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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



ENROLLED

House Bill No. 3076

(By Delegates Webster, Manuel, Wills,
Amores, Hrutkay and Craig)



Passed March 9, 2002

In Effect Ninety Days from Passage

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H. B. 3076

(BY DELEGATES WEBSTER, MANUEL, WILLS,
AMORES, HRUTKAY AND CRAIG)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section eight, article five, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to evidence addressing when a person is under the influence of alcohol, controlled substances or drugs; and adding a formula for determining the percent, by weight, of alcohol in the blood.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-8. Interpretation and use of chemical test.

- 1 (a) Upon trial for the offense of driving a motor vehicle in
- 2 this state while under the influence of alcohol, controlled
- 3 substances or drugs, or upon the trial of any civil or criminal

4 action arising out of acts alleged to have been committed by
5 any person driving a motor vehicle while under the influence of
6 alcohol, controlled substances or drugs, evidence of the amount
7 of alcohol in the person's blood at the time of the arrest or of
8 the acts alleged, as shown by a chemical analysis of his or her
9 blood, breath or urine, is admissible, if the sample or specimen
10 was taken within two hours from and after the time of arrest or
11 of the acts alleged. The evidence gives rise to the following
12 presumptions or has the following effect:

13 (1) Evidence that there was, at that time, five hundredths of
14 one percent or less, by weight, of alcohol in his or her blood, is
15 prima facie evidence that the person was not under the influ-
16 ence of alcohol;

17 (2) Evidence that there was, at that time, more than five
18 hundredths of one percent and less than ten hundredths of one
19 percent, by weight, of alcohol in the person's blood is relevant
20 evidence, but it is not to be given prima facie effect in indicat-
21 ing whether the person was under the influence of alcohol;

22 (3) Evidence that there was, at that time, ten hundredths of
23 one percent or more, by weight, of alcohol in his or her blood,
24 shall be admitted as prima facie evidence that the person was
25 under the influence of alcohol.

26 (b) A determination of the percent, by weight, of alcohol in
27 the blood shall be based upon a formula of:

28 (1) The number of grams of alcohol per one hundred cubic
29 centimeters of blood;

30 (2) The number of grams of alcohol per two hundred ten
31 liters of breath;

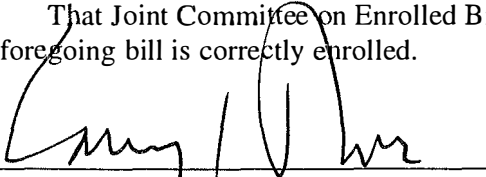
32 (3) The number of grams of alcohol per sixty-seven
33 milliliters of urine; or

34 (4) The number of grams of alcohol per eighty-six millili-
35 ters of serum.

36 (c) A chemical analysis of a person's blood, breath or urine,
37 in order to give rise to the presumptions or to have the effect
38 provided for in subsection (a) of this section, must be per-
39 formed in accordance with methods and standards approved by
40 the state division of health. A chemical analysis of blood or
41 urine to determine the alcoholic content of blood shall be
42 conducted by a qualified laboratory or by the state police
43 scientific laboratory of the criminal identification bureau of the
44 West Virginia state police.

45 (d) The provisions of this article do not limit the introduc-
46 tion in any administrative or judicial proceeding of any other
47 competent evidence bearing on the question of whether the
48 person was under the influence of alcohol, controlled sub-
49 stances or drugs.

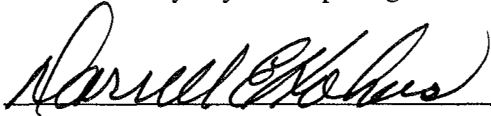
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

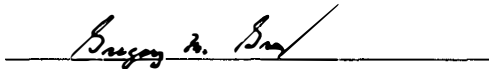

Chairman Senate Committee

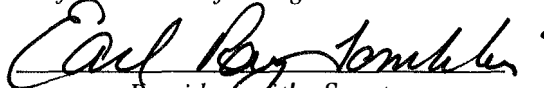

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

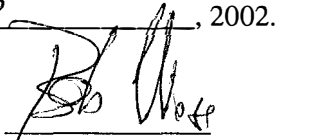

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 2nd
day of April, 2002.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/27/02

Time 10:00am