

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **House Bill 4042**

BY DELEGATES WESTFALL, ATKINSON, WAGNER, DEAN

AND FRICH

[Introduced January 12, 2018; Referred  
to the Committee on Education then the Judiciary]

1 A BILL to amend and reenact §17C-6-1 of the Code of West Virginia, 1931, as amended, relating  
2 to redefining school zone to facilitate placement of school zone signs.

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

## **ARTICLE 6. SPEED RESTRICTIONS.**

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

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

6 (b) Where no special hazard exists that requires lower speed for compliance with  
7 subsection (a) of this section, the speed of any vehicle not in excess of the limits specified in this  
8 section or established as authorized in this section is lawful, but any speed in excess of the limits  
9 specified in this subsection or established as authorized in this section is unlawful. The following  
10 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 or property through which  
14 a right-of-way has been granted for access to a school and extending one hundred twenty-five  
15 feet along the street or highway from the school grounds or entrance, whichever is greater. The  
16 West Virginia Division of Highways shall erect signage indicating the place of entry and exit of  
17 each school zone. Upon a formal vote and a written request by a county board of education to  
18 expand or establish a school zone to a road that is adjacent to school property or property through  
19 which a right-of-way has been granted for access to a school, the West Virginia Division of  
20 Highways shall expand the school zone by erecting new signage indicating the expanded school  
21 zone's location and speed limit within ninety days of receiving the request: *Provided*, That the

22 school zone may not be expanded more than one hundred twenty-five feet along an adjacent  
23 road unless the division determines that the additional extension is needed and necessary for the  
24 safety of the school children. The speed restriction does not apply to vehicles traveling on a  
25 controlled-access highway which is separated from the school or school grounds by a fence or  
26 barrier approved by the Division of Highways;

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

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

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

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

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

41 (e) Unless otherwise provided in this section, any person who violates the provisions of  
42 this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than  
43 \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200;  
44 and, upon a third or subsequent conviction within two years thereafter, shall be fined not more  
45 than \$500: *Provided*, That if the third or subsequent conviction is based upon a violation of the  
46 provisions of this section where the offender exceeded the speed limit by fifteen miles per hour  
47 or more, then upon conviction, shall be fined not more than \$500 or confined in jail for not more

48 than six months, or both fined and confined.

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

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

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

67 (i) If an owner or driver is convicted under the provisions of this section for the offense of  
68 driving above the speed limit on a controlled access highway or interstate highway of this state  
69 and if the evidence shows that the motor vehicle was being operated at ten miles per hour or less  
70 above the speed limit, then notwithstanding the provisions of section four, article three, chapter  
71 seventeen-b of this code, a certified abstract of the judgment on the conviction shall not be  
72 transmitted to the Division of Motor Vehicles: *Provided*, That the provisions of this subsection do  
73 not apply to conviction of owners or drivers who have been issued a commercial driver's license

74 as defined in chapter seventeen-e of this code, if the offense was committed while operating a  
75 commercial vehicle.

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

NOTE: The purpose of this bill is to redefine school zone to facilitate placement of school zone signs.

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