

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3322

By Delegates Flanigan, Ridenour, Marple, Roop, and

Kump

[Introduced March 12, 2025; referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §61-5A-6 of the Code of West Virginia, 1931, as amended, relating
2 to prohibiting public servants from accepting gratuities at any time, even when the gratuity
3 was unexpected.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5A. BRIBERY AND CORRUPT PRACTICES.

§61-5A-6. Gifts or gratuities to public servants prohibited; exceptions.

1 (a) It shall be unlawful:

2 (1) For any public servant in any department, agency, division, board, bureau or
3 commission of government exercising regulatory functions, or conducting inspections or
4 investigations, or carrying on civil or criminal litigation on behalf of the government, or having
5 custody of prisoners, to solicit, accept or agree to accept, directly or indirectly, any gift or gratuity
6 from a person known by such public servant to be subject to such regulation, inspection,
7 investigation or custody, or against whom such litigation is known by such public servant to be
8 pending or contemplated; or

9 (2) For any public servant (except an officer or employee of the department of finance and
10 administration who shall be subject to the prohibitions contained in §5A-3-35 of this code) having
11 any official action to perform in connection with bids, contracts, purchases, claims or other
12 pecuniary transactions of the government to solicit, accept or agree to accept, directly or indirectly,
13 any gift or gratuity from any person known by such public servant to be interested in any such bid,
14 contract, purchase, claim or transaction; or

15 (3) For any public servant having administrative or judicial authority and for any public
16 servant employed by or in an agency or court or other body having such authority, or participating
17 in the enforcement of its decisions, to solicit, accept or agree to accept, directly or indirectly, any
18 gift or gratuity from a person known by such public servant to be interested in any matter before
19 such public servant or an agency, court or body with which he or she is associated; or

20 (4) For any public servant in the legislative branch of government to solicit, accept or agree

21 to accept, directly or indirectly, any gift or gratuity from any person known by such public servant to
22 be interested in a bill, transaction or proceeding before the Legislature or either house thereof or
23 any agency or committee thereof; or

24 (5) For any person to offer, give, or agree to give any gift or gratuity prohibited by the
25 provisions of subdivisions (1), (2), (3) or (4) of this subsection (a).

26 (b) The prohibitions contained in subsection (a) of this section apply to gratuities and gifts
27 under all circumstances, including gratuities and gifts presented after any action was taken or
28 interaction has ended, and whether the gift or gratuity was anticipated or not.

29 ~~(b)~~ (c) The prohibitions contained in subsection (a) of this section shall not apply to (1) gifts
30 or gratuities conferred on account of kinship or other personal, professional or business
31 relationship independent of the official status of the recipient; or (2) trivial gifts or gratuities
32 involving no substantial risk of affecting official impartiality; or (3) social, professional or business
33 entertainment involving no substantial risk of affecting official impartiality. The prohibitions
34 contained in subdivisions (1), (2), (3) and (4) of subsection (a) of this section shall not apply to
35 campaign contributions made for use in meeting campaign expenses by any public servant by or
36 for whom a certificate of candidacy has been filed for election to the same or another public office
37 for which such campaign is to be conducted, if such campaign contributions are made after the
38 filing of such certificate of candidacy, if no part of such campaign contributions inures to the private
39 financial gain of any public servant, and, when the provisions of article eight, chapter three of this
40 code are applicable to the public office being sought, if such campaign contributions are within the
41 limits specified in said article eight, are reported as campaign contributions pursuant to the
42 provisions of said article eight, and are not otherwise prohibited by said chapter three. The
43 prohibitions contained in subdivision (5) of subsection (a) of this section shall not apply to
44 campaign contributions made for use in meeting campaign expenses by any public servant by or
45 for whom a certificate of candidacy has been filed for election to the same or another public office
46 for which such campaign is to be conducted, if such campaign contributions are made after the

47 filing of such certificate of candidacy, if the person offering, giving or agreeing to give such
48 campaign contributions does not intend that any part of such campaign contributions inure to the
49 private financial gain of any public servant, and, when the provisions of article eight, chapter three
50 of this code are applicable to the public office being sought, if such campaign contributions are
51 within the limits specified in said article eight, are not otherwise prohibited by said chapter three
52 and if the person offering, giving or agreeing to give such campaign contributions does not intend
53 that such contributions not be reported as campaign contributions pursuant to said article eight.

NOTE: The purpose of this bill is to prohibit acceptance of gifts, gratuities, and bribes by public officials even after an action or interaction transpired, and regardless of whether the gratuity was anticipated.

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