

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

ENROLLED

House Bill 2684

BY DELEGATES CANESTRARO, LOVEJOY, HOLLEN,

R. MILLER, SHOTT AND ISNER

[Passed April 8, 2017; in effect ninety days from passage.]

1 AN ACT to amend and reenact §17B-4-3 of the Code of West Virginia, 1931, as amended,
2 relating to imposing enhanced penalties for repeat violations of the prohibition against
3 driving a motor vehicle on any public highway of this state at a time when the privilege to
4 do so has been lawfully suspended for driving while under the age of twenty-one years
5 with an alcohol concentration in his or her blood of two hundredths of one percent or more,
6 by weight, but less than eight hundredths of one percent by weight.

Be it enacted by the Legislature of West Virginia:

1 That §17B-4-3 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 4. VIOLATION OF LICENSE PROVISIONS.

**§17B-4-3. Driving while license suspended or revoked; driving while license revoked for
driving under the influence of alcohol, controlled substances or drugs, or while
having alcoholic concentration in the blood of eight hundredths of one percent or
more, by weight, or for refusing to take secondary chemical test of blood alcohol
contents.**

1 (a) Except as otherwise provided in subsection (b) or (d) of this section, any person who
2 drives a motor vehicle on any public highway of this state at a time when his or her privilege to do
3 so has been lawfully suspended or revoked by this state or any other jurisdiction is, for the first
4 offense, guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100
5 nor more than \$500; for the second offense, the person is guilty of a misdemeanor and, upon
6 conviction thereof, shall be fined not less than \$100 nor more than \$500; for the third or any
7 subsequent offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be
8 confined in jail for a period of not less than thirty days nor more than ninety days and shall be
9 fined not less than \$150 nor more than \$500.

10 (b) Any person who drives a motor vehicle on any public highway of this state at a time
11 when his or her privilege to do so has been lawfully revoked for driving under the influence of

12 alcohol, controlled substances or other drugs, or any combination thereof, or for driving while
13 having an alcoholic concentration in his or her blood of eight hundredths of one percent or more,
14 by weight, or for refusing to take a secondary chemical test of blood alcohol content, is, for the
15 first offense, guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a
16 period of not less than thirty days nor more than six months and shall be fined not less than \$100
17 nor more than \$500; for the second offense, the person is guilty of a misdemeanor and, upon
18 conviction thereof, shall be confined in jail for a period of not less than six months nor more than
19 one year and shall be fined not less than \$1,000 nor more than \$3,000; for the third or any
20 subsequent offense, the person is guilty of a felony and, upon conviction thereof, shall be
21 imprisoned in a state correctional facility for not less than one year nor more than three years and,
22 in addition to the mandatory prison sentence, shall be fined not less than \$3,000 nor more than
23 \$5,000.

24 (c) Upon receiving a record of the first or subsequent conviction of any person under
25 subsection (b) of this section upon a charge of driving a vehicle while the license of that person
26 was lawfully suspended or revoked, the division shall extend the period of the suspension or
27 revocation for an additional period of six months which may be served concurrently with any other
28 suspension or revocation. Upon receiving a record of the second or subsequent conviction of any
29 person under subsection (a) of this section upon a charge of driving a vehicle while the license of
30 that person was lawfully suspended or revoked, the division shall extend the period of the
31 suspension or revocation for an additional period of ninety days which may be served concurrently
32 with any other suspension or revocation.

33 (d) Any person who drives a motor vehicle on any public highway of this state at a time
34 when his or her privilege to do so has been lawfully suspended for driving while under the age of
35 twenty-one years with an alcohol concentration in his or her blood of two hundredths of one
36 percent or more, by weight, but less than eight hundredths of one percent, by weight, is guilty of
37 a misdemeanor and, upon conviction thereof, shall be confined in jail for twenty-four hours or shall

38 be fined not less than \$50 nor more than \$500, or both; for the second offense, the person is
39 guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not
40 less than thirty days nor more than six months and shall be fined not less than \$100 nor more
41 than \$500; for the third or any subsequent offense, the person is guilty of a felony and, upon
42 conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor
43 more than three years and fined not less than \$1,000 nor more than \$5,000.

44 Upon receiving a record of a first or subsequent conviction under this subsection for a
45 charge of driving a vehicle while the license of that person was lawfully suspended or revoked,
46 the division shall extend the period of the suspension or revocation for an additional period of six
47 months which may be served concurrently with any other suspension or revocation.

48 (e) An order for home detention by the court pursuant to the provisions of article eleven-
49 b, chapter sixty-two of this code may be used as an alternative sentence to any period of
50 incarceration required by this section.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2017.

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Governor