

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3128

By Delegate Longanacre

[Introduced ; Referred

to the Committee on]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §9-5-31, relating to requiring movie theaters in West Virginia to provide open
 3 captions for movies in order to accommodate those who are deaf or hard of hearing.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-31. Movie theater open captioning required.

1 (a) Definitions. – As used in this section, the following terms have the following meanings:

2 (1) The term "motion picture" means a story or event recorded by a camera as a set of
 3 moving images.

4 (2) The term "motion picture theater" means an entity in the business of providing
 5 showings of motion pictures to the general public.

6 (3) The term "open motion picture captioning" means the written, on-screen display of a
 7 motion picture's dialogue and non-speech information, including music, the identity of the
 8 character who is speaking, and other sounds and sound effects.

9 (4) The term "peak motion picture attendance hours" means the hours between 5:59 p.m.
 10 and 11:01 p.m. on Friday and the hours between 11:29 a.m. and 11:01 p.m. on Saturday or
 11 Sunday.

12 (b) Open motion picture captioning required. – A motion picture theater that offers more
 13 than 10 motion picture showings per week shall provide scheduled showings of motion pictures
 14 with open motion picture captioning such that at least one quarter of all showings of a motion
 15 picture with four or more showings during a one-week time period shall have open motion picture
 16 captioning, except that no more than four open captioning showings of a single motion picture
 17 shall be required in a one week time period.

18 (c) Exceptions. – A motion picture that is produced and distributed without open motion
 19 picture captioning is not subject to the provisions of subdivision (b) of this section.

20 (d) Timing:

21 (1) At least half of the scheduled showings required pursuant to subdivision (b) of this
22 section shall begin and end within peak motion picture attendance hours, unless fewer than one in
23 eight showings of a motion picture is screened during peak motion picture attendance hours, in
24 which case this requirement is met if all screenings of such motion picture during peak motion
25 picture attendance hours have open motion picture captioning.

26 (2) At least half of the scheduled showings required pursuant to subdivision (b) of this
27 section that are scheduled outside of peak motion picture attendance hours shall start after 5:59
28 p.m. and finish before 11:01 p.m. on Mondays, Tuesdays, Wednesdays, or Thursdays, unless
29 fewer than one in eight showings of a motion picture is screened after 5:59 p.m. on Mondays,
30 Tuesdays, Wednesdays, or Thursdays, in which case this requirement is met if all screenings of
31 such motion picture during such times have open motion picture captioning.

32 (3) No showing of a motion picture with open motion picture captioning that overlaps with
33 another showing of a motion picture with open motion picture captioning shall be counted toward
34 the minimum number of showings required by this section except where it is not practicable to
35 avoid such overlap.

36 (4) Nothing in this section shall prevent a motion picture theater from showing more motion
37 pictures with open captioning than required this section.

38 (e) Public notice. – A motion picture theater subject to the provisions of subdivision (b) of
39 this section shall advertise the date and time of motion picture showings required by subdivision
40 (b) in the same manner as the motion picture theater advertises all other motion picture showings
41 and shall indicate which showings will include open motion picture captioning.

42 (f) Records. – Every motion picture theater shall maintain documents sufficient to
43 demonstrate compliance with the requirements of this section for a period of at least three years.

44 (g) Violations. – Any motion picture theater that violates any of the provisions of this section
45 shall be subject to a civil penalty of not less than \$100 nor more than \$500 for each violation.

NOTE: The purpose of this bill is to require open captions in movie theaters for the deaf and

the hard of hearing.

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