

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

Introduced

### House Bill 2822

FISCAL  
NOTE

BY DELEGATES ROHRBACH, LOVEJOY, HORNBUCKLE,  
MANDT, D. KELLY, DEAN, CAMPBELL, WORRELL, HOLLEN

AND LINVILLE

[Introduced February 1, 2019; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §17C-5-3a, relating to creating an enhanced penalty for certain aggravated  
3 serious traffic offenses; requiring a person to first be convicted of the underlying offense  
4 before the enhanced penalty is permitted to be assessed; and prohibiting the enhanced  
5 penalty from increasing a misdemeanor offense to a felony offense.

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

## **ARTICLE 5. SERIOUS TRAFFIC OFFENSES.**

### **§17C-5-3a. Enhanced penalty for endangering children.**

1 Any person convicted of an offense contained in §17C-5-2 or §17C-5-3 of this code is  
2 subject to a potential enhanced penalty if the conduct that led to the conviction created a severe  
3 and imminent danger to one or more minors outside the vehicle. The question of whether or not  
4 the person is subject to the enhanced penalty is to be decided by the trier of fact in the same  
5 manner as the underlying offense. If the trier of fact determines that the conduct created a severe  
6 and imminent danger to one or more minors outside the vehicle, then the person may be  
7 sentenced to confinement of up to one year in a correctional facility in addition to the penalty  
8 imposed for the underlying conviction: *Provided*, That this enhanced penalty cannot subject a  
9 person convicted of a misdemeanor offense to more than one-year confinement total. This  
10 enhanced penalty is not a separate crime and cannot change a misdemeanor offense into a felony  
11 offense.

NOTE: The purpose of this bill is to create an enhanced penalty for persons convicted of DUI or reckless driving when the conduct creates a severe and imminent danger to one or more minors outside the vehicle.

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