

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

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**for**

**Senate Bill 549**

BY SENATORS MAYNARD AND CLINE

[Originating in the Committee on the Judiciary;

reported on March 27, 2017]



1 A BILL to amend and reenact §17C-15-44 of the Code of West Virginia, 1931, as amended,  
2 relating to allowing individuals at least twenty-one years of age to operate or ride a  
3 motorcycle without a helmet under specified conditions; permitting certain persons to ride  
4 or operate a motorcycle without a helmet; setting forth conditions that must be met by  
5 person to ride or operate a motorcycle without a helmet; authorizing rulemaking;  
6 eliminating obsolete language; and exempting autocycle operators from requirement to  
7 wear a helmet.

*Be it enacted by the Legislature of West Virginia:*

1 That §17C-15-44 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

**ARTICLE 15. EQUIPMENT.**

**§17C-15-44. Safety equipment and requirements for motorcyclists, motorcycles, motor-  
driven cycles and mopeds; ~~motorcycle safety standards and education committee;~~  
exemptions; rules.**

1 (a) Except as provided in subsection (f) of this section, ~~No~~ no person ~~shall~~ may operate or  
2 be a passenger on any motorcycle or motor-driven cycle unless the person is wearing securely  
3 fastened on his or her head by either a neck or chin strap a protective helmet designed to deflect  
4 blows, resist penetration and spread impact forces. Any helmet worn by an operator or passenger  
5 shall meet the current performance specifications established by the American National  
6 Standards Institute Standard, Z 90.1, the United States Department of Transportation Federal  
7 Motor Vehicle Safety Standard No. 218 or Snell Safety Standards for Protective Headgear for  
8 Vehicle Users.

9 (b) No person ~~shall~~ may operate or be a passenger on any motorcycle or motor-driven  
10 cycle unless the person is wearing safety, shatter-resistant eyeglasses (excluding contact lenses),  
11 or ~~eyegoggles~~ eye goggles or face shield that complies with the performance specifications  
12 established by the American National Standards Institute for Head, Eye and Respiratory

13 Protection, Z 2.1. In addition, if any motorcycle, motor-driven cycle or moped is equipped with a  
14 windshield or windscreen, the windshield or windscreen shall be constructed of safety, shatter-  
15 resistant material that complies with the performance specifications established by Department  
16 of Transportation Federal Motor Vehicle Safety Standard No. 205 and American National  
17 Standards Institute, Safety Glazing Materials for Glazing Motor Vehicles Operated on Land  
18 Highways, Standard Z 26.1.

19 (c) No person ~~shall~~ may operate a motorcycle, motor-driven cycle or moped on which the  
20 handlebars or grips are more than fifteen inches higher than the uppermost part of the operator's  
21 seat when the seat is not depressed in any manner.

22 (d) A person operating a motorcycle, motor-driven cycle or moped shall ride in a seated  
23 position facing forward and only upon a permanent operator's seat attached to the vehicle. No  
24 operator ~~shall~~ may carry any other person nor ~~shall~~ may any other person ride on the vehicle  
25 unless the vehicle is designed to carry more than one person, in which event a passenger may  
26 ride behind the operator upon the permanent operator's seat if it is designed for two persons, or  
27 upon another seat firmly attached to the vehicle to the rear of the operator's seat and equipped  
28 with footrests designed and located for use by the passenger or in a sidecar firmly attached to the  
29 vehicle. No person ~~shall~~ may ride side saddle on a seat. An operator may carry as many  
30 passengers as there are seats and footrests to accommodate those passengers. Additional  
31 passengers may be carried in a factory produced sidecar provided that there is one passenger  
32 per seat. Passengers riding in a sidecar shall be restrained by safety belts.

33 (e) Every motorcycle, motor-driven cycle and moped shall be equipped with a rearview  
34 mirror affixed to the handlebars or fairings and adjusted so that the operator ~~shall have~~ has a  
35 clear view of the road and condition of traffic behind him or her for a distance of at least two  
36 hundred feet.

37 ~~(f) There is hereby created a six member motorcycle safety and education committee~~  
38 ~~consisting of: The Superintendent of the State Police or a designee; the Commissioner of Motor~~

39 ~~Vehicles or a designee; the Director of the West Virginia Safety Council or a designee; a licensed~~  
40 ~~motorcycle operator; an owner of a motorcycle dealership; and a supplier of aftermarket~~  
41 ~~nonfranchised motorcycle supplies. The nongovernmental representatives shall be appointed by~~  
42 ~~the Governor with the advice and consent of the Senate, shall serve without compensation, and~~  
43 ~~the terms shall be for three years, except that as to the members first appointed, one shall be~~  
44 ~~appointed for a term of one year, one shall be appointed for a term of two years and one shall be~~  
45 ~~appointed for a term of three years. Members may be reappointed to the committee.~~

46 ~~The committee shall continue to exist pursuant to the provisions of article ten, chapter four~~  
47 ~~of this code until July 1, 1999, to allow for the completion of a preliminary performance review by~~  
48 ~~the joint committee on government operations.~~

49 ~~The committee is hereby authorized to recommend to the Superintendent of public safety~~  
50 ~~types and makes of protective helmets, eye protection devices and equipment offered for sale,~~  
51 ~~purchased or used by any person. The committee is authorized to make recommendations to the~~  
52 ~~Commissioner of Motor Vehicles regarding the use of the moneys in the Motorcycle Safety Fund~~  
53 ~~created under section seven, article one-d, chapter seventeen-b of this code.~~

54 (f) A person twenty-one years of age or older operating or riding on a motorcycle, as  
55 applicable, is not required to wear a helmet on his or her head if he or she:

56 (1) Has had a motorcycle license or a motorcycle endorsement on his or her operator's or  
57 chauffeur's license for at least two years or the person passes a motorcycle safety education  
58 program conducted under article one-d, chapter seventeen-b of this code; and

59 (2) Has in effect security for medical benefits payable if he or she is involved in a  
60 motorcycle accident regardless of fault; and

61 (3) Has in effect self-funded or self-purchased accident and sickness insurance, as that  
62 term is defined in subsection (b), section ten, article one, chapter thirty-three of this code, for  
63 which the total premium is either paid by the motorcycle operator or rider, his or her employer, or  
64 a combination of both the motorcycle operator and employer: *Provided*, That insurance for which

65 the motorcycle operator or rider's spouse or other family member pays the premium shall satisfy  
66 the provisions of this subdivision.

67 (g) The commissioner may propose rules for legislative approval in accordance with the  
68 provisions of article three, chapter twenty-nine-a of this code as needed to implement subsection  
69 (f) of this section, including any method a motorcycle operator or rider may use to prove he or she  
70 is eligible to operate or ride a motorcycle without a helmet.

71 (h) Notwithstanding any provision of this code to the contrary, a person with a valid driver's  
72 license who is operating an autocyple, as defined in section sixty-nine, article one of this chapter,  
73 is exempt from the provisions of this section.

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