

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2684**

BY DELEGATES CANESTRARO, LOVEJOY,

HOLLEN, MILLER, R., SHOTT AND ISNER

[Introduced February 23, 2017; Referred

to the Committee on the Judiciary.]

1 A BILL to amend and reenact §17B-4-3 of the Code of West Virginia, 1931, as amended, relating  
2 to imposing penalties for repeat violations of the prohibition against driving a motor vehicle  
3 on any public highway of this state at a time when the privilege to do so has been lawfully  
4 suspended for driving while under the age of twenty-one years with an alcohol  
5 concentration in his or her blood of two hundredths of one percent or more, by weight, but  
6 less than eight hundredths of one percent by weight.

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

1 That §17B-4-3 of the Code of West Virginia 1931, as amended, be amended and  
2 reenacted to read as follows:

#### **ARTICLE 4. VIOLATION OF LICENSE PROVISIONS.**

**§17B-4-3. Driving while license suspended or revoked; driving while license revoked for driving under the influence of alcohol, controlled substances or drugs, or while having alcoholic concentration in the blood of eight hundredths of one percent or more, by weight, or for refusing to take secondary chemical test of blood alcohol contents.**

1 (a) Except as otherwise provided in subsection (b) or (d) of this section, any person who  
2 drives a motor vehicle on any public highway of this state at a time when his or her privilege to do  
3 so has been lawfully suspended or revoked by this state or any other jurisdiction is, for the first  
4 offense, guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100  
5 nor more than \$500; for the second offense, the person is guilty of a misdemeanor and, upon  
6 conviction thereof, shall be fined not less than \$100 nor more than \$500; for the third or any  
7 subsequent offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be  
8 confined in jail for a period of not less than thirty days nor more than ninety days and shall be  
9 fined not less than \$150 nor more than \$500.

10 (b) Any person who drives a motor vehicle on any public highway of this state at a time  
11 when his or her privilege to do so has been lawfully revoked for driving under the influence of

12 alcohol, controlled substances or other drugs, or any combination thereof, or for driving while  
13 having an alcoholic concentration in his or her blood of eight hundredths of one percent or more,  
14 by weight, or for refusing to take a secondary chemical test of blood alcohol content, is, for the  
15 first offense, guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a  
16 period of not less than thirty days nor more than six months and shall be fined not less than \$100  
17 nor more than \$500; for the second offense, the person is guilty of a misdemeanor and, upon  
18 conviction thereof, shall be confined in jail for a period of not less than six months nor more than  
19 one year and shall be fined not less than \$1,000 nor more than \$3,000; for the third or any  
20 subsequent offense, the person is guilty of a felony and, upon conviction thereof, shall be  
21 imprisoned in a state correctional facility for not less than one year nor more than three years and,  
22 in addition to the mandatory prison sentence, shall be fined not less than \$3,000 nor more than  
23 \$5,000.

24 (c) Upon receiving a record of the first or subsequent conviction of any person under  
25 subsection (b) of this section upon a charge of driving a vehicle while the license of that person  
26 was lawfully suspended or revoked, the division shall extend the period of the suspension or  
27 revocation for an additional period of six months which may be served concurrently with any other  
28 suspension or revocation. Upon receiving a record of the second or subsequent conviction of any  
29 person under subsection (a) of this section upon a charge of driving a vehicle while the license of  
30 that person was lawfully suspended or revoked, the division shall extend the period of the  
31 suspension or revocation for an additional period of ninety days which may be served concurrently  
32 with any other suspension or revocation.

33 (d) Any person who drives a motor vehicle on any public highway of this state at a time  
34 when his or her privilege to do so has been lawfully suspended for driving while under the age of  
35 twenty-one years with an alcohol concentration in his or her blood of two hundredths of one  
36 percent or more, by weight, but less than eight hundredths of one percent, by weight, is guilty of  
37 a misdemeanor and, upon conviction thereof, shall be confined in jail for twenty-four hours or shall

38 be fined not less than \$50 nor more than \$500, or both; for the second offense, the person is  
39 guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not  
40 less than thirty days nor more than six months and shall be fined not less than \$100 nor more  
41 than \$500; for the third or any subsequent offense, the person is guilty of a felony and, upon  
42 conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor  
43 more than three years and, in addition to the mandatory prison sentence, shall be fined not less  
44 than \$1,000 nor more than \$5,000.

45       Upon receiving a record of a first or subsequent conviction under this subsection for a  
46 charge of driving a vehicle while the license of that person was lawfully suspended or revoked,  
47 the division shall extend the period of the suspension or revocation for an additional period of six  
48 months which may be served concurrently with any other suspension or revocation.

49       (e) An order for home detention by the court pursuant to the provisions of article eleven-  
50 b, chapter sixty-two of this code may be used as an alternative sentence to any period of  
51 incarceration required by this section.

NOTE: The purpose of this bill is to impose penalties for repeat violations of the prohibition on driving under the influence on a suspended license by persons under the age of twenty-one.

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