

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 499

By Senators Helton, Fuller, M. Maynard, Rose, and

Rucker

[Reported February 27, 2026, from the Committee on
the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
2 designated §17C-5B-1a, relating to requiring blood, breath, or urine test to be performed
3 on surviving operators after a fatal motor vehicle accident crash under certain
4 circumstances; and providing for civil and criminal immunity for persons conducting the
5 testing.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 5B. ~~POSTMORTEM TESTS FOR ALCOHOL IN PERSONS KILLED IN~~
~~MOTOR VEHICLE ACCIDENTS.~~ DRUG AND ALCOHOL TESTING
FOLLOWING FATAL MOTOR VEHICLE ACCIDENTS.**

**§17C-5B-1a. Drug and alcohol testing of surviving motor vehicle operator where fatality
involved.**

1 (a) A blood, breath, or urine sample or the results of blood, breath, or urine testing shall be
2 obtained from any surviving operator of a motor vehicle involved in an accident resulting in the
3 death of another person where:

4 (1) A law enforcement officer has probable cause to believe that the operator was
5 operating the motor vehicle under the influence of alcohol, drugs, or any other impairing
6 substance;

7 (2) The operator of the motor vehicle voluntarily consents to providing a blood, breath, or
8 urine sample;

9 (3) A valid search warrant for a blood, breath, or urine sample is obtained in accordance
10 with §62-1A-1 of this code; or

11 (4) A valid subpoena for any toxicology results of testing performed by a third party is
12 obtained.

13 (b) Any person conducting a test required under subsection (a) of this section is immune
14 from all civil and criminal liability which might otherwise be imposed.

15 (c) Nothing in this section shall be construed to abrogate, expand, or otherwise modify the
16 existing testing requirements for individuals who do not survive motor vehicle accidents as more
17 fully set forth in §17C-5B-1 of this code.