

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

ENROLLED

Committee Substitute

for

Committee Substitute

for

House Bill 2871

BY DELEGATES FUNKHOUSER, HORNBY, HOLSTEIN,
MASTERS, W. CLARK, KUMP, CHIARELLI, HILLENBRAND,
MALLOW, HORST, AND ROOP

[Passed April 11, 2025; in effect 90 days from
passage (July 10, 2025)]

1 AN ACT to amend and reenact §14-2A-3 of the Code of West Virginia, 1931, as amended,
2 related to updating definitions to “criminally injurious conduct”; also to amend and reenact §17B-
3 1A-1 of the Code of West Virginia, 1931, as amended, relating to the driver’s license
4 compact and clarifying that any conviction for an offense in another jurisdiction for the
5 crimes contained within §17C-5-1 shall be subject to revocation; also to amend and
6 reenact §17B-3-5 of the Code of West Virginia, 1931, as amended, relating to update that a
7 conviction of any offense contained within 17C-5-1 shall be subject to revocation; also to
8 amend and reenact §17C-5-1 of the Code of West Virginia, 1931, as amended, relating to
9 adding an embryo as a protected person and subject to the protections of this section,
10 establishing the crimes of vehicular homicide, aggravated vehicular homicide, vehicular
11 homicide in a school zone, vehicular homicide in a construction zone, and establishing
12 fines and penalties related thereto, and establishing the nexus between a conviction of any
13 of these offenses and the revocation of a person’s driver’s license; also to amend and
14 reenact §17C-5-3 of the Code of West Virginia, 1931, as amended, relating to reckless
15 driving and updating and enhancing the fines and penalties relating thereto; also to amend
16 and reenact §17C-14-15 of the Code of West Virginia, 1931, as amended, relating to
17 amending the electronically distracted driving act to clarify that a person convicted of
18 causing the death of another due to a violation shall now be guilty of vehicular homicide;
19 also to amend and reenact §17E-1-13 of the Code of West Virginia, 1931, as amended,
20 relating to updating the commercial drivers license process to clarify that a conviction of an
21 offense in §17C-5-1 shall disqualify a person from a commercial driver’s license; also to
22 amend and reenact §20-7-18a of the Code of West Virginia, 1931, as amended, relating to
23 establishing the crimes of homicide by operation of motorized watercraft, aggravated
24 homicide by operation of motorized watercraft, establishing fines and criminal penalties,

25 and suspension of privileges to operate a motorboat or other motorized vessel upon
26 conviction; also to amend and reenact §33-6A-1 of the Code of West Virginia, 1931, as

27 amended, relating to cancellation and nonrenewal of automobile insurance premiums and
28 updating to reflect the newly established crimes contained in §17C-5-1 of this code; also
29 to amend and reenact §33-6A-1 of the Code of West Virginia, 1931, as amended, relating
30 to clarifying that a conviction for a crime in the newly created §17C-5-1 of this code shall
31 constitute a basis for failure to renew an outstanding automobile liability or physical
32 damage insurance policy which has been in existence for two consecutive years; also to
33 amend and reenact §49-1-207 of the Code of West Virginia, 1931, as amended, relating
34 to updating that definitions in court actions involving juveniles to clarify that newly created
35 criminal provisions contained in §17C-5-1 are defined as a “Violation of a traffic law of
36 West Virginia”; also to amend and reenact §61-2-30 of the Code of West Virginia, 1931, 37
37 as amended, relating to recognition of an embryo or fetus as a distinct unborn victim of
38 certain crimes of violence against the person and clarifying that this section shall now
39 apply to the criminal offenses contained in §17C-5-1 of this code”.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2A. COMPENSATION AWARDS TO VICTIMS OF CRIMES.

§14-2A-3. Definitions.

1 As used in this article, the term:

2 (a) “Claimant” means any of the following persons, whether residents or nonresidents of 3
this state, who claim an award of compensation under this article:

4 (1) A victim, except the term “victim” does not include a nonresident of this state where 5 the criminally
injurious act did not occur in this state;

6 (2) A dependent, spouse, or minor child of a deceased victim or, if the deceased victim is 7
a minor, the parents, legal guardians, and siblings of the victim;

8 (3) A third person, other than a collateral source, who legally assumes or voluntarily pays

9 the obligations of a victim or a victim's dependent when the obligations are incurred as a result of

10 the criminally injurious conduct that is the subject of the claim;

1 (4) A person who is authorized to act on behalf of a victim, dependent, or a third
2 person who is not a collateral source including, but not limited to, assignees, persons
3 holding power of attorney or others who hold authority to make or submit claims in place of
4 or on behalf of a victim, a dependent, or third person who is not a collateral source and if
5 the victim, dependent, or third person who is not a collateral source is a minor or other
6 legally incompetent person, their duly qualified fiduciary; and

7 (5) A person who is a secondary victim in need of mental health counseling due
8 to the person's exposure to the crime committed whose award may not exceed \$5,000.

9 (b) "Collateral source" means a source of benefits or advantages for economic
10 loss otherwise compensable that the victim or claimant has received or that is readily
11 available to him or her from any of the following sources:

12 (1) The offender, including restitution received from the offender pursuant to an
13 order by a court sentencing the offender or placing him or her on probation following a
14 conviction in a criminal case arising from the criminally injurious act for which a claim for
15 compensation is made;

16 (2) The government of the United States or its agencies, a state or its political
17 subdivisions, or an instrumentality of two or more states;

18 (3) Social Security, Medicare, and Medicaid;

19 (4) State-required, temporary, nonoccupational disability insurance or other
20 disability insurance;

21 (5) Workers' compensation;

22 (6) Wage continuation programs of an employer;

23 (7) Proceeds of a contract of insurance payable to the victim or claimant for
24 loss that was sustained because of the criminally injurious conduct;

25 (8) A contract providing prepaid hospital and other health care services or
26 benefits for disability; and

27 (9) That portion of the proceeds of all contracts of insurance payable to the
28 claimant on account of the death of the victim which exceeds \$25,000.

29 (c) “Criminally injurious conduct” means conduct that occurs or is attempted in
30 this state, or in any state not having a victim compensation program, which poses a
31 substantial threat of personal injury or death and is punishable by fine or imprisonment.
32 “Criminally injurious conduct” also includes criminally injurious conduct committed
33 outside of the United States against a resident of this state. “Criminally injurious conduct”
34 does not include conduct arising out of the ownership, maintenance, or use of a motor
35 vehicle unless the person engaging in the conduct intended to cause personal injury or
36 death or committed any offense contained within §17C-5-1 of this code, driving under the
37 influence of alcohol, controlled substances or drugs, leaving the scene of the accident, or
38 reckless driving.

39 (d) “Dependent” means an individual who received over half of his or her
40 support from the victim. For the purpose of making this determination there shall be taken
41 into account the amount of support received from the victim as compared to the entire
42 amount of support the individual received from all sources including self-support. The
43 term support includes, but is not limited to, food, shelter, clothing, medical and dental
44 care, and education. The term dependent includes a child of the victim born after his or
45 her death.

46 (e) “Economic loss” means economic detriment consisting only of allowable
47 expense, work loss, and replacement services loss. If criminally injurious conduct causes
48 death, economic loss includes a dependents economic loss and a dependents
49 replacement services loss. Noneconomic detriment is not economic loss; however,

50 economic loss may be caused by pain and suffering or physical impairment. For purposes
51 of this article, the term economic loss includes a lost scholarship as defined in this
52 section.

53 (f) "Allowable expense" includes the following:

54 (1) Reasonable charges incurred or to be incurred for reasonably needed
55 medical care, including products, services, and accommodations related to medical and
56 psychological care, prosthetic devices, eye glasses, dentures, rehabilitation, and other
57 remedial treatment and care but does not include that portion of a charge for a room in a
58 hospital, clinic, convalescent home, nursing home, or other institution engaged in providing
59 nursing care and related services which is in excess of a reasonable and customary
60 charge for semiprivate accommodations unless accommodations other than semiprivate
61 accommodations are medically required;

62 (2) A total charge not in excess of \$10,000 for expenses in any way related to
63 funerals, cremations, and burials;

64 (3) Victim relocation costs not to exceed \$4,500;

65 (4) Reasonable travel expenses not to exceed \$5,000 for a claimant to attend
66 court proceedings conducted for the prosecution of the offender;

67 (5) Reasonable travel expenses for a claimant to return a person who is a
68 minor or incapacitated adult who has been unlawfully removed from this state to another
69 state or country if the removal constitutes a crime under the laws of this state which may
70 not exceed \$2,000 for expenses to another state or \$3,000 to another country; and

71 (6) Reasonable travel expenses for the transportation of a victim to and from a
72 medical

73 facility.

74 (g) "Work loss" means loss of income from work that the injured person would
75 have performed if he or she had not been injured and expenses reasonably incurred or to

76 be incurred by him or her to obtain services in lieu of those he or she would have
77 performed for income. "Work loss" is reduced by income from substitute work actually
78 performed or to be performed by the injured person or by income he or she would have
79 earned in available appropriate substitute work that he or she was capable of performing
80 but unreasonably failed to undertake. "Work loss" includes loss of income from work by
81 the parent or legal guardian of a minor victim who must miss work to take care of the
82 minor victim. "Work loss" also includes loss of income from work by the claimant, the
83 victim, or the parent or legal guardian of a minor victim who must miss work to attend
84 court proceedings conducted for the prosecution of the offender.

85 (h) "Replacement services loss" means expenses reasonably incurred or to be
86 incurred in obtaining ordinary and necessary services in lieu of those the injured person
87 would have performed for the benefit of himself or herself or his or her family if he or she
88 had not been injured.

89 "Replacement services loss" does not include services an injured person would have performed to
90 generate income.

91 (i) "Dependents' economic loss" means loss after a victim's death of
92 contributions or things of economic value to his or her dependents but does not include
93 services they would have received from the victim if he or she had not suffered the fatal
94 injury. This amount is reduced by expenses avoided by the dependent due to the victim's
95 death.

96 (j) "Dependents' replacement service loss" means loss reasonably incurred or
97 to be incurred by dependents after a victim's death in obtaining ordinary and necessary
98 services in lieu of those the victim would have performed for their benefit if he or she had
99 not suffered the fatal injury. This amount is reduced by expenses avoided due to the

100 victim's death, but which are not already subtracted in calculating a dependent's
101 economic loss.

102 (k) "Victim" means the following:

103 A person who suffers personal injury or death as a result of any one of the following:

104 (A) Criminally injurious conduct;

105 (B) The good faith effort of the person to prevent criminally injurious conduct; or

106 (C) The good faith effort of the person to apprehend a person that the injured

107 person has observed engaging in criminally injurious conduct or who the injured person

108 has reasonable cause to believe has engaged in criminally injurious conduct immediately

109 prior to the attempted apprehension.

110 (l) "Contributory misconduct" means any conduct of the claimant or of the

111 victim through whom the claimant claims an award that is unlawful or intentionally tortious

112 and that, without regard to the conduct's proximity in time or space to the criminally

113 injurious conduct, has a causal relationship to the criminally injurious conduct that is the

114 basis of the claim and includes the

114 voluntary intoxication of the claimant, either by the consumption of alcohol or the use of any
115 controlled substance, when the intoxication has a causal connection or relationship to the injury
116 sustained.

117 (m) "Lost scholarship" means a scholarship, academic award, stipend, student loan, or
118 other monetary scholastic assistance which had been awarded, conferred upon, or
obtained by a
119 victim in conjunction with a post-secondary school educational program and which the
victim is
120 unable to receive or use, in whole or in part, due to injuries received from criminally
injurious
121 conduct.

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 1A. DRIVER LICENSE COMPACT.

§17B-1A-1. Authorization.

1 Pursuant to authority granted by an act of the eighty-fifth Congress of the United States,
2 being public law six hundred eighty-four, approved August 20, 1958, the Governor of this state
3 shall execute a compact on behalf of the State of West Virginia with all other jurisdictions legally
4 joining in the compact in the form substantially as follows:

ARTICLE I. FINDINGS AND DECLARATION OF POLICY.

6 (a) The party states find that:

7 (1) The safety of their streets and highways is materially affected by the degrees of 8 compliance
with state laws and local ordinances relating to the operation of motor vehicles. 9 (2) Violation of such a
law or ordinance is evidence that the violator engages in conduct 10 which is likely to endanger the
safety of persons and property.

11 (3) The continuance in force of a license to drive is predicated upon compliance with laws
12 and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the
vehicle is

13 operated.

14 (b) It is the policy of each of the party states to:

1 (1) Promote compliance with the laws, ordinances and administrative rules and
2 regulations relating to the operation of motor vehicles by their operators in each of the
3 jurisdictions where such operators drive motor vehicles.

4 (2) Make the reciprocal recognition of licenses to drive and eligibility therefor
5 more just and equitable by considering the overall compliance with motor vehicle laws,
6 ordinances and administrative rules and regulations as a condition precedent to the
7 continuance or issuance of any license by reason of which the licensee is authorized or
8 permitted to operate a motor vehicle in any of the party states.

9 ARTICLE II. DEFINITIONS.

10 As used in this compact:

11 (a) "State" means a state, territory, or possession of the United States, the
12 District of
13 Columbia, or the Commonwealth of Puerto Rico.

14 (b) "Home state" means the state which has issued and has the power to
15 suspend or revoke the use of the license or permit to operate a motor vehicle.

16 (c) "Conviction" means a conviction of any offense related to the use or
17 operation of a motor vehicle which is prohibited by state law, municipal ordinance, or
18 administrative rule, or a forfeiture of bail, bond, or other security deposited to secure
19 appearance by a person charged with having committed any such offense, and which
20 conviction or forfeiture is required to be reported to the licensing authority.

21 ARTICLE III. REPORTS OF CONVICTION.

22 The licensing authority of a party state shall report each conviction of a person from
23 another party state occurring within its jurisdiction to the licensing authority of the home state of the
24 licensee. Such report shall clearly identify the person convicted; describe the violation specifying
25 the section of the statute, code, or ordinance violated; identify the court in which action was taken;
26 indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the

27 forfeiture of bail, bond, or other security; and shall include any special findings made in connection
28 therewith.

29 ARTICLE IV. EFFECT OF CONVICTION.

30 (a) The licensing authority in the home state, for the purposes of suspension,
31 revocation, or limitation of the license to operate a motor vehicle, shall give the same
32 effect to the conduct reported, pursuant to Article III of this compact, as it would if such
33 conduct had occurred in the home state, in the case of convictions for:

34 (1) Manslaughter, homicide, or any offense contained within §17C-5-1 of this
35 code, resulting from the operation of a motor vehicle;

36 (2) Driving a motor vehicle while under the influence of intoxicating liquor or a
37 narcotic drug, or under the influence of any other drug to a degree which renders the driver
38 incapable of safely driving a motor vehicle;

39 (3) Any felony in the commission of which a motor vehicle is used;

40 (4) Failure to stop and render aid in the event of a motor vehicle accident
41 resulting in the death or personal injury to another person.

42 (b) As to other convictions, reported pursuant to Article III, the licensing
43 authority in the home state shall give such effect to the conduct as is provided by the laws
44 of the home state.

45 (c) If the laws of a party state do not provide for offenses or violations
46 denominated or described in precisely the words employed in subsection (a) of this
47 article, such party state shall construe the denominations and descriptions appearing in
48 subsection (a) of this article as being applicable to and identifying those offenses or
49 violations of a substantially similar nature and the laws of such party state shall contain
50 such provisions as may be necessary to ensure that full force and effect is given to this
51 article.

52 ARTICLE V. APPLICATIONS FOR NEW LICENSES.

53 Upon application for a license to drive, the licensing authority in a party state shall ascertain
54 whether the applicant has ever held, or is the holder of a license to drive issued by any other party
55 state. The licensing authority in the state where application is made shall not issue a license to
56 drive to the applicant if:

57 (1) The applicant has held such a license, but the license has been suspended
58 by reason, in whole or in part, of a violation and if such suspension period has not
59 terminated.

60 (2) The applicant has held such a license, but the same has been revoked by
61 reason, in whole or in part, of a violation and if such revocation has not terminated, except
62 that after the expiration of one year from the date the license was revoked, such person
63 may make application for a new license if permitted by law. The licensing authority may
64 refuse to issue a license to any such applicant if, after investigation, the licensing authority
65 determines that it will not be safe to grant to such person the privilege of driving a motor
66 vehicle on the public highways.

67 (3) The applicant is the holder of a license to drive issued by another party state
68 and currently in force unless the applicant surrender such license.

69 ARTICLE VI. APPLICABILITY OF OTHER LAWS.

70 Except as expressly required by provisions of this compact, nothing contained herein shall
71 be construed to affect the right of any party state to apply any of its other laws relating to licenses to
72 drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or
73 other cooperative arrangement between a party state and a nonparty state.

74 ARTICLE VII. COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION.

75 (a) The head of the licensing authority of each party state shall be the
76 administrator of this compact for his or her state. The administrators, acting jointly, shall

77 have the power to formulate all necessary and proper procedures for the exchange of
78 information under this compact.

79 (b) The administrator of each party state shall furnish to the administrator of
80 each other party state any information or documents reasonably necessary to facilitate the
81 administration of this compact.

82 ARTICLE VIII. ENTRY INTO FORCE AND WITHDRAWAL.

91 (a) This compact shall enter into force and become effective as to any state when it has 92 enacted
the compact into law.

93 (b) Any party state may withdraw from this compact by enacting a statute repealing the
94 compact, but no such withdrawal shall take effect until six months after the executive head of
the
95 withdrawing state has given notice of the withdrawal to the executive heads of all other party
96 states. No withdrawal shall affect the validity or applicability by the licensing authorities of
states
97 remaining party to the compact of any report of conviction occurring prior to the withdrawal.

98 **ARTICLE IX. CONSTRUCTION AND SEVERABILITY.**

99 This compact shall be liberally construed so as to effectuate the purposes thereof. The
100 provisions of this compact are severable and if any phrase, clause, sentence or provision of
this
101 compact is declared to be contrary to the Constitution of any party state or of the United
States
102 or the applicability thereof to any government, agency, person, or circumstance is held
invalid,
103 the validity of the remainder of this compact and the applicability thereof to any government,
104 agency, person, or circumstance shall not be affected thereby. If this compact shall be held
105 contrary to the Constitution of any state party thereto, the compact shall remain in full force
and
106 effect as to the remaining states and in full force and effect as to the state affected as to all
107 severable matters.

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.

§17B-3-5. Grounds for mandatory revocation of license by department.

1 The division shall immediately revoke the license of any operator or chauffeur upon
2 receiving a record of such operator's or chauffeur's conviction of any of the following
offenses,

3 when such conviction has become final: *Provided*, That if the convicted driver had not
reached 4 his or her 19th birthday at the time of the conduct for which the license is
revoked under this

5 section, the license shall be revoked until the driver's 19th birthday, or the applicable
statutory

6 period of revocation, whichever is longer:

7 (1) Manslaughter, homicide, or any offense contained within §17C-5-1 of this code,

8 resulting from the operation of a motor vehicle;

9 (2) Any felony in the commission of which a motor vehicle is used;

10 (3) Failure to stop and render aid as required under the laws of this state in the event of
11 involvement in a motor vehicle accident resulting in the death or personal injury of another
person;

12 (4) Perjury or the making of a false affidavit or statement under oath to the division under
13 this chapter or under any other law relating to the ownership or operation of motor
vehicles;

14 (5) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving 15 committed
within a period of 24 months;

16 (6) Driving under the influence of alcohol, controlled substances or other drugs outside the
17 State of West Virginia which conviction is under a municipal ordinance or statute of the
United

18 States or any other state of an offense which has the same elements as an offense
described in 19 §17C-5-2 of this code; and

20 (7) Nothing herein shall prohibit the division from exercising its authority to revoke or
21 suspend a person's license to drive a motor vehicle in this state, as provided in Chapter
17C of 22 this code.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-1. Vehicular homicide; aggravated vehicular homicide; vehicular homicide in a school zone; vehicular homicide in a construction zone; penalties; revocation of driving privileges upon conviction.

- 1 (a) When the death of any person, including an embryo or fetus as defined in §61-2-30 of
- 2 this code, other than the person operating the motor vehicle, ensues within one year as the
- 3 proximate result of injury caused by the driving of any motor vehicle anywhere in this state
by any

1 person in reckless disregard for the safety of others, the person operating the motor vehicle is
2 guilty of vehicular homicide.

3 (b) Any person convicted of vehicular homicide is guilty of a misdemeanor and
4 upon conviction, shall be fined not less than \$1,000 nor more than \$10,000, confined in
5 the jail for not more than one year, or both fined and confined.

6 (c) Notwithstanding the provisions of subsections (a) and (b) of this section,
7 when the death of a person, including an embryo or fetus as defined in §61-2-30 of this
8 code, other than the person operating the motor vehicle, occurs within one year as the
9 proximate result of injury caused by the operation of any motor vehicle in this state in
10 deliberate disregard for the safety of others, the person operating the motor vehicle is
11 guilty of the offense of aggravated vehicular homicide and upon conviction he or she
12 shall be fined not more than \$20,000, or imprisoned in a state correctional facility for a
13 definite term of years of not less than one nor more than five years, or both fined and
14 imprisoned.

15 (d) For the purposes of this section, a person who acts with deliberate
16 disregard for the safety of others if he or she has knowledge of facts or intentionally
17 disregards facts that create high probability of injury to the safety of others and:

18 (1) deliberately proceeds to act in conscious or intentional disregard of the high
19 degree of probability of injury to the safety of others; or

20 (2) deliberately proceeds to act with indifference to the high probability of injury
21 to or the safety of others.

22 (e) When the death of any person, including an embryo or fetus as defined in
23 §61-2-30 of this code, other than the person operating the motor vehicle, ensues within
24 one year as the proximate result of injury caused by the driving of any vehicle in a school
25 zone, as set forth in

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26 §17C-6-1 of this code, during school recess or while children are going to or leaving school during

28 opening or closing hours, by any person in reckless disregard for the safety of others, the person
29 operating the vehicle is guilty of vehicular homicide in a school zone.

30 (f) Any person convicted of vehicular homicide in a school zone is guilty of a felony and
31 upon conviction, shall be fined not less than \$2,500 nor more than \$5,000, or imprisoned in
a
32 state correctional facility for a definite term of years of not less than two nor more than 10
years, 33 or both fined and imprisoned.

34 (g) When the death of any person, including an embryo or fetus as defined in §61-2-30 of
35 this code, other than the person operating the motor vehicle, ensues within one year as the
36 proximate result of injury caused by the driving of any vehicle where street or highway
construction
37 work is being performed consistent with the provisions of §17C-3-4b of this code, by any
person
38 in reckless disregard for the safety of others, the person operating the vehicle is guilty of
vehicular 39 homicide in a construction zone.

40 (h) Any person convicted of vehicular homicide in a construction zone shall be guilty of a
41 felony and upon conviction, shall be fined not less than \$2,500 nor more than \$5,000, or
42 imprisoned in a state correctional facility for a definite term of years of not less than two nor
more 43 than 10 years, or both fined and confined.

44 (i) The commissioner shall revoke the license or permit to drive and any nonresident
45 operating privilege of any person convicted of any offense contained within this section.

§17C-5-3. Reckless driving; penalties.

1 (a) Any person who drives any vehicle upon any street or highway, or upon any residential
2 street, or in any parking area, or upon the ways of any institution of higher education,
whether
3 public or private, or upon the ways of any state institution, or upon the property of any
county

4 boards of education, or upon any property within the state park and public recreation
system 5 established by the Director of the Division of Natural Resources pursuant to §20-
4-3 of this code

6 in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

7 (b) The provisions of subsection (a) of this section does not apply to those areas which

8 have been temporarily closed for racing sport events or which may be set aside by the Director

9 of the Division of Natural Resources within the state park and recreation system for exclusive use
10 by motorcycles or other recreational vehicles.

11 (c) Every person convicted of reckless driving is guilty of a misdemeanor and, upon a first

12 conviction thereof, shall be confined in jail for a period of not less than five days nor more
than 90

13 days, or fined not less than \$25 nor more than \$500, or both fined and confined, and upon

14 conviction of a second or subsequent conviction thereof, shall be confined in jail not less
than 10

15 days nor more than six months, or fined not less than \$50 nor more than \$1,000, or both
fined 16 and confined.

17 (d) Notwithstanding the provisions of subsection (c) of this section, any person convicted

18 of a violation of subsection (a) of this section who in doing so proximately causes another
to suffer

19 serious bodily injury shall, upon conviction, be confined in jail not less than 30 days nor
more than 20 one year or fined not less than \$50 nor more than \$1,000, or both fined and
confined.

21 (e) For purposes of subsection (d) of this section, "serious bodily injury" means bodily

22 injury which creates a substantial risk of death, which causes serious or prolonged
disfigurement,

23 prolonged impairment of health or prolonged loss or impairment of the function of any
bodily

24 organ.

ARTICLE 14. MISCELLANEOUS RULES.

§17C-14-15. Electronically Distracted Driving Act.

1 (a) Definitions — As used in this section:

2 (1) “Smartwatch” means a wearable computer that provides a local touchscreen for daily

3 use, associated with applications, and connected to a cellular or Wi-Fi network;

1 (2) “Stand-alone electronic device” means a portable device other than a
2 wireless telecommunications device which stores audio or video data files to be retrieved
3 on demand by a user;

4 (3) “Utility services” means and includes electric, natural gas, water,
5 wastewater, cable, telephone, or telecommunications services, or the repair, location,
6 relocation, improvement, or maintenance of utility poles, transmission structures, pipes,
7 wires, fibers, cables, easements, rights-of-way, or associated infrastructure;

8 (4) “Wireless telecommunications device” means one of the following portable
9 devices:

10 (A) A cellular telephone;

11 (B) A portable telephone;

12 (C) A text-messaging device;

13 (D) A personal digital assistant;

14 (E) A stand-alone computer including, but not limited to, a tablet, laptop, or
15 notebook computer;

16 (F) A handheld global positioning system receiver;

17 (G) A device capable of displaying a video, movie, broadcast television image,
18 or visual image; or

19 (H) Any substantially similar portable wireless device that is used to initiate or
20 receive communication, information, or data;

21 (I) “Wireless telecommunications device” does not include a smartwatch, any
22 type of radio including but not limited to, radios used by first responders or school bus
23 operators; citizens band radio or radio hybrid; commercial two-way radio communication
24 device or its functional equivalent; subscription-based emergency communication device;
25 prescribed medical device; amateur or ham radio device, or any built-in vehicle equipment
26 for security, navigation, communications, or remote diagnostics;

27 (5) "Voice-operated or hands-free feature or function" means a feature or function that
28 allows a person to use a wireless telecommunications device without the use of either hand,
29 except to activate, deactivate, or initiate the feature or function with a single touch or single swipe.

30 (b) The driver of a school bus shall not use or operate a wireless
31 telecommunications device or two-way radio while loading or unloading passengers.

32 (c) The driver of a school bus shall not use or operate a wireless
33 telecommunications device while the bus is in motion or while stationary in traffic or at a
34 traffic control signal, unless that device is being used in a similar manner as a two-way
35 radio to allow live communication between the driver and school officials or public safety
36 officials.

37 (d) A driver shall exercise due care in operating a motor vehicle on the
38 highways of this state and shall not engage in any actions involving any stand-alone
39 electronic device or wireless telecommunications device that distracts such driver from
40 the safe operation of the vehicle.

41 (e) While operating a motor vehicle on any street, highway, or property open to
42 the public for vehicular traffic in this state, a driver may not:

43 (1) Physically hold or support, with any part of his or her body, a wireless
44 communication device or stand-alone electronic device: *Provided*, That this prohibition
45 does not apply to the wearing of a smartwatch;

46 (2) Write, send, or read any text-based communication including, but not
47 limited to, a text message, instant message, e-mail, or social media interaction on a
48 wireless telecommunications device or stand-alone electronic device: *Provided*, That this
49 prohibition does not apply to a voiceoperated or hands-free communication feature which
50 is automatically converted by such device to be sent as a message in a written form;

51 (3) Make any communication involving a wireless telecommunications device,
52 including a phone call, voice message, or one-way voice communication: *Provided*, That
53 this prohibition does not apply to a voice operated or hands-free communication feature or
54 function;

55 (4) Engage in any form of electronic data retrieval or electronic data
56 communication on a wireless telecommunications device or stand-alone electronic device;

57 (5) Manually enter letters, numbers, or symbols into any website, search
58 engine, or application on a wireless telecommunications device or stand-alone electronic
59 device;

60 (6) Watch a video or movie on a wireless telecommunications device or
61 standalone electronic device other than watching data related to the navigation of the
62 vehicle;

63 (7) Record, post, send, or broadcast video, including a video conference on a
64 wireless telecommunications device or stand-alone electronic device: *Provided*, That this
65 prohibition does not apply to electronic devices used for the sole purpose of continuously
66 recording or broadcasting video within or outside of the motor vehicle; or

67 (8) Actively play any game on a wireless telecommunications device or stand-
68 alone electronic device.

69 (f) While operating a commercial motor vehicle on any highway of this state, a
70 driver may:

71 (1) Use more than a single button on a wireless telecommunications device to
72 initiate or terminate a voice communication; or

73 (2) Reach for a wireless telecommunications device or stand-alone electronic
74 device in such a manner that requires the driver to:

75 (A) No longer be in a seated driving position; or

76 (B) No longer be properly restrained by a safety belt.

77 (g) Each violation of this section shall constitutes a separate offense.

78 (h) It is a misdemeanor for any driver to violate any of the provisions of this
79 section. Every driver convicted of a misdemeanor for a violation of any of the provisions of
80 this section shall be punished as follows:

81 (1) For a first conviction with no prior conviction of and no plea of no contest
82 accepted to a charge of violating this section within the previous 24-month period, as
83 measured from the date of any prior conviction or plea, a fine of not more than \$100;

84 (2) For a second conviction within a 24-month period, as measured from the
85 date of any prior conviction or plea, a fine of not more than \$200;

86 (3) For a third or subsequent conviction within a 24-month period, as measured
87 from the date of any prior conviction or plea:

88 (A) A fine of not more than \$350;

89 (B) Three points on the driver's record maintained by the Division of Motor Vehicles; and

90 (C) At the court's discretion, suspension of the driver's license for a period of 90 days;

91 (4) Any driver who causes physical harm to property as the proximate result of
92 committing a violation of this section is guilty of a misdemeanor punishable up to 30 days in
93 jail or a fine not less than \$100 and not more than \$500;

94 (5) Any driver who causes serious physical harm to another person as the
95 proximate result of committing a violation of this section is guilty of a misdemeanor and
96 shall be fined not less than \$500 nor more than \$1,000, or confined in jail up to 120 days, or
97 both fined and confined, and the driver shall have his or her license to operate a motor
98 vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one
99 year; and

100 (6) Any driver who causes the death of another as the proximate result of
101 committing a violation of this section is also subject to prosecution under the applicable
102 vehicular homicide provision of §17C-5-1 of this code.

103 (i) The Department of Transportation shall cause to be erected signs upon any
104 highway entering the state of West Virginia on which a welcome to West Virginia sign is
105 posted, and any other highway where the Division of Highways deems appropriate,
106 posted at a distance of not more than one mile from each border crossing, each sign to
107 bear an inscription clearly communicating to motorists entering the state that texting, or
108 the use of a wireless communication device without hands-free equipment, is illegal
109 within this state.

110 (j) Nothing contained in this section shall be construed to authorize seizure of
111 a cell phone or electronic device by any law-enforcement agency.

112 (k) No policy providing liability coverage for personal lines insurance shall
113 contain a provision which may be used to deny coverage or exclude payment of any legal
114 damages recoverable by law for injuries proximately caused by a violation of this section,
115 as long as such amounts are within the coverage limits of the insured.

116 (l) This section shall not apply to:

117 (1) Drivers reporting to state, county, or local authorities a traffic accident,
118 medical emergency, fire, an actual or potential criminal or delinquent act, or a road
119 condition that causes an immediate and serious traffic or safety hazard;

120 (2) An employee or contractor of a utility services provider acting within the
121 scope of his or her employment while responding to a utility emergency;

122 (3) A driver operating a commercial vehicle while using a mobile data terminal
123 that transmits and receives data;

124 (4) A law-enforcement officer, firefighter, emergency medical services
125 personnel, ambulance driver, or other similarly employed public safety first responder
126 during the performance of his or her official duties; or

127 (5) A person in a motor vehicle that is lawfully parked.

128 (m) This section does not supersede the provisions of §17B-2-3a of this code,
129 or any more restrictive provisions for drivers of commercial motor vehicles prescribed
130 either by the provisions of §17E-1-1 *et seq.* of this code or by federal law or rule.

131 (n) The amendments to this section adopted during the regular session of the
132 Legislature in 2023, shall be known as the Robin W. Ames Memorial Act.

133 **ARTICLE 19. PARTIES, PROCEDURE UPON ARREST AND REPORTS IN**
134 **CRIMINAL**

135 **CASES.**

136 **§17C-19-3. When person arrested must be taken immediately before a magistrate or court.**

137 (a) Whenever any person is arrested for any violation of this chapter punishable as a
138 misdemeanor, the arrested person shall be immediately taken before a magistrate or court within
139 the county in which the offense charged is alleged to have been committed and who has
140 jurisdiction of the offense and is nearest or most accessible with reference to the place where the
141 arrest is made, in any of the following cases:

142 (1) When a person arrested demands an immediate appearance before a
143 magistrate or
144 court;

145 (2) When the person is arrested upon a misdemeanor charge of vehicular
146 homicide as contained in §17C-5-1 of this code;

147 (3) When the person is arrested upon a charge of driving while under the
148 influence of alcohol, or under the influence of any controlled substance, or under the

149 influence of any other drug, or under the combined influence of alcohol and any controlled
150 substance or any other drug;

151 (4) When the person is arrested upon a charge of failure to stop in the event of
152 an accident causing death, personal injury or damage to property;

153 (5) When the person is arrested upon a charge of violating §17C-17-14 relating
154 to weight violations, except as otherwise provided in that section;

155 (6) When the person arrested is a resident of a state that has not entered into a
156 nonresident violator compact with this state;

157 (7) In any other event when the person arrested refuses to accept the written
158 notice to appear in court as his or her promise to appear in court or to comply with the terms
159 of the written notice to appear in court as provided in section four of this article; and

160 (8) When a person is arrested for driving with a suspended or revoked driver's
161 license for miscellaneous reasons: *Provided*, That when a person is arrested for driving
162 with a suspended or revoked driver's license for miscellaneous reasons, the arresting
163 officer may issue a charge by citation if a magistrate or judge is not on duty or reasonably
164 available.

26 (b) When the person arrested is a resident of a state that has entered into a nonresident
27 violator compact with this state, the arresting officer shall issue the person a written notice
as
28 provided for in section four of this article and may not take the person immediately before a
29 magistrate or court, except under the terms of the compact or under the circumstances set
forth
30 in subsection (a) of this section.

CHAPTER 17E. UNIFORM COMMERCIAL DRIVER'S LICENSE ACT.

ARTICLE 1. COMMERCIAL DRIVER'S LICENSE.

§17E-1-13. Disqualification.

1 (a) A person may not operate a commercial motor vehicle if his or her privilege to operate
2 a commercial motor vehicle is disqualified under the provisions of the Federal Motor
Carrier Safety 3 Improvement Act of 1999, 49 C. F. R. Part §383, Subpart D (2004) or in
accordance with the 4 provisions of this section.

5 (1) For the purposes of determining first and subsequent violations of the offenses listed
6 in this section, each conviction resulting from a separate incident includes convictions for
offenses 7 committed in a commercial motor vehicle or a noncommercial motor vehicle.

8 (2) Any person disqualified from operating a commercial motor vehicle for life under the
9 provisions of this chapter for offenses described in subdivisions (1), (2), (3), (4) and (6),
subsection

10 (b) of this section is eligible for reinstatement of privileges to operate a commercial motor
vehicle

11 after 10 years and after completion of the Safety and Treatment Program or other
appropriate

12 program prescribed by the division. Any person whose lifetime disqualification has been
amended

13 under the provisions of this subdivision, and who is subsequently convicted of a
disqualifying

- 14 offense described in subdivisions (1) through (7), inclusive, subsection (b) of this section, is not
- 15 eligible for reinstatement. Any person disqualified from operating a commercial motor vehicle for
- 16 life under subsection (n) of this section is not eligible for reinstatement.

1 (3) Any person who committed a disqualifying offense contained in paragraph
2 (B) or (E), subdivision (1), subsection (b) of this section prior to obtaining a commercial
3 driver's license, and who committed the disqualifying offense more than 10 years before he
4 or she applied for a commercial driver's license, and who has completed the Safety and
5 Treatment Program or other appropriate program prescribed by the division, shall be
6 considered to have served the period of disqualification and is eligible to obtain a
7 commercial driver's license so long as all other eligibility requirements contained in §17E-
8 1-9 and §17E-1-10 of this code are satisfied.

9 (4) Any disqualification imposed by this section is in addition to any action to
10 suspend, revoke, or cancel the driver's license or driving privileges if suspension,
11 revocation, or cancellation is required under another provision of this code.

12 (5) The provisions of this section apply to any person operating a commercial
13 motor vehicle and to any person holding a commercial driver's license.

14 (b) Any person is disqualified from driving a commercial motor vehicle for the following
15 offenses and time periods if convicted of:

16 (1) Driving a motor vehicle under the influence of alcohol or a controlled
17 substance;

18 (A) For a first conviction or for refusal to submit to any designated secondary
19 chemical test while operating a commercial motor vehicle, a driver is disqualified from
20 operating a commercial motor vehicle for a period of one year.

21 (B) For a first conviction or for refusal to submit to any designated secondary
22 chemical test while operating a noncommercial motor vehicle, a commercial driver's
23 license holder is disqualified from operating a commercial motor vehicle for a period of one
24 year.

25 (C) For a first conviction or for refusal to submit to any designated secondary
26 chemical test while operating a commercial motor vehicle transporting hazardous

27 materials required to be placarded under 49 C. F. R. Part §172, Subpart F, a driver is
28 disqualified from operating a commercial motor vehicle for a period of three years.

29 (D) For a second conviction or for refusal to submit to any designated
30 secondary chemical test in a separate incident of any combination of offenses in this
31 subsection while operating a commercial motor vehicle, a driver is disqualified from
32 operating a commercial motor vehicle for

33 life.

34 (E) For a second conviction or refusal to submit to any designated secondary
35 chemical test in a separate incident of any combination of offenses in this subsection while
36 operating a noncommercial motor vehicle, a commercial motor vehicle license holder is
37 disqualified from operating a commercial motor vehicle for life.

38 (2) Driving a commercial motor vehicle while the person's alcohol
39 concentration of the person's blood, breath, or urine is four hundredths of one percent or
40 more, by weight;

41 (A) For a first conviction or for refusal to submit to any designated secondary
42 chemical test while operating a commercial motor vehicle, a driver is disqualified from
43 operating a commercial motor vehicle for one year.

44 (B) For a first conviction or for refusal to submit to any designated secondary
45 chemical test while operating a commercial motor vehicle transporting hazardous
46 materials required to be placarded under 49 C. F. R. Part §172, Subpart F, a driver is
47 disqualified from operating a commercial motor vehicle for three years.

48 (C) For a second conviction or refusal to submit to any designated secondary
49 chemical test in a separate incident of any combination of offenses in this subsection while
50 operating a commercial motor vehicle, a driver is disqualified from operating a commercial
51 motor vehicle for

52 life.

53 (3) Refusing to submit to any designated secondary chemical test required by
54 the provisions of this code or the provisions of 49 C. F. R. §383.72 (2004);

55 (A) For the first conviction or refusal to submit to any designated secondary
56 chemical test while operating a commercial motor vehicle, a driver is disqualified from
57 operating a commercial motor vehicle for one year.

58 (B) For the first conviction or refusal to submit to any designated secondary
59 chemical test while operating a noncommercial motor vehicle, a commercial driver's
60 license holder is disqualified from operating a commercial motor vehicle for one year.

61 (C) For the first conviction or for refusal to submit to any designated secondary
62 chemical test while operating a commercial motor vehicle transporting hazardous
63 materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver
64 is disqualified from operating a commercial motor vehicle for a period of three years.

65 (D) For a second conviction or refusal to submit to any designated secondary
66 chemical test in a separate incident of any combination of offenses in this subsection while
67 operating a commercial motor vehicle, a driver is disqualified from operating a commercial
68 motor vehicle for

69 life.

70 (E) For a second conviction or refusal to submit to any designated secondary
71 chemical test in a separate incident of any combination of offenses in this subsection while
72 operating a noncommercial motor vehicle, a commercial driver's license holder is
73 disqualified from operating a commercial motor vehicle for life.

74 (4) Leaving the scene of an accident;

75 (A) For the first conviction while operating a commercial motor vehicle, a driver
76 is disqualified from operating a commercial motor vehicle for one year.

77 (B) For the first conviction while operating a noncommercial motor vehicle, a
78 commercial driver's license holder is disqualified for one year.

79 (C) For the first conviction while operating a commercial motor vehicle
80 transporting hazardous materials required to be placarded under 49 C. F. R. Part §172,
81 Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a
82 period of three years.

83 (D) For a second conviction in a separate incident of any combination of
84 offenses in this subsection while operating a commercial motor vehicle, a driver is
85 disqualified from operating a commercial motor vehicle for life.

86 (E) For a second conviction in a separate incident of any combination of
87 offenses in this subsection while operating a noncommercial motor vehicle, a commercial
88 driver's license holder is disqualified from operating a commercial motor vehicle for life.

89 (5) Using a motor vehicle in the commission of any felony as defined in §17E-1-
90 3 of this code; except as set forth specifically in subsection (n) of this section;

91 (A) For the first conviction while operating a commercial motor vehicle, a driver
92 is disqualified from operating a commercial motor vehicle for one year.

93 (B) For the first conviction while operating a noncommercial motor vehicle, a
94 commercial driver's license holder is disqualified from operating a commercial motor
95 vehicle for one year.

96 (C) For the first conviction while operating a commercial motor vehicle
97 transporting hazardous materials required to be placarded under 49 C. F. R. Part §172,
98 Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a
99 period of three years.

100 (D) For a second conviction in a separate incident of any combination of
101 offenses in this subsection while operating a commercial motor vehicle, a driver is
102 disqualified from operating a commercial motor vehicle for life.

103 (E) For a second conviction in a separate incident of any combination of
104 offenses in this subsection while operating a noncommercial motor vehicle, a commercial
105 motor vehicle license holder is disqualified from operating a commercial motor vehicle for
106 life.

107 (6) Operating a commercial motor vehicle when, as a result of prior violations
108 committed operating a commercial motor vehicle, the driver's privilege to operate a motor
109 vehicle has been suspended, revoked, or canceled, or the driver's privilege to operate a
110 commercial motor vehicle has been disqualified.

111 (A) For the first conviction while operating a commercial motor vehicle, a driver
112 is disqualified from operating a commercial motor vehicle for one year.

113 (B) For the first conviction while operating a commercial motor vehicle
114 transporting hazardous materials required to be placarded under 49 C. F. R. Part §172,
115 Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a
116 period of three years.

117 (C) For a second conviction in a separate incident of any combination of
118 offenses in this subsection while operating a commercial motor vehicle, a driver is
119 disqualified from operating a commercial motor vehicle for life.

120 (7) Causing a fatality through the negligent operation of a commercial motor
121 vehicle, the operation of a commercial motor vehicle in reckless disregard for the safety of
122 others, or the operation of a commercial motor vehicle in deliberate disregard for the safety
123 of others, including, but not limited to, the crimes of motor vehicle manslaughter, homicide,
124 vehicular homicide, aggravated vehicular homicide, vehicular homicide in a school zone,

125 and vehicular homicide in a construction zone as defined in §17B-3-5, and §17C-5-1 of this
126 code;

127 (A) For the first conviction while operating a commercial motor vehicle, a driver
128 is disqualified from operating a commercial motor vehicle for one year.

129 (B) For the first conviction while operating a commercial motor vehicle
130 transporting hazardous materials required to be placarded under 49 C. F. R. Part §172,
131 Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a
132 period of three years.

133 (C) For a second conviction in a separate incident of any combination of
134 offenses in this subsection while operating a commercial motor vehicle, a driver is
135 disqualified from operating a commercial motor vehicle for life.

136 (c) Any person is disqualified from driving a commercial motor vehicle if convicted of:

137 (1) Speeding excessively involving any speed of 15 miles per hour or more above the
138 posted speed limit;

139 (A) For a second conviction of any combination of offenses in this subsection in
140 a separate incident within a three-year period while operating a commercial motor vehicle,
141 a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

142 (B) For a second conviction of any combination of offenses in this section in a
143 separate incident within a three-year period while operating a noncommercial motor
144 vehicle, if the conviction results in the suspension, revocation, or cancellation of the
145 commercial driver's license holder's privilege to operate any motor vehicle, a commercial
146 driver's license holder is disqualified from operating a commercial motor vehicle for a
147 period of 60 days.

148 (C) For a third or subsequent conviction of any combination of the offenses in
149 this subsection in a separate incident in a three-year period while operating a commercial

150 motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a
151 period of 120 days.

152 (D) For a third or subsequent conviction of any combination of offenses in this
153 subsection in a separate incident within a three-year period while operating a
154 noncommercial motor vehicle, if the conviction results in the suspension, revocation, or
155 cancellation of the commercial driver's license holder's privilege to operate any motor
156 vehicle, a commercial driver's license holder shall be disqualified from operating a
157 commercial motor vehicle for a period of 120 days.

158 (2) Reckless driving as defined in §17C-5-3 of this code, or careless or negligent driving,
159 including, but not limited to, the offenses of driving a motor vehicle in willful or wanton disregard for
160 the safety of persons or property;

161 (A) For a second conviction of any combination of offenses in this subsection in
162 a separate incident within a three-year period while operating a commercial motor vehicle,
163 a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

164 (B) For a second conviction of any combination of offenses in this section in a
165 separate incident within a three-year period while operating a noncommercial motor
166 vehicle, if the conviction results in the suspension, revocation, or cancellation of the
167 commercial driver's license holder's privilege to operate any motor vehicle, a commercial
168 driver's license holder is disqualified from operating a commercial motor vehicle for a
169 period of 60 days.

170 (C) For a third or subsequent conviction of any combination of the offenses in
171 this subsection in a separate incident in a three-year period while operating a commercial
172 motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a
173 period of 120 days.

174 (D) For a third or subsequent conviction of any combination of offenses in this
175 subsection in a separate incident within a three-year period while operating a
176 noncommercial motor vehicle, if the conviction results in the suspension, revocation, or
177 cancellation of the commercial driver's license holder's privilege to operate any motor
178 vehicle, a commercial driver's license holder is disqualified from operating a commercial
179 motor vehicle for a period of 120 days.

180 (3) Making improper or erratic traffic lane changes;

181 (A) For a second conviction of any combination of offenses in this subsection in
182 a separate incident within a three-year period while operating a commercial motor vehicle,
183 a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

184 (B) For a second conviction of any combination of offenses in this section in a
185 separate incident within a three-year period while operating a noncommercial motor
186 vehicle, if the conviction results in the suspension, revocation, or cancellation of the
187 commercial driver's license holder's privilege to operate any motor vehicle, a commercial
188 driver's license holder is disqualified from operating a commercial motor vehicle for a
189 period of 60 days.

190 (C) For a third or subsequent conviction of any combination of the offenses in
191 this subsection in a separate incident in a three-year period while operating a commercial
192 motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a
193 period of 120 days.

194 (D) For a third or subsequent conviction of any combination of offenses in this
195 subsection in a separate incident within a three-year period while operating a
196 noncommercial motor vehicle, if the conviction results in the suspension, revocation, or
197 cancellation of the commercial driver's license holder's privilege to operate any motor

198 vehicle, a commercial driver's license holder is disqualified from operating a commercial
199 motor vehicle for a period of 120 days.

200 (4) Following the vehicle ahead too closely;

201 (A) For a second conviction of any combination of offenses in this subsection in
202 a separate incident within a three-year period while operating a commercial motor vehicle,
203 a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

204 (B) For a second conviction of any combination of offenses in this section in a
205 separate incident within a three-year period while operating a noncommercial motor
206 vehicle, if the conviction results in the suspension, revocation, or cancellation of the
207 commercial driver's license holder's privilege to operate any motor vehicle, a commercial
208 driver's license holder is disqualified from operating a commercial motor vehicle for a
209 period of 60 days.

210 (C) For a third or subsequent conviction of any combination of the offenses in
211 this subsection in a separate incident in a three-year period while operating a commercial
212 motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a
213 period of 120 days.

214 (D) For a third or subsequent conviction of any combination of offenses in this
215 subsection in a separate incident within a three-year period while operating a
216 noncommercial motor vehicle, if the conviction results in the suspension, revocation, or
217 cancellation of the commercial driver's license holder's privilege to operate any motor
218 vehicle, a commercial driver's license holder is disqualified from operating a commercial
219 motor vehicle for a period of 120 days.

220 (5) Violating any law relating to traffic control arising in connection with a fatal accident,
221 other than a parking violation;

222 (A) For a second conviction of any combination of offenses in this subsection in
223 a separate incident within a three-year period while operating a commercial motor vehicle,
224 a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

225 (B) For a second conviction of any combination of offenses in this section in a
226 separate incident within a three-year period while operating a noncommercial motor
227 vehicle, if the conviction results in the suspension, revocation, or cancellation of the
228 commercial driver's license holder's privilege to operate any motor vehicle, a commercial
229 driver's license holder is disqualified from operating a commercial motor vehicle for a
230 period of 60 days.

231 (C) For a third or subsequent conviction of any combination of the offenses in
232 this subsection in a separate incident in a three-year period while operating a commercial
233 motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a
234 period of 120 days.

235 (D) For a third or subsequent conviction of any combination of offenses in this
236 subsection in a separate incident within a three-year period while operating a
237 noncommercial motor vehicle, if the conviction results in the suspension, revocation, or
238 cancellation of the commercial driver's license holder's privilege to operate any motor
239 vehicle, a commercial motor vehicle license holder is disqualified from operating a
240 commercial motor vehicle for a period of 120 days.

241 (6) Driving a commercial motor vehicle without obtaining a commercial driver's license;

242 (A) For a second conviction of any combination of offenses in this subsection in
243 a separate incident within a three-year period while operating a commercial motor vehicle,
244 a driver is disqualified from operating a commercial motor vehicle for a period of 60 days.

245 (B) For a third or subsequent conviction of any combination of the offenses in
246 this subsection in a separate incident in a three-year period while operating a commercial

247 motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a
248 period of 120 days.

249 (7) Driving a commercial motor vehicle without a commercial driver's license in the driver's
250 possession except that any person who provides proof of possession of a commercial driver's
251 license to the enforcement agency that issued the citation by the court appearance or fine payment
252 deadline is not guilty of this offense;

253 (A) For a second conviction of any combination of offenses in this subsection in
254 a separate incident within a three-year period while operating a commercial motor vehicle,
255 a commercial driver's license holder is disqualified from operating a commercial motor
256 vehicle for a period of 60 days.

257 (B) For a third or subsequent conviction of any combination of the offenses in
258 this subsection in a separate incident in a three-year period while operating a commercial
259 motor vehicle, a commercial driver's license holder is disqualified from operating a
260 commercial motor vehicle for a period of 120 days.

261 (8) Driving a commercial motor vehicle without the proper class of commercial
262 driver's license or the proper endorsements for the specific vehicle group being operated
263 or for the passengers or type of cargo being transported;

264 (A) For a second conviction of any combination of offenses in this subsection in
265 a separate incident within a three-year period while operating a commercial motor vehicle,
266 a commercial driver's license holder is disqualified from operating a commercial motor
267 vehicle for a period of 60 days.

268 (B) For a third or subsequent conviction of any combination of the offenses in
269 this subsection in a separate incident in a three-year period while operating a commercial
270 motor vehicle, a commercial driver's license holder is disqualified from operating a
271 commercial motor vehicle for a period of 120 days.

272 (9) Driving a commercial motor vehicle while engaged in texting and convicted
273 pursuant to §17E-1-14a of this code or similar law of this or any other jurisdiction or 49 C. F.
274 R. §392.80;

275 (A) For a second conviction of any combination of offenses in this subsection in
276 a separate incident within a three-year period while operating a commercial motor vehicle,
277 a commercial driver's license holder is disqualified from operating a commercial motor
278 vehicle for a period of 60 days.

279 (B) For a third or subsequent conviction of any combination of the offenses in
280 this subsection in a separate incident in a three-year period while operating a commercial
281 motor vehicle, a commercial driver's license holder is disqualified from operating a
282 commercial motor vehicle for a period of 120 days.

283 (d) Any person convicted of operating a commercial motor vehicle in violation of any
284 federal, state, or local law or ordinance pertaining to railroad crossing violations described in
285 subdivisions (1) through (6), inclusive, of this subsection is disqualified from operating a
286 commercial motor vehicle for the period of time specified;

287 (1) Failing to slow down and check that the tracks are clear of an approaching train, if not
288 required to stop in accordance with the provisions of §17C-12-3 of this code;

289 (A) For the first conviction, a driver is disqualified from operating a commercial
290 motor vehicle for a period of 60 days;

291 (B) For a second conviction of any combination of offenses in this subsection
292 within a three-year period, a driver is disqualified from operating a commercial motor
293 vehicle for 120 days; and

294 (C) For a third or subsequent conviction of any combination of offenses in this
295 subsection within a three-year period, a driver is disqualified from operating a commercial
296 motor vehicle for one year.

297 (2) Failing to stop before reaching the crossing, if the tracks are not clear, if not required to
298 stop in accordance with the provisions of §17C-12-1 of this code;

299 (A) For the first conviction, a driver is disqualified from operating a commercial
300 motor vehicle for a period of 60 days;

301 (B) For a second conviction of any combination of offenses in this subsection
302 within a three-year period, a driver is disqualified from operating a commercial motor
303 vehicle for 120 days; and

304 (C) For a third or subsequent conviction of any combination of offenses in this
305 subsection within a three-year period, a driver is disqualified from operating a commercial
306 motor vehicle for one year.

307 (3) Failing to stop before driving onto the crossing, if required to stop in accordance with the
308 provisions of §17C-12-3 of this code;

309 (A) For the first conviction, a driver is disqualified from operating a commercial
310 motor vehicle for a period of 60 days;

311 (B) For a second conviction of any combination of offenses in this subsection
312 within a three-year period, the driver is disqualified from operating a commercial motor
313 vehicle for 120 days; and

314 (C) For a third or subsequent conviction of any combination of offenses in this
315 subsection within a three-year period, a driver is disqualified from operating a commercial
316 motor vehicle for one year.

317 (4) Failing to have sufficient space to drive completely through the crossing without
318 stopping in accordance with the provisions of §17C-12-3 of this code;

319 (A) For the first conviction, a driver is disqualified from operating a commercial
320 motor vehicle for a period of 60 days;

321 (B) For a second conviction of any combination of offenses in this subsection
322 within a three-year period, a driver is disqualified from operating a commercial motor
323 vehicle for 120 days; and

324 (C) For a third or subsequent conviction of any combination of offenses in this
325 subsection within a three-year period, a driver is disqualified from operating a commercial
326 motor vehicle for one year.

327 (5) Failing to obey a traffic control device or the directions of an enforcement official at the
328 crossing in accordance with the provisions of §17C-12-1 of this code;

329 (A) For the first conviction, a driver is disqualified from operating a commercial
330 motor vehicle for a period of 60 days;

331 (B) For a second conviction of any combination of offenses in this subsection
332 within a three-year period, a driver is disqualified from operating a commercial motor
333 vehicle for 120 days; and

334 (C) For a third or subsequent conviction of any combination of offenses in this
335 subsection within a three-year period, a driver is disqualified from operating a commercial
336 motor vehicle for one year.

337 (6) Failing to negotiate a crossing because of insufficient undercarriage clearance in
338 accordance with the provisions of §17C-12-3 of this code.

339 (A) For the first conviction, a driver is disqualified from operating a commercial
340 motor vehicle for a period of 60 days;

341 (B) For a second conviction of any combination of offenses in this subsection
342 within a three-year period, a driver is disqualified from operating a commercial motor
343 vehicle for 120 days; and

344 (C) For a third or subsequent conviction of any combination of offenses in this
345 subsection within a three-year period, a driver is disqualified from operating a commercial
346 motor vehicle for one year.

347 (e) Any person who is convicted of violating an out-of-service order while operating a
348 commercial motor vehicle is disqualified for the following periods of time:

349 (1) If convicted of violating a driver or vehicle out-of-service order while transporting
350 nonhazardous materials;

351 (A) For the first conviction of violating an out-of-service order while operating a commercial
352 motor vehicle, a driver is disqualified from operating a commercial motor vehicle for 180 days. (B)
353 For a second conviction in a separate incident within a 10-year period for violating an out-of-
354 service order while operating a commercial motor vehicle, a driver is disqualified from operating a
355 commercial motor vehicle for two years.

356 (C) For a third or subsequent conviction in a separate incident within a 10-year period for
357 violating an out-of-service order while operating a commercial motor vehicle, a driver is
358 disqualified from operating a commercial motor vehicle for three years.

359 (2) If convicted of violating a driver or vehicle out-of-service order while transporting
360 hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004) or
361 while operating a vehicle designed to transport 16 or more passengers including the driver;

362 (A) For the first conviction of violating an out-of-service order while operating a
363 commercial motor vehicle, a driver is disqualified from operating a commercial motor
364 vehicle for 180 days.

365 (B) For a second conviction in a separate incident within a ten-year period for
366 violating an out-of-service order while operating a commercial motor vehicle, a driver is
367 disqualified from operating a commercial motor vehicle for three years.

368 (C) For a third or subsequent conviction in a separate incident within a 10-year
369 period for violating an out-of-service order while operating a commercial motor vehicle, a
370 driver is disqualified from operating a commercial motor vehicle for three years.

371 (f) After disqualifying, suspending, revoking, or canceling a commercial
372 driver's license, the division shall update its records to reflect that action within 10 days.

373 (g) In accordance with the provisions of 49 U. S. C. §313119(a)(19)(2004), and
374 49 C. F. R. §384.226 (2004), notwithstanding the provisions of §61-11-25 of this code, no
375 record of conviction, revocation, suspension, or disqualification related to any type of motor
376 vehicle traffic control offense, other than a parking violation, of a commercial driver's
377 license holder or a person operating a commercial motor vehicle may be masked,
378 expunged, deferred, or be subject to any diversion program.

379 (h) Notwithstanding any provision in this code to the contrary, the division may
380 not issue any temporary driving permit, work-only driving permit, or hardship license or
381 permit that authorizes a person to operate a commercial motor vehicle when his or her
382 privilege to operate any motor vehicle has been revoked, suspended, disqualified, or
383 otherwise canceled for any reason.

384 (i) In accordance with the provisions of 49 C. F. R. §391.15(b), a driver is
385 disqualified from operating a commercial motor vehicle for the duration of any suspension,
386 revocation, or cancellation of his or her driver's license or privilege to operate a motor
387 vehicle by this state or by any other state or jurisdiction until the driver complies with the
388 terms and conditions for reinstatement set by this state or by another state or jurisdiction.

389 (j) In accordance with the provisions of 49 C. F. R. §353.52 (2006), the division
390 shall immediately disqualify a driver's privilege to operate a commercial motor vehicle upon
391 a notice from the assistant administrator of the Federal Motor Carrier Safety Administration
392 that the driver poses an imminent hazard. Any disqualification period imposed under the

393 provisions of this subsection shall be served concurrently with any other period of
394 disqualification if applicable.

395 (k) In accordance with the provisions of 49 C. F. R. §1572.11(a), the division
396 shall immediately disqualify a driver's privilege to operate a commercial motor vehicle if the
397 driver fails to surrender his or her driver's license with a hazardous material endorsement
398 to the division upon proper notice by the division to the driver that the division received
399 notice from the Department of Homeland Security Transportation Security Administration
400 of an initial determination of threat assessment and immediate revocation that the driver
401 does not meet the standards for security threat assessment provided in 49 C. F. R.
402 §1572.5. The disqualification remains in effect until the driver either surrenders the driver's
403 license to the division or provides the division with an affidavit attesting to the fact that the
404 driver has lost or is otherwise unable to surrender the license.

393 (l) In accordance with 49 C. F. R. §391.41, a driver is disqualified from operating a
394 commercial motor vehicle if the driver is not physically qualified to operate a commercial
motor 395 vehicle or does not possess a valid medical certification status.

396 (m) In accordance with the provisions of 49 C. F. R. §383.73(g), the division shall disqualify
397 a driver's privilege to operate a commercial motor vehicle if the division determines that the
398 licensee has falsified any information or certifications required under the provisions of 49
C. F. R.

399 383 Subpart J or 49 C. F. R. §383.71(a) for 60 days in addition to any other penalty
prescribed

400 by this code.

401 (n) Lifetime Disqualification Without Reinstatement.—

402 (1) Controlled substance violations — An individual who uses a commercial motor vehicle
403 in committing a felony involving manufacturing, distributing, or dispensing a controlled
substance,

404 or involving possession with intent to manufacture, distribute, or dispense a controlled
substance

405 is disqualified from operating a commercial motor vehicle for life and is not eligible for 406
reinstatement.

407 (2) Human trafficking violations — An individual who uses a commercial motor vehicle in
408 committing a felony involving an act or practice described in paragraph (9) of section 103 of
the

409 Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(9)) is disqualified from operating
a

410 commercial motor vehicle for life and is not eligible for reinstatement.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.

§20-7-18a. Homicide by operation of motorized watercraft; aggravated homicide by operation of motorized watercraft; penalties; suspension of privileges to operate a motorboat or other motorized vessel upon conviction.

- 1 (a) When the death of any person, including an embryo or fetus as defined in §61-2-30 of
2 this code, other than the person operating the motorboat, jet ski, or other motorized vessel
occurs

1 within one year as a proximate result of injury caused by operating any motorboat, jet ski, or other
2 motorized vessel anywhere in this state by any person in reckless disregard for the safety of
3 others, the person operating the motorboat, jet ski, or other motorized vessel is guilty of homicide
4 by operation of motorized watercraft.

5 (b) Any person convicted of homicide by operation of motorized watercraft is
6 guilty of a misdemeanor and upon conviction, shall be fined not less than \$1,000 nor more
7 than \$10,000, confined in jail for not more than one year, or both fined and confined.

8 (c) Notwithstanding the provisions of this section, when the death of a person,
9 including an embryo or fetus as defined in §61-2-30 of this code, other than the person
10 operating the motorboat, jet ski, or other motorized vessel occurs within one year as the
11 proximate result of injury caused by the operation of any motorboat, jet ski or other
12 motorized vessel in this state in deliberate disregard for the safety of others, the person so
13 operating the motorboat, jet ski, or other motorized vessel is guilty of the felony offense of
14 aggravated homicide by use of motorized watercraft and upon conviction he or she shall be
15 fined not more than \$20,000 or imprisoned in a state correctional facility for not less than
16 one nor more than five years, or both fined and imprisoned.

17 (d) For the purposes of this section, a person acts with deliberate disregard for
18 the safety of others if he or she has knowledge of facts or intentionally disregards facts that
19 create high probability of injury to the safety or others and:

20 (1) deliberately proceeds to act in conscious or intentional disregard of the high
21 degree of probability of injury to the safety of others; or

22 (2) deliberately proceeds to act with indifference to the high probability of injury
23 to or the safety of others;

24 (e) The director shall suspend the privilege to operate a motorboat or other
25 motorized vessel in this state for a period of five years from the date of conviction.

26 **CHAPTER 33. INSURANCE.**

27 **ARTICLE 6A. CANCELLATION OR NONRENEWAL OF AUTOMOBILE LIABILITY**
28 **POLICIES.**

29 **§33-6A-1. Cancellation prohibited except for specified reasons; notice.**

30 (a) No insurer once having issued or delivered a policy providing automobile liability
31 insurance for a private passenger automobile may, after the policy has been in effect for 60 days,
32 or in case of renewal effective immediately, issue or cause to issue a notice of cancellation during
33 the term of the policy except for one or more of the reasons specified in this section:

34 (1) The named insured fails to make payments of premium for the policy or any
35 installment of the premium when due;

36 (2) The policy is obtained through material misrepresentation;

37 (3) The insured violates any of the material terms and conditions of the policy;

38 (4) The named insured or any other operator, either residing in the same
39 household or who customarily operates an automobile insured under the policy:

40 (A) Has had his or her operator's license suspended or revoked during the
41 policy period including suspension or revocation for failure to comply with the
42 provisions of Chapter 17C, Article 5A of this code regarding consent for a chemical test
43 for intoxication: *Provided*, That when a license is suspended for 60 days by the
44 Commissioner of the Division of Motor Vehicles because a person drove a motor
45 vehicle while under the age of 21 years with an alcohol concentration in his or her blood
46 of two hundredths of one percent or more, by weight, but less than eight hundredths of

47 one percent, by weight, pursuant to subsection (I), section two of said article, the
48 suspension may not be grounds for cancellation; or

49 (B) Is or becomes subject to epilepsy or heart attacks and the individual cannot
50 produce a certificate from a physician testifying to his or her ability to operate a motor
51 vehicle; or

52 (5) The named insured or any other operator, either residing in the same household or who
53 customarily operates an automobile insured under such policy, is convicted of or forfeits bail during
54 the policy period for any of the following reasons:

55 (A) Any felony or assault, involving the use of a motor vehicle;

56 (B) Any offense contained within §17C-5-1 of this code;

57 (C) Operating a motor vehicle while under the influence of alcohol or of any
58 controlled substance or while having an alcohol concentration in his or her blood of eight
59 hundredths of one percent or more, by weight;

60 (D) Leaving the scene of a motor vehicle accident in which the insured is
61 involved without reporting it as required by law;

62 (E) Theft of a motor vehicle or the unlawful taking of a motor vehicle;

63 (F) Making false statements in an application for a motor vehicle operator's
64 license; or

65 (G) Three or more moving traffic violations committed within a period of twelve
66 months, each of which results in three or more points being assessed on the driver's record
67 by the Division of Motor Vehicles, whether or not the insurer renewed the policy without
68 knowledge of all such violations. Notice of any cancellation made pursuant to this
69 subsection shall be mailed to the named insured either during the current policy period or
70 during the first full policy period following the date that the third moving traffic violation is
71 recorded by the Division of Motor Vehicles.

72 (b) Except as provided in subsections (c) and (d) of this section, no insurer may cancel a
73 policy of automobile liability insurance without first giving the insured thirty days' notice of its
74 intention to cancel. Notice of cancellation shall either be sent by first class mail to the named
75 insured at the address supplied on the application for insurance, or by email or other electronic
76 means if at the request of the policyholder in accordance with the Uniform Electronic Transactions
77 Act as codified in chapter thirty-nine-a of this code, and shall state the effective date of the
78 cancellation and provide a written explanation of the specific reason for the cancellation.

46 (c) If, pursuant to subsection (a) of this section, an insurer cancels a policy of automobile
47 liability insurance for the failure of the named insured to make payments of premium for the
policy
48 or any installment of the premium when due, then the insurer shall first give the insured at
least
49 fourteen days' notice of its intention to cancel. Notice of cancellation shall be sent by first
class
50 mail to the named insured at the address supplied on the application for insurance, or by
email or
51 other electronic means if at the request of the policyholder in accordance with the Uniform
52 Electronic Transactions Act as codified in chapter thirty-nine-a of this code, and shall state the
53 effective date of the cancellation and provide a written explanation of the specific reason
for the
54 cancellation. The notice period provided herein shall begin to run on the date mailed and
payment
55 shall be deemed accomplished by depositing in first class mail valid payment on or before
the 56 expiration date of the fourteen day notice period.

57 (d) If a named insured fails to make the initial payment of premium or any initial installment
58 of the premium after the initial issuance of an automobile liability insurance policy, the
insurance
59 policy is voidable from the effective date and time the policy was issued: *Provided*, That
the
60 insurer shall send the insured written notice that the policy will be voided absent payment
within
61 ten days of any amounts due under the terms of the policy. Such notice shall either be sent
by
62 first class mail to the named insured at the address supplied on the application for
insurance, or 63 by email or other electronic means if at the request of the policyholder in
accordance with the

64 Uniform Electronic Transactions Act as codified in chapter thirty-nine-a of this code, and shall
65 explain the specific reason for the voidance.

§33-6A-4. Advance notice of nonrenewal required; assigned risk policies; reasons for nonrenewal; hearing and review after nonrenewal.

1 (a) No insurer shall fail to renew an outstanding automobile liability or physical damage
2 insurance policy unless the nonrenewal is preceded by at least forty-five days advance
notice to
3 the named insured of the insurer's election not to renew the policy: *Provided*, That subject
to this

1 section, nothing contained in this article shall be construed to prevent an insurer from refusing to
2 issue an automobile liability or physical damage insurance policy upon application to the insurer,
3 nor shall any provision of this article be construed to prevent an insurer from refusing to renew a
4 policy upon expiration, except as to the notice requirements of this section, and except further as
5 to those applicants lawfully submitted pursuant to the West Virginia assigned risk plan.

6 (b) An insurer may not fail to renew an outstanding automobile liability or physical damage
7 insurance policy which has been in existence for two consecutive years or longer except for the
8 following reasons:

9 (1) The named insured fails to make payments of premium for the policy or any
10 installment of the premium when due;

11 (2) The policy is obtained through material misrepresentation;

12 (3) The insured violates any of the material terms and conditions of the policy;

13 (4) The named insured or any other operator, either residing in the same
14 household or who customarily operates an automobile insured under the policy:

15 (A) Has had his or her operator's license suspended or revoked during the policy
16 period;

17 or

18 (B) Is or becomes subject to a physical or mental condition that prevents the insured
19 from operating a motor vehicle, and the individual cannot produce a certificate from a physician
20 testifying to his or her ability to operate a motor vehicle;

21 (5) The named insured or any other operator, either residing in the same
22 household or who customarily operates an automobile insured under the policy, is
23 convicted of or forfeits bail during the policy period for any of the following reasons:

24 (A) Any felony or assault, involving the use of a motor vehicle;

25 (B) Any offense contained within §17C-5-1 of this code;

26 (C) Operating a motor vehicle while under the influence of intoxicating liquor or
27 of any narcotic drug;

28 (D) Leaving the scene of a motor vehicle accident in which the insured is
29 involved without reporting it as required by law;

30 (E) Theft of a motor vehicle or the unlawful taking of a motor vehicle; or

31 (F) Making false statements in an application for a motor vehicle operator's
32 license;

33 (6) The named insured or any other operator, either residing in the same
34 household or who customarily operates an automobile insured under the policy, is
35 convicted of or forfeits bail during the policy period for two or more moving traffic
36 violations committed within a period of twelve months, each of which results in three or
37 more points being assessed on the driver's record by the Division of Motor Vehicles,
38 whether or not the insurer renewed the policy without knowledge of all of the violations:
39 *Provided*, That an insurer that makes an election pursuant to section fourb of this article to
40 issue all nonrenewal notices pursuant to this section, may nonrenew an automobile
41 liability or physical damage insurance policy if the named insured, or any other operator,
42 either residing in the same household or who customarily operates an automobile insured
43 under the policy is convicted of or forfeits bail during the policy period for two or more
44 moving traffic violations committed within a period of twenty-four months, each of which
45 occurs on or after July 1, 2004, and after the date that the insurer makes an election
46 pursuant to section four-b of this article, and results in three or more points being
47 assessed on the driver's record by the Division of Motor Vehicles, whether or not the
48 insurer renewed the policy without knowledge of all of the violations. Notice of any
49 nonrenewal made pursuant to this subdivision shall be mailed to the named insured either

50 during the current policy period or during the first full policy period following the date that
51 the second moving traffic violation is recorded by the Division of Motor

52 Vehicles;

53 (7) The named insured or any other operator either residing in the same
54 household or who customarily operates an automobile insured under the policy has had a
55 second at-fault motor vehicle accident within a period of twelve months, whether or not
56 the insurer renewed the policy without knowledge of all of the accidents: *Provided*, That
57 an insurer that makes an election pursuant to section four-b of this article to issue all
58 nonrenewal notices pursuant to this section, may nonrenew an automobile liability or
59 physical damage insurance policy under this subsection if the named insured or any other
60 operator either residing in the same household or who customarily operates an
61 automobile insured under such policy has had two at-fault motor vehicle accidents within
62 a period of thirty-six months, each of which occurs after July 1, 2004, and after the date
63 that the insurer makes an election pursuant to section four-b of this article, and results in a
64 claim paid by the insurer for each accident, whether or not the insurer renewed the policy
65 without knowledge of all of the accidents. Notice of any nonrenewal made pursuant to this
66 subsection shall be mailed to the named insured either during the current policy period or
67 during the first full policy period following the date of the second accident; or

68 (8) The insurer ceases writing automobile liability or physical damage
69 insurance policies throughout the state after submission to and approval by the
70 commissioner of a withdrawal plan or discontinues operations within the state pursuant to
71 a withdrawal plan approved by the commissioner.

72 (c) An insurer that makes an election pursuant to section four-b of this article to issue all
73 nonrenewal notices pursuant to this section shall not fail to renew an automobile liability or
74 physical damage insurance policy when an operator other than the named insured has violated the

75 provisions of subdivision (6) or (7), subsection (b) of this section, if the named insured, by
76 restrictive endorsement, specifically excludes the operator who violated the provision. An insurer
77 issuing a nonrenewal notice informing the named insured that the policy will be nonrenewed for the
78 reason that an operator has violated the provisions of subdivision (6) or (7), subsection (b) of

77 this section, shall at that time inform the named insured of his or her option to specifically exclude
78 the operator by restrictive endorsement and shall further inform the named insured that upon
79 obtaining the restrictive endorsement, the insurer will renew the policy or rescind the nonrenewal
80 absent the existence of any other basis for nonrenewal set forth in this section.

81 (d) A notice provided under this section shall state the specific reason or reasons for
82 nonrenewal and shall advise the named insured that nonrenewal of the policy for any
reason is
83 subject to a hearing and review as provided for in section five of this article. Cost of the
hearing
84 shall be assessed against the losing party but shall not exceed \$75. The notice must also
advise 85 the insured of possible eligibility for insurance through the West Virginia
assigned risk plan.

86 (e) Notwithstanding the provisions of subsection (a) of this section, the insurer shall
87 reinstate any automobile liability or physical damage insurance policy that has not been
renewed
88 due to the insured's failure to pay the renewal premium when due if:

89 (1) None of the other grounds for nonrenewal as set forth in this section exist; and
90 (2) The insured makes an application for reinstatement within forty-five days of the original
91 expiration date of the policy. If a policy is reinstated as provided for in this paragraph, then the

92 coverage afforded shall not be retroactive to the original expiration date of the policy:
Provided,

93 That such policy shall be effective on the reinstatement date at the current premium levels
offered

94 by the company and shall not be afforded the protections of this section relating to renewal
of an

95 outstanding automobile liability or physical damage insurance policy that has been in
existence

96 for at least two consecutive years.

CHAPTER 49. CHILD WELFARE.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§49-1-207. Definitions related to court actions.

- 1 When used in this chapter, terms defined in this section have the meanings ascribed to
- 2 them that relate to, but are not limited to, court actions, except in those instances where a
 different

1 meaning is provided or the context in which the word is used clearly indicates that a different
2 meaning is intended.

3 “Court” means the circuit court of the county with jurisdiction of the case or the judge in
4 vacation unless otherwise specifically provided.

5 “Court appointed special advocate (CASA) program” means a community organization that
6 screens, trains, and supervises CASA volunteers to advocate for the best interests of children who
7 are involved in abuse and neglect proceedings pursuant to §49-3-102 of this code.

8 “Extrajudicial Statement” means any utterance, written or oral, which was made outside
9 of court.

10 “Juvenile referee” means a magistrate appointed by the circuit court to perform the
11 functions expressly prescribed for a referee under the provisions of this chapter.

12 “Multidisciplinary team” means a group of professionals and paraprofessionals
13 representing a variety of disciplines who interact and coordinate their efforts to identify, diagnose
14 and treat specific cases of child abuse and neglect. Multidisciplinary teams may include, but are
15 not limited to, medical, educational, childcare and law-enforcement personnel, social workers,
16 psychologists, and psychiatrists. Their goal is to pool their respective skills in order to formulate
17 accurate diagnoses and to provide comprehensive coordinated treatment with continuity and
18 follow-up for both parents and children.

19 “Community team” means a multidisciplinary group which addresses the general problem
20 of child abuse and neglect in a given community and may consist of several multidisciplinary
21 teams with different functions.

22 “Res gestae” means a spontaneous declaration made by a person immediately after an
23 event and before the person has had an opportunity to conjure a falsehood.

24 “Valid court order” means an order issued by a court of competent jurisdiction relating to a
25 child brought before the court and who is the subject of that order. Prior to the entry of the order

28 the child shall receive the full due process rights guaranteed to that child or juvenile by the 29
Constitutions of the United States and the State of West Virginia.

30 "Violation of a traffic law of West Virginia" means a violation of chapter 17A, 17B, 17C, or
31 17D of this code, except a violation of §17C-4-1 or §17C-4-2 of this code relating to hit and
run,
32 or §17C-5-1, §17C-5-2, or §17C-5-3 of this code, relating, respectively, to vehicular
homicide,
33 aggravated vehicular homicide, vehicular homicide in a school zone, vehicular homicide in
a
34 construction zone, driving under the influence of alcohol, controlled substances or drugs
and
35 reckless driving.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-30. Recognizing an embryo or fetus as a distinct unborn victim of certain crimes of violence against the person.

1 (a) This section may be known and cited as the Unborn Victims of Violence Act.
2 (b) For the purposes of this article, the following definitions shall apply: *Provided*, That
3 these definitions only apply for purposes of prosecution of unlawful acts under this section
and
4 may not otherwise be used: (i) To create or to imply that a civil cause of action exists; or (ii)
for 5 purposes of argument in a civil cause of action, unless there has been a criminal
conviction under 6 this section.
7 (1) "Embryo" means the developing human in its early stages. The embryonic period
8 commences at fertilization and continues to the end of the embryonic period and the beginning of
9 the fetal period, which occurs eight weeks after fertilization or 10 weeks after the onset of the last
10 menstrual period.

- 11 (2) "Fetus" means a developing human that has ended the embryonic period and
12 thereafter continues to develop and mature until termination of the pregnancy or birth.

1 (c) For purposes of enforcing the provisions of §20-7-18a, §61-2-1, §61-2-4,
2 §61-2-7, §612-9(a), §61-2-9(c), §61-2-10, §61-2-10b, §61-2-28(a), and §17C-5-1, §17C-5-
3 2(b), or §17C-5-2(c) of this code, a pregnant woman and the embryo or fetus she is
4 carrying in the womb constitute separate and distinct victims.

5 (d) Exceptions. — The provisions of this section do not apply to:

6 (1) Acts committed during a legal abortion to which the pregnant woman, or a
7 person authorized by law to act on her behalf, consented or for which the consent is implied
8 by law;

9 (2) Acts or omissions by medical or health care personnel during or as a result
10 of medical or health-related treatment or services, including, but not limited to, medical
11 care, abortion, diagnostic testing or fertility treatment;

12 (3) Acts or omissions by medical or health care personnel or scientific research
13 personnel in performing lawful procedures involving embryos that are not in a stage of
14 gestation in utero;

15 (4) Acts involving the use of force in lawful defense of self or another, but not an
16 embryo or fetus; and

17 (5) Acts or omissions of a pregnant woman with respect to the embryo or fetus
18 she is carrying.

19 (e) For purposes of the enforcement of the provisions of this section, a violation
20 of the provisions of Chapter 16, Article 2I of this code shall not serve as a waiver of the
21 protection afforded by the provisions of subdivision (1), subsection (d) of this section.

22 (f) Other convictions not barred. — A prosecution for or conviction under this
23 section is not a bar to conviction of or punishment for any other crime committed by the
24 defendant arising from the same incident.

Enr CS for CS for HB 2871

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

.....
Clerk of the House of Delegates

.....
Clerk of the Senate

Originated in the House of Delegates.

In effect 90 days from passage.

.....
Speaker of the House of Delegates

.....
President of the Senate

The within is this the.....

Day of, 2025.

.....
Governor

