

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4577

**FISCAL
NOTE**

BY DELEGATES ATKINSON, SYPOLT, BOGGS, D. JEFFRIES,

BUTLER, ROWAN, WESTFALL, MILLER, QUEEN AND

LAVENDER-BOWE

[Introduced January 29, 2020; Referred to the
Committee on Technology and Infrastructure then the
Judiciary]

1 A BILL to amend and reenact §17A-1-1 of the Code of West Virginia, 1931, as amended; to amend
 2 and reenact §17B-1-1 of said code; to amend and reenact §17C-1-5a of said code; to
 3 amend said code by adding thereto a new section, designated §17C-1-70; and to amend
 4 said code by adding thereto a new section, designated §§17C-11-6, all relating to electric
 5 bicycles; defining electric bicycles; excluding electric bicycles from registration, title,
 6 financial liability, and driver's license requirements; providing electric bicycle general use
 7 regulations; providing the operator of an electric bicycle has the same rights and duties as
 8 the operator of a bicycle; providing the use of an electric bicycle may be restricted by an
 9 entity having jurisdiction over a bicycle path or trail; providing that an electric bicycle is
 10 considered a motor vehicle for purposes of driving under influence of alcohol, controlled
 11 substances or drugs; providing for helmet use requirements and class use restrictions for
 12 a person under 15 years of age; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17A-1-1. Definitions.

1 Except as otherwise provided in this chapter, the following words and phrases, when used
 2 in this chapter, shall have the meanings respectively ascribed to them in this article:

3 (a) "Vehicle" means every device in, upon or by which any person or property is or may
 4 be transported or drawn upon a highway, excepting devices moved by human power or used
 5 exclusively upon stationary rails or tracks.

6 (b) "Motor vehicle" means every vehicle which is self propelled and every vehicle which is
 7 propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

8 (c) "Motorcycle" means every motor vehicle, including motor-driven cycles and mopeds as

9 defined in §17C-1-5 and §17C-1-5a of this code, having a saddle for the use of the rider and
10 designed to travel on not more than three wheels in contact with the ground, but excluding a
11 tractor and an electric bicycle as defined in §17C-1-70 of this code.

12 (d) "School bus" means every motor vehicle owned by a public governmental agency and
13 operated for the transportation of children to or from school or privately owned and operated for
14 compensation for the transportation of children to or from school.

15 (e) "Bus" means every motor vehicle designed to carry more than seven passengers and
16 used to transport persons; and every motor vehicle, other than a taxicab, designed and used to
17 transport persons for compensation.

18 (f) "Truck tractor" means every motor vehicle designed and used primarily for drawing
19 other vehicles and not so constructed as to carry a load other than a part of the weight of the
20 vehicle and load so drawn.

21 (g) "Farm tractor" means every motor vehicle designed and used primarily as a farm
22 implement for drawing plows, mowing machines and other implements of husbandry.

23 (h) "Road tractor" means every motor vehicle designed, used or maintained for drawing
24 other vehicles and not so constructed as to carry any load thereon either independently or any
25 part of the weight of a vehicle or load so drawn.

26 (i) "Truck" means every motor vehicle designed, used or maintained primarily for the
27 transportation of property.

28 (j) "Trailer" means every vehicle with or without motive power designed for carrying
29 persons or property and for being drawn by a motor vehicle and so constructed that no part of its
30 weight rests upon the towing vehicle, but excluding recreational vehicles.

31 (k) "Semitrailer" means every vehicle with or without motive power designed for carrying
32 persons or property and for being drawn by a motor vehicle and so constructed that some part of
33 its weight and that of its load rests upon or is carried by another vehicle.

34 (l) "Pole trailer" means every vehicle without motive power designed to be drawn by

35 another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being
36 boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or
37 irregularly shaped loads such as poles, pipes or structural members capable, generally, of
38 sustaining themselves as beams between the supporting connections.

39 (m) "Specially constructed vehicles" means every vehicle of a type required to be
40 registered hereunder not originally constructed under a distinctive name, make, model or type by
41 a generally recognized manufacturer of vehicles and not materially altered from its original
42 construction.

43 (n) "Reconstructed vehicle" means every vehicle of a type required to be registered
44 hereunder materially altered from its original construction by the removal, addition or substitution
45 of essential parts, new or used.

46 (o) "Essential parts" means all integral and body parts of a vehicle of a type required to be
47 registered hereunder, the removal, alteration or substitution of which would tend to conceal the
48 identity of the vehicle or substantially alter its appearance, model, type or mode of operation.

49 (p) "Foreign vehicle" means every vehicle of a type required to be registered hereunder
50 brought into this state from another state, territory or country other than in the ordinary course of
51 business by or through a manufacturer or dealer and not registered in this state.

52 (q) "Implement of husbandry" means every vehicle which is designed for or adapted to
53 agricultural purposes and used by the owner thereof primarily in the conduct of his or her
54 agricultural operations, including, but not limited to, trucks used for spraying trees and plants:
55 *Provided*, That the vehicle may not be let for hire at any time.

56 (r) "Special mobile equipment" means every self-propelled vehicle not designed or used
57 primarily for the transportation of persons or property and incidentally operated or moved over the
58 highways, including, without limitation, road construction or maintenance machinery, ditch-digging
59 apparatus, stone crushers, air compressors, power shovels, graders, rollers, well drillers, wood-
60 sawing equipment, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling

61 graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls,
62 scrapers, drag lines, rock-drilling equipment and earth-moving equipment. The foregoing
63 enumeration shall be deemed partial and may not operate to exclude other such vehicles which
64 are within the general terms of this subdivision.

65 (s) "Pneumatic tire" means every tire in which compressed air is designed to support the
66 load.

67 (t) "Solid tire" means every tire of rubber or other resilient material which does not depend
68 upon compressed air for the support of the load.

69 (u) "Metal tire" means every tire the surface of which in contact with the highway is wholly
70 or partly of metal or other hard, nonresilient material.

71 (v) "Commissioner" means the Commissioner of Motor Vehicles of this state.

72 (w) "Division" means the Division of Motor Vehicles of this state acting directly or through
73 its duly authorized officers and agents.

74 (x) "Person" means every natural person, firm, copartnership, association or corporation.

75 (y) "Owner" means a person who holds the legal title to a vehicle, or in the event a vehicle
76 is the subject of an agreement for the conditional sale or lease thereof with the right of purchase
77 upon performance of the conditions stated in the agreement and with an immediate right of
78 possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is
79 entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed the
80 owner for the purpose of this chapter.

81 (z) "Nonresident" means every person who is not a resident of this state.

82 (aa) "Dealer" or "dealers" is a general term meaning, depending upon the context in which
83 used, either a new motor vehicle dealer, used motor vehicle dealer, factory-built home dealer,
84 recreational vehicle dealer, trailer dealer or motorcycle dealer, as defined in §17C-1-6 of this code,
85 or all of the dealers or a combination thereof and, in some instances, a new motor vehicle dealer
86 or dealers in another state.

87 (bb) "Registered dealer" or "registered dealers" is a general term meaning, depending
88 upon the context in which used, either a new motor vehicle dealer, used motor vehicle dealer,
89 house trailer dealer, trailer dealer, recreational vehicle dealer or motorcycle dealer, or all of the
90 dealers or a combination thereof, licensed under the provisions of §17A-6-1 *et seq.* of this code.

91 (cc) "Licensed dealer" or "licensed dealers" is a general term meaning, depending upon
92 the context in which used, either a new motor vehicle dealer, used motor vehicle dealer, house
93 trailer dealer, trailer dealer, recreational vehicle dealer or motorcycle dealer, or all of the dealers
94 or a combination thereof, licensed under the provisions of §17A-6-1 *et seq.* of this code.

95 (dd) "Transporter" means every person engaged in the business of delivering vehicles of
96 a type required to be registered hereunder from a manufacturing, assembling or distributing plant
97 to dealers or sales agents of a manufacturer.

98 (ee) "Manufacturer" means every person engaged in the business of constructing or
99 assembling vehicles of a type required to be registered hereunder at a place of business in this
100 state which is actually occupied either continuously or at regular periods by the manufacturer
101 where his or her books and records are kept and a large share of his or her business is transacted.

102 (ff) "Street" or "highway" means the entire width between boundary lines of every way
103 publicly maintained when any part thereof is open to the use of the public for purposes of vehicular
104 travel.

105 (gg) "Motorboat" means any vessel propelled by an electrical, steam, gas, diesel or other
106 fuel-propelled or -driven motor, whether or not the motor is the principal source of propulsion, but
107 may not include a vessel which has a valid marine document issued by the bureau of customs of
108 the United States government or any federal agency successor thereto.

109 (hh) "Motorboat trailer" means every vehicle designed for or ordinarily used for the
110 transportation of a motorboat.

111 (ii) "All-terrain vehicle" (ATV) means any motor vehicle designed for off-highway use and
112 designed to travel on not less than three low-pressure or nonhighway tires, is 50 inches or less in

113 width and intended by the manufacturer to be used by a single operator or is specifically designed
114 by the manufacturer with seating for each passenger. "All-terrain vehicle" and "ATV" does not
115 include mini trucks, golf carts, riding lawnmowers or tractors.

116 (jj) "Travel trailer" means every vehicle, mounted on wheels, designed to provide
117 temporary living quarters for recreational, camping or travel use of such size or weight as not to
118 require special highway movement permits when towed by a motor vehicle and of gross trailer
119 area less than 400 square feet.

120 (kk) "Fold-down camping trailer" means every vehicle consisting of a portable unit
121 mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by
122 another vehicle and unfold at the camp site to provide temporary living quarters for recreational,
123 camping or travel use.

124 (ll) "Motor home" means every vehicle, designed to provide temporary living quarters, built
125 into an integral part of or permanently attached to a self-propelled motor vehicle, chassis or van
126 including: (1) Type A motor home built on an incomplete truck chassis with the truck cab
127 constructed by the second stage manufacturer; (2) Type B motor home consisting of a van-type
128 vehicle which has been altered to provide temporary living quarters; and (3) Type C motor home
129 built on an incomplete van or truck chassis with a cab constructed by the chassis manufacturer.

130 (mm) "Snowmobile" means a self-propelled vehicle intended for travel primarily on snow
131 and driven by a track or tracks in contact with the snow and steered by a ski or skis in contact
132 with the snow.

133 (nn) "Recreational vehicle" means a motorboat, motorboat trailer, all-terrain vehicle, travel
134 trailer, fold-down camping trailer, motor home or snowmobile.

135 (oo) "Mobile equipment" means every self-propelled vehicle not designed or used primarily
136 for the transportation of persons or property over the highway but which may infrequently or
137 incidentally travel over the highways among job sites, equipment storage sites or repair sites,
138 including farm equipment, implements of husbandry, well drillers, cranes and wood-sawing

139 equipment.

140 (pp) "Factory-built home" includes mobile homes, house trailers and manufactured homes.

141 (qq) "Manufactured home" has the same meaning as the term is defined in §21-2-9 of this
142 code which meets the federal Manufactured Housing Construction and Safety Standards Act of
143 1974 (42 U. S. C. §5401, *et seq.*), effective on June 15, 1976, and the federal manufactured home
144 construction and safety standards and regulations promulgated by the Secretary of the United
145 States Department of Housing and Urban Development.

146 (rr) "Mobile home" means a transportable structure that is wholly, or in substantial part,
147 made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and
148 installation on a building site and designed for long-term residential use and built prior to
149 enactment of the federal Manufactured Housing Construction and Safety Standards Act of 1974
150 (42 U. S. C. §5401, *et seq.*), effective on June 15, 1976, and usually built to the voluntary industry
151 standard of the American National Standards Institute (ANSI) -- A119.1 standards for mobile
152 homes.

153 (ss) "House trailers" means all trailers designed and used for human occupancy on a
154 continual nonrecreational basis, but may not include fold-down camping and travel trailers, mobile
155 homes or manufactured homes.

156 (tt) "Parking enforcement vehicle" means a motor vehicle which does not fit into any other
157 classification of vehicle in this chapter, has three or four wheels and is designed for use in an
158 incorporated municipality by a city, county, state or other governmental entity primarily for parking
159 enforcement or other governmental purposes with an operator area with sides permanently
160 enclosed with rigid construction and a top which may be convertible, sealed beam headlights,
161 turn signals, brake lights, horn, at least one rearview mirror on each side and such other
162 equipment that will enable it to pass a standard motorcycle vehicle inspection.

163 (uu) "Low-speed vehicle" means a four-wheeled motor vehicle whose attainable speed in
164 one mile on a paved level surface is more than twenty miles per hour but not more than 25 miles

165 per hour.

166 (vv) "Utility terrain vehicle" means any motor vehicle with four or more low-pressure or
167 nonhighway tires designed for off-highway use and is greater than 50 inches in width. "Utility
168 terrain vehicle" does not include mini trucks, golf carts, riding lawnmowers or tractors.

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17B-1-1. Definitions.

1 The following words and phrases when used in this chapter, for the purpose of this
2 chapter, have the meanings respectively ascribed to them in this article:

3 *Autocycle.* — Every fully or partially enclosed motorcycle that is equipped with safety belts,
4 rollover protection, a rearview mirror, automotive seating, a steering wheel and equipment
5 otherwise required on a motorcycle and which has no more than three wheels in contact with the
6 roadway at any one time;

7 *Cancellation.* — Means that a driver's license is annulled and terminated because of some
8 error or defect or because the licensee is no longer entitled to that license, but the cancellation of
9 a license is without prejudice and application for a new license may be made at any time after
10 such cancellation;

11 *Chauffeur.* — Every person who is employed by another for the principal purpose of driving
12 a motor vehicle and every person who drives a school bus transporting school children or any
13 motor vehicle when in use for the transportation of persons or property for compensation;

14 *Commissioner.* — The Commissioner of Motor Vehicles of this state;

15 *Division.* — The Division of Motor Vehicles of this state acting directly or through its duly
16 authorized officers or agents;

17 *Driver.* — Means any person who drives, operates or is in physical control of a motor
18 vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required

19 to hold a driver's license;

20 *Driver's license.* — Means any permit or license issued by this state to a person which
21 authorizes the person to drive a motor vehicle of a specific class or classes subject to any
22 restriction or endorsement contained thereon;

23 *Farm tractor.* — Every motor vehicle designed and used primarily as a farm implement for
24 drawing plows, mowing machines and other implements of husbandry;

25 *Motorcycle.* — Every motor vehicle having a seat or saddle for the use of the rider and
26 designed to travel on not more than three wheels in contact with the ground, but excluding a farm
27 tractor as defined herein, a moped as defined in §17C-1-5a of this code a snowmobile as defined
28 in §17A-1-1(mm) of this code and an all-terrain vehicle as defined in §17B-1-1(ii) of this code, and
29 an electric bicycle as defined in §17C-1-70 of this code;

30 *Motor vehicle.* — Every vehicle which is self-propelled and every vehicle which is propelled
31 by electric power obtained from overhead trolley wires, but not operated upon rails;

32 *9-1-1 system.* — Means an emergency telephone system or enhanced emergency
33 telephone system as defined in §24-6-2 of this code.

34 *Nonresident.* — Every person who is not a resident of this state;

35 *Operator.* — Every person, other than a chauffeur, who drives or is in actual physical
36 control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle
37 being towed by a motor vehicle;

38 *Owner.* — A person who holds the legal title of a vehicle or in the event a vehicle is the
39 subject of an agreement for the conditional sale or lease thereof with the right of purchase upon
40 performance of the conditions stated in the agreement and with an immediate right of possession
41 vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession,
42 then the conditional vendee or lessee or mortgagor is the owner for the purpose of this chapter;

43 *Person.* — Every natural person, firm, copartnership, association or corporation;

44 *Revocation.* — Means that the driver’s license and privilege to drive a motor vehicle on
45 the public highways are terminated and shall not be renewed or restored, except that an
46 application for a new license may be presented and acted upon by the division after the expiration
47 of at least one year after the date of revocation, except as otherwise provided in §17C-5A-2 of
48 this code;

49 *School bus.* — Every motor vehicle owned by a public governmental agency and operated
50 for the transportation of children to or from school or privately owned and operated for
51 compensation for the transportation of children to or from school;

52 *Street or highway.* — The entire width between the boundary lines of every way publicly
53 maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

54 *Suspension.* — Suspension means that the driver’s license and privilege to drive a motor
55 vehicle on the public highways are temporarily withdrawn but only during the period of the
56 suspension;

57 *Vehicle.* — Every device in, upon or by which any person or property is or may be
58 transported or drawn upon a public highway, excepting devices moved by human power or used
59 exclusively upon stationary rails or tracks;

60 *Wireless communication device.* — Means a handheld device used to access a wireless
61 telephone service or a text messaging device.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17C-1-5a. Moped.

1 “Moped” means every motorcycle or motor-driven cycle unless otherwise specified in this
2 chapter, which is equipped with two or three wheels, foot pedals to permit muscular propulsion
3 and an independent power source providing a maximum of two brake horsepower, but excluding
4 electric bicycles as defined in §17C-1-70 of this code. If a combustion engine is used, the

5 maximum piston or rotor displacement shall be fifty cubic centimeters regardless of the number
6 of chambers in such power source. The power source shall be capable of propelling the vehicle,
7 unassisted, at a speed not to exceed 30 miles per hour on a level road surface and shall be
8 equipped with a power drive system that functions directly or automatically only, not requiring
9 clutching or shifting by the operator after the drive system is engaged.

§17C-1-70. Electric bicycles; definitions.

1 “Class 1 electric bicycle” means every electric bicycle equipped with a motor that provides
2 assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle
3 reaches the speed of 20 miles per hour.

4 “Class 2 electric bicycle” means an electric bicycle equipped with a motor that may be
5 used exclusively to propel the bicycle, and that is not capable of providing assistance when the
6 bicycle reaches the speed of 20 miles per hour and is considered a moped as defined in §17C-1-
7 5a of this code.

8 “Class 3 electric bicycle” means every bicycle equipped with a motor that provides
9 assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle
10 reaches the speed of 28 miles per hour.

11 “Electric bicycle” means every 2-wheel or 3-wheel bicycle equipped with fully operable
12 pedals and an electric motor of less than 750 watts that is a Class 1 electric bicycle or a Class 3
13 electric bicycle.

**ARTICLE 11. OPERATION OF BICYCLES, ELECTRIC BICYCLES, AND PLAY
VEHICLES.**

§17C-11-6. Electric bicycles; requirements; exclusions; age restrictions.

1 (a) The operator of an electric bicycle has all of the rights and privileges and is subject to
2 all of the duties applicable to the driver of a vehicle subject to this chapter, except as otherwise
3 provided by this section and except as to those provisions of this chapter which by their nature

4 can have no application.

5 (b) A person owning or operating an electric bicycle is not subject to the provisions of
6 §17A-1-1 et seq., §17B-1-1 et seq. and §17D-1-1 et seq. of this code, relating to registration, title,
7 driver's license, and financial responsibility requirements.

8 (c) A manufacturer or distributor of electric bicycles shall apply a label that is permanently
9 affixed in a prominent location to each electric bicycle. The label must contain the classification
10 number, top assisted speed, and motor wattage of the electric bicycle and must be printed in Arial
11 font in at least 9-point type.

12 (d) A person may not tamper with or modify an electric bicycle so as to change the motor-
13 powered speed capability or motor engagement between pedal-assist and throttle-assist types of
14 engagement. If a motor on an electric bicycle is modified so that a limit established in §17C-1-70
15 of this code is exceeded, that vehicle is no longer an electric bicycle. The provisions of this
16 subsection are not applicable to a modified electric bicycle operated solely and exclusively on
17 one's own property.

18 (e) An electric bicycle must comply with the equipment and manufacturing requirements
19 for bicycles adopted by the United States Consumer Product Safety Commission (16 C.F.R. Part
20 1512).

21 (f) The motor on an electric bicycle must disengage or cease to propel the electric bicycle
22 when the operator stops pedaling or when the operator applies the brakes and stops pedaling.

23 (g) An electric bicycle must be equipped with a speedometer that displays the speed the
24 electric bike is traveling in miles per hour.

25 (h) Electric bicycles operated on public roadways, public bicycle paths, public multi-use
26 paths and other public rights-of-way where bicycles are permitted to travel are subject to the
27 following restrictions:

28 (1) A Class 1 electric bicycle may be used in places where bicycles are permitted to travel,
29 including, but not limited to, public roadways, public bicycle paths, public multi-use trails and

30 public single-use trails, except that a municipality, local authority, or governing body of a public
31 agency that has jurisdiction over a roadway, bicycle path, multi-use trail, or single-use trail may
32 permit or restrict that operation.

33 (2) A Class 3 electric bicycle may not be operated on a bicycle path, multi-use trail or
34 single-use trail unless it is within a highway or roadway: *Provided*, That the provisions of this
35 subdivision are not applicable to a bicycle path, multi-use trail, or single-use trail if the municipality,
36 local authority or governing body of a state agency that has jurisdiction over the bicycle path,
37 multi-use trail, or single-use trail expressly permits that operation.

38 (3) This subsection may not be construed to limit the authority of the owner of a private
39 way or the owner of private property to restrict or allow the operation of electric bicycles on the
40 way or property.

41 (i) Age restrictions related to the operation of electric bicycles are as follows:

42 (1) A person under 15 years of age may not operate a Class 3 electric bicycle.

43 (2) A person under 15 years of age may not be a passenger on a Class 3 electric bicycle,
44 including as a passenger within any attachment to such vehicle designed to transport an
45 additional person, including a child.

46 (3) A person under 15 years of age who is an operator or passenger on an electric bicycle
47 shall wear a properly fitted and fastened bicycle helmet, pursuant to the Child Bicycle Safety Act,
48 §17C-11A-1 *et seq.* of this code.

NOTE: The purpose of this bill is to establish for the regulation of electric bicycles. The bill provides for their exclusion from registration, title, insurance and driver's license requirements. The bill provides for general regulations for their use, provide for helmet use requirements. The bill prohibits the operation of an electric bicycle under the influence of alcohol, controlled substances, and drugs. The bill requires the wearing of a helmet. The bill sets forth penalties.

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