

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 2220**

By Delegate Westfall

[Introduced January 11, 2023; Referred to the  
Committee on Banking and Insurance then the  
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §17-31-1, §17-31-2, §17-31-3, and §17-31-4, all relating to responsible driving,  
 3 providing that a person who was an uninsured motorist and who sustained bodily injury or  
 4 property damage as the result of a motor vehicle accident may not recover noneconomic  
 5 damages for the person’s bodily injury or property damage

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

**ARTICLE 31. RESPONSIBLE DRIVING ACT.**

**§17-31-1. Title.**

1 This article shall be known and cited as the "Fairness for Responsible Drivers Act."

**§17-31-2. Definitions.**

- 1 (a) "Noneconomic damages" means the following:  
 2 (1) Physical and emotional pain and suffering;  
 3 (2) Physical impairment;  
 4 (3) Emotional distress;  
 5 (4) Mental anguish;  
 6 (5) Loss of enjoyment;  
 7 (6) Loss of companionship, services, and consortium;  
 8 (7) Any other nonpecuniary loss proximately caused by a motor vehicle accident.  
 9 (b) The term "Noneconomic damages" does not include the following:  
 10 (1) Treatment and rehabilitation;  
 11 (2) Medical expenses;  
 12 (3) Loss of economic or educational potential;  
 13 (4) Loss of productivity;  
 14 (5) Absenteeism;  
 15 (6) Support expenses;  
 16 (7) Accidents or injury; and

17 (8) Any other pecuniary loss proximately caused by a motor vehicle accident.

**§17-31-3. Prohibition on recovery of noneconomic damages.**

1 (a) A person who was an uninsured motorist and who sustained bodily injury or property  
2 damage as the result of a motor vehicle accident may not recover noneconomic damages for the  
3 person’s bodily injury or property damage.

4 (b) The personal representative of a person who was an uninsured motorist and who died  
5 as the result of a motor vehicle accident may not recover noneconomic damages for the persons  
6 death.

7 (c) The provisions of this section shall not apply to an uninsured motorist who at the time of  
8 the automobile accident has failed to maintain coverage for a period of 45 days or less and who  
9 had maintained continuous coverage for at least one year immediately prior to such failure to  
10 maintain coverage.

**§17-31-4. Exceptions.**

1 The prohibition against recovery of noneconomic damages does not apply if the person  
2 who is liable for injury, death, or damage:

- 3 (1) Was driving while under the influence of alcohol or a controlled substance:
- 4 (2) Acted intentionally, recklessly, or with gross negligence,
- 5 (3) Fled from the scene of the accident, or
- 6 (4) Was acting in furtherance of an offences or in immediate flight from an offences that  
7 constitutes a felony under this code.

NOTE: The purpose of this bill is to prohibit the recovery of noneconomic damages for failure to maintain auto insurance.

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