

HB 2221

**FILED**  
APR 23 1997  
IN THE OFFICE OF  
SECRETARY OF STATE  
WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



# ENROLLED

HOUSE BILL No. 2221

(By Delegate S Faircloth, Trump, Staton,  
Amores, Hunt and Douglas )



Passed \_\_\_\_\_ April 12, \_\_\_\_\_ 1997

In Effect \_\_\_\_\_ Ninety Days From \_\_\_\_\_ Passage

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## **ENROLLED**

COMMITTEE SUBSTITUTE

FOR

# **H. B. 2221**

(BY DELEGATES FAIRCLOTH, TRUMP, STATON,  
AMORES, HUNT AND DOUGLAS)

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[Passed April 12, 1997; in effect ninety days from passage.]

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AN ACT to amend and reenact section seventeen, article five, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to obstructing and fleeing from an officer; removing the penalty for counseling, advising or inviting another to obstruct an officer; establishing various offenses relating to fleeing from an officer in a vehicle and providing penalties therefor; and defining terms for purposes of this section.

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

That section seventeen, article five, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

### **ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.**

#### **§61-5-17. Obstructing officer; fleeing from officer; fleeing from officer in a vehicle; penalties; definitions.**

- 1 (a) Any person who by threats, menaces, acts or
- 2 otherwise, forcibly or illegally hinders or obstructs, or
- 3 attempts to hinder or obstruct, law-enforcement officer
- 4 acting in his or her official capacity is guilty of a

5 misdemeanor and, upon conviction thereof, shall be fined  
6 not less than fifty nor more than five hundred dollars, and  
7 may, in the discretion of the court, be confined in the  
8 county or regional jail not more than one year.

9 (b) Any person who intentionally flees or attempts to  
10 flee by any means other than the use of a vehicle from  
11 any law-enforcement officer acting in his or her official  
12 capacity who is attempting to make a lawful arrest of the  
13 person, and who knows or reasonably believes that the  
14 officer is attempting to arrest him or her, is guilty of a  
15 misdemeanor and, upon conviction thereof, shall be fined  
16 not less than fifty nor more than five hundred dollars, and  
17 may, in the discretion of the court, be confined in the  
18 county or regional jail not more than one year.

19 (c) Any person who intentionally flees or attempts to  
20 flee in a vehicle from any law-enforcement officer acting  
21 in his or her official capacity, after the officer has given a  
22 clear visual or audible signal directing the person to stop,  
23 is guilty of a misdemeanor and, upon conviction thereof,  
24 shall be fined not less than five hundred nor more than  
25 one thousand dollars, and shall be confined in the county  
26 or regional jail not more than one year.

27 (d) Any person who intentionally flees or attempts to  
28 flee in a vehicle from any law-enforcement officer acting  
29 in his or her official capacity, after the officer has given a  
30 clear visual or audible signal directing the person to stop,  
31 and who causes damage to the real or personal property of  
32 any person during or resulting from his or her flight, is  
33 guilty of a misdemeanor and, upon conviction thereof,  
34 shall be fined not less than one thousand nor more than  
35 three thousand dollars, and shall be confined in the county  
36 or regional jail for not less than six months nor more than  
37 one year.

38 (e) Any person who intentionally flees or attempts to  
39 flee in a vehicle from any law-enforcement officer acting  
40 in his or her official capacity, after the officer has given a  
41 clear visual or audible signal directing the person to stop,  
42 and who causes bodily injury to any person during or  
43 resulting from his or her flight, is guilty of a felony and,  
44 upon conviction thereof, shall be imprisoned in the state

45 correctional facility not less than one nor more than five  
46 years.

47 (f) Any person who intentionally flees or attempts to  
48 flee in a vehicle from any law-enforcement officer acting  
49 in his or her official capacity, after the officer has given a  
50 clear visual or audible signal directing the person to stop,  
51 and who causes death to any person during or resulting  
52 from his or her flight, is guilty of a felony and, upon  
53 conviction thereof, shall be punished by a definite term of  
54 imprisonment in the state correctional facility which is not  
55 less than three nor more than fifteen years. A person  
56 imprisoned pursuant to the provisions of this subsection is  
57 not eligible for parole prior to having served a minimum  
58 of three years of his or her sentence or the minimum  
59 period required by the provisions of section thirteen,  
60 article twelve, chapter sixty-two, whichever is greater.

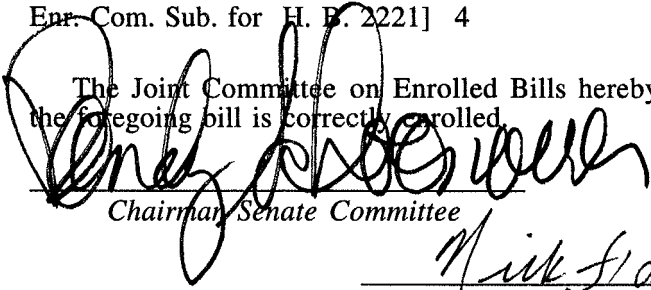
61 (g) Any person who intentionally flees or attempts to  
62 flee in a vehicle from any law-enforcement officer acting  
63 in his or her official capacity, after the officer has given a  
64 clear visual or audible signal directing the person to stop,  
65 and who is under the influence of alcohol, controlled  
66 substances or drugs at the time, is guilty of a felony and,  
67 upon conviction thereof, shall be imprisoned in the state  
68 correctional facility not less than one nor more than five  
69 years.

70 (h) For purposes of this section, the term "vehicle"  
71 includes any motor vehicle, motorcycle, motorboat, all-  
72 terrain vehicle or snowmobile, as those terms are defined  
73 in section one, article one, chapter seventeen-a of this  
74 code, whether or not it is being operated on a public  
75 highway at the time and whether or not it is licensed by  
76 the state.

77 (i) For purposes of this section, the terms "flee,"  
78 "fleeing," and "flight" shall not include any person's  
79 reasonable attempt to travel to a safe place, allowing the  
80 pursuing law-enforcement officer to maintain appropriate  
81 surveillance, for the purpose of complying with the  
82 officer's direction to stop.

Enr. Com. Sub. for H. B. 2221] 4

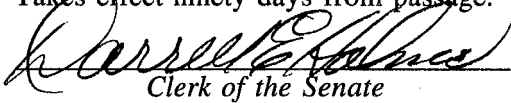
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

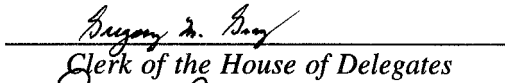
  
Chairman, Senate Committee

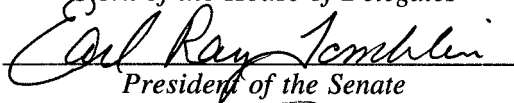
  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

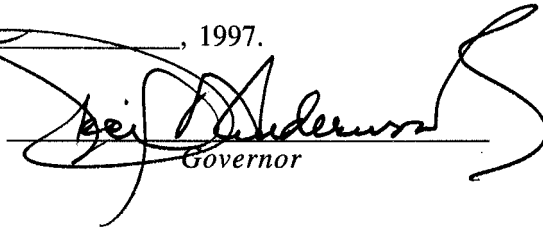
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within approved this the 23rd  
day of April, 1997.

  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/21/97

Time 11:38am