty-five feet along the street or highway from the school grounds. The speed restriction does not
15 apply to vehicles traveling on a controlled-access highway which is separated from the school or
16 school grounds by a fence or barrier approved by the Division of Highways nor does the speed
17 restriction apply when school is not in session; and

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

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

21 The speeds set forth in this section may be altered as authorized in sections two and three of
22 this article.

1 (c) The driver of every vehicle shall, consistent with the requirements of subsection (a) of this
2 section, drive at an appropriate reduced speed when approaching and crossing an intersection or
3 railway grade crossing, when approaching and going around a curve, when approaching a hill crest,
4 when traveling upon any narrow or winding roadway and when a special hazard exists with respect
5 to pedestrians or other traffic or by reason of weather or highway conditions.

6 (d) The speed limit on controlled access highways and interstate highways, where no special
7 hazard exists that requires a lower speed, shall be not less than fifty-five miles per hour but may be
8 higher as determined by the commissioner upon the basis of an engineering and traffic investigation
9 and the speed limits specified in subsection (b) of this section do not apply: *Provided, That the*
10 commissioner shall conduct an engineering and traffic investigation on interstate highways located
11 in rural areas of the state by July 1, 2015, to determine if the speed limit in those areas may be safely
12 raised to seventy-five miles per hour. If it is determined by the commissioner upon the basis of that
13 engineering and traffic investigation that the speed can be safely raised, then the commissioner shall
14 do so effective July 1, 2015.

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

1 (f) Any person who violates the provisions of subdivision (1), subsection (b) of this section
2 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more
3 than \$500: *Provided*, That if the conviction is based upon a violation of the provisions of
4 subdivision (1), subsection (b) of this section where the offender exceeded the speed limit by fifteen
5 miles per hour or more in the presence of one or more children, then upon conviction, shall be fined
6 not less than \$100 nor more than \$500 or confined in ~~the regional or county~~ jail for not more than
7 six months, or both fined and confined.

8 (g) If an owner or driver is arrested under the provisions of this section for the offense of
9 driving above the posted speed limit on a controlled access highway or interstate highway and if the
10 evidence shows that the motor vehicle was being operated at ten miles per hour or less above the
11 speed limit, then, upon conviction thereof, that person shall be fined not more than \$5, plus court
12 costs.

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

17 (i) If an owner or driver is convicted under the provisions of this section for the offense of
18 driving above the speed limit on a controlled-access highway or interstate highway of this state and
19 if the evidence shows that the motor vehicle was being operated at ten miles per hour or less above
20 the speed limit, then notwithstanding the provisions of section four, article three, chapter seventeen-b
21 of this code, a certified abstract of the judgment on the conviction ~~shall~~ may not be transmitted to
22 the Division of Motor Vehicles: *Provided*, That the provisions of this subsection do not apply to

1 conviction of owners or drivers who have been issued a commercial driver's license as defined in
2 chapter seventeen-e of this code, if the offense was committed while operating a commercial vehicle.

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

16 **§17C-6-2. Establishment of state speed zones.**

17 ~~Whenever~~ The state road commissioner shall determine the appropriate speed limit upon the
18 basis of an engineering and traffic investigation that ~~any speed limit set forth in this article is greater~~
19 ~~or less than~~ is reasonable or safe under the conditions found to exist at any intersection or other place
20 or upon any part of a highway, ~~said~~ the commissioner may determine and declare a reasonable and
21 safe speed limit ~~thereat~~ which shall be effective at all times or during hours of daylight or darkness
22 or at such other times as may be determined when appropriate signs giving notice thereof are erected

1 at ~~such the~~ intersection or other place or part of the highway.

2 **§17C-6-3. When local authorities may alter speed limits.**

3 (a) *At intersection.* -- Whenever local authorities within their respective jurisdictions
 4 determine upon the basis of an engineering and traffic investigation that the speed permitted under
 5 this chapter at any intersection is greater than is reasonable or safe under the conditions found to
 6 exist at ~~such an~~ intersection, ~~such the~~ local authority subject to subsection (e) of this section shall
 7 determine and declare a reasonable and safe speed limit ~~thereat~~ at the intersection, which shall be
 8 effective at all times or during hours of daylight or darkness or at such other times as may be
 9 determined when appropriate signs giving notice thereof are erected at such intersection or upon the
 10 approaches thereto.

11 (b) *Authority to increase twenty-five mile limit.* -- Local authorities in their respective
 12 jurisdictions may ~~in their discretion~~, but subject to subsection (e) of this section, authorize by
 13 ordinance higher speeds than those stated in section one of this article upon through highways or
 14 upon highways or portions thereof where there are no intersections or between widely spaced
 15 intersections, which higher speed shall be effective at all times or during hours of daylight or at such
 16 other times as may be determined when signs are erected giving notice of the authorized speed, but
 17 local authorities ~~shall do~~ not have authority to modify or alter the basic rule set forth in subsection
 18 (a), section one of this article or in any event to authorize by ordinance a speed in excess of ~~fifty-five~~
 19 ~~miles per hour~~ the limit determined appropriate by the commissioner .

20 (c) *Authority to decrease ~~fifty-five mile~~ speed limit.* -- Whenever local authorities within their
 21 respective jurisdictions determine upon the basis of an engineering and traffic investigation that the
 22 speed under this chapter upon open country highway outside a business or residence district is

1 greater than is reasonable or safe under the conditions found to exist upon such street or highway,
 2 the local authority may determine and declare a reasonable and safe limit thereon but in no event less
 3 than thirty-five miles per hour and subject to subsection (e) of this section, which reduced limit shall
 4 be effective at all times or during hours of darkness or at other times as may be determined when
 5 appropriate signs giving notice thereof are erected upon such street or highway.

6 (d) *Authority to decrease twenty-five mile limit.* -- A municipality may ~~in its discretion~~, but
 7 subject to subsection (e) of this section, authorize by ordinance lower speeds than those stated in
 8 subdivision (2), subsection (b), section one of this article upon local dedicated rights-of-way in a
 9 residential district or portions thereof, which lower speed shall be effective at all times or during
 10 hours of daylight or at such other times as may be determined when signs are erected giving notice
 11 of the authorized speed.

12 (e) *Alteration of limits on state highways in municipalities.* -- Alteration of limits on state
 13 highways or extensions thereof in a municipality by local authorities ~~shall~~ are not ~~be~~ effective until
 14 ~~such~~ the alteration has been approved by the Commissioner of Highways.

NOTE: The purpose of this bill is to authorize the Commissioner of Highways to determine the appropriate speed limit that is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a highway, based an engineering and traffic investigation. The bill requires the commissioner to raise speeds on rural interstate highways if it is safe to do so. The bill also states when local authorities may alter speed limits.

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