WEST virginia legislature

2021 regular session

Introduced

House Bill Number

By Delegate Rohrbach

[Introduced February 10, 2021; Referred to the Committee on the Judiciary]

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

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