

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Committee Substitute**

**for**

**Senate Bill 499**

BY SENATORS HELTON, FULLER, M. MAYNARD, ROSE,

RUCKER, DEEDS, AND TAYLOR

[Passed March 14, 2026; in effect 90 days from

passage (June 12, 2026)]



1 AN ACT to amend and reenact §17C-5B-1 and §17C-5B-2 of the Code of West Virginia, 1931, as  
2 amended; and to amend the code by adding a new section, designated §17C-5B-1a,  
3 relating to drug and alcohol testing of motor vehicle operators following fatal motor vehicle  
4 crashes; requiring preliminary breath analysis of a surviving motor vehicle operator  
5 following a fatal crash; requiring secondary breath or blood analysis of a surviving motor  
6 vehicle operator following a fatal crash; clarifying the persons who may withdraw blood;  
7 creating certain immunities for persons conducting testing; and making technical  
8 corrections.

*PREAMBLE: THE LAW ENACTED IN THIS BILL AND DESIGNATED AS §17C-5B-1A IN  
THIS BILL IS DESIGNATED AND MAY BE REFERRED TO AS MIRANDA'S LAW.*

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

**ARTICLE 5B. DRUG AND ALCOHOL TESTING FOLLOWING FATAL MOTOR VEHICLE  
CRASHES.**

**§17C-5B-1. Blood test for alcohol in drivers and adult pedestrians killed in motor vehicle  
crashes; time limit for conducting test; who may conduct test; express consent to  
withdraw blood from dead body granted; granting civil and criminal immunity to  
person conducting test; fee for test.**

1 (a) When any motor vehicle driver or adult pedestrian dies in a motor vehicle crash in this  
2 state or dies within four hours after having been involved in a motor vehicle crash in this state,  
3 the physician in attendance, or law-enforcement officer having knowledge of such death, or the  
4 funeral director, or any other person present when such death occurred, shall immediately report  
5 such death to the medical examiner of the county in which such death occurred. Upon receipt of  
6 such notice, the medical examiner shall take charge of the dead body and shall conduct, or shall  
7 cause to be conducted, within 12 hours after receiving such notice and before the dead body is  
8 embalmed, a blood test to determine the presence and percentage concentration of alcohol in the  
9 blood of such dead body.

10 (b) The blood test required under this section shall be conducted only by a person qualified  
11 to conduct an autopsy under §61-12-3 *et seq.* of this code or by a doctor of medicine, doctor of  
12 osteopathy, registered nurse, trained medical technician at the place of his or her employment or  
13 county coroner who is deemed qualified by the office of medical examinations to conduct such  
14 blood test.

15 (c) Any person who is to conduct a blood test under the provisions of this section is hereby  
16 expressly authorized to withdraw blood from the dead body in the quantity necessary to conduct  
17 such blood test. Any person withdrawing blood from the dead body and testing such blood and  
18 any hospital or clinic in which such blood is withdrawn and tested under the provisions of this  
19 section shall be immune from all civil and criminal liability which might otherwise be imposed.

20 (d) Any person conducting a blood test under the provisions of this section shall receive a  
21 standardized fee in the amount determined by the office of medical examinations, which fee shall  
22 be paid from funds appropriated to the office of medical examinations.

23 (e) Nothing contained in this section shall be construed to preclude the taking of a blood  
24 test by any other person having the right to take any such test or cause such test to be taken  
25 while the medical examiner has charge of the body.

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

1 (a) When a law-enforcement officer has probable cause to believe a surviving operator of  
2 a motor vehicle in a crash resulting in the death of another person has committed an offense  
3 prohibited by §17C-5-2 of this code or by an ordinance of a municipality of this state which has  
4 the same elements as an offense described in §17C-5-2 of this code, the law-enforcement officer  
5 may require the surviving operator to submit to a preliminary breath analysis for the purpose of  
6 determining his or her blood alcohol content.

7 (b) When a law-enforcement officer has probable cause to believe a surviving operator of  
8 a motor vehicle in a crash resulting in the death of another person has committed an offense

9 prohibited by §17C-5-2 of this code or by an ordinance of a municipality of this state which has  
10 the same elements as an offense described in §17C-5-2 of this code, the law-enforcement officer  
11 may require the surviving operator to submit to a secondary test of blood or breath for the purpose  
12 of determining his or her alcohol concentration in the blood, or the concentration in the blood of a  
13 controlled substance, drug, or any combination thereof: *Provided*, That absent written consent of  
14 the surviving operator, a secondary test of blood may not be performed without issuance of a  
15 warrant signed by a magistrate or a circuit judge.

16 (c) Only a doctor of medicine or osteopathy, or registered nurse, or trained medical  
17 technician at the place of his or her employment, acting at the request and direction of the law-  
18 enforcement officer, may withdraw blood to determine the alcohol concentration in the blood, or  
19 the concentration in the blood of a controlled substance, drug, or any combination thereof.

20 (d) Any person conducting a test required under the provisions of this section is immune  
21 from all civil and criminal liability which might otherwise be imposed.

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

**§17C-5B-2. To whom and how county medical examiners report results of blood tests;  
such reports admissible as evidence; use of reports only for statistical and highway  
safety purposes.**

1 (a) Each county medical examiner shall immediately report the results of each blood test  
2 conducted under the authority of §17C-5B-1 of this code by him or her, or conducted at his or her  
3 request, to the chief medical examiner of the Office of the Chief Medical Examiner and to the  
4 West Virginia State Police. Results of such blood test or any report thereof may be admissible in  
5 evidence, if material, in any action or proceeding of any kind in any court or before any tribunal,  
6 board, or agency.

7           (b) The West Virginia State Police shall compile the data from all such reports submitted  
8 to it on a monthly basis. The West Virginia State Police shall forward such compilations to the  
9 Governor's Highway Safety Program, and the Division of Motor Vehicles. Such compilations shall  
10 be for statistical purposes and highway safety information and be disclosed or revealed in any  
11 manner necessary. The identity of any dead person whose blood was tested under the provisions  
12 of §17C-5B-1 of this code may be disclosed or revealed when necessary for evidence in any  
13 action or proceeding of any kind in any court or before any tribunal, board, or agency.

14           (c) The West Virginia State Police, the Governor's Highway Safety Program, and the  
15 Division of Motor Vehicles shall make use of such compilations in a manner to provide accurate  
16 and useful statistical information to government and the public relative to achieving a reduction in  
17 motor vehicle crashes arising in whole or in part from the imbibing of alcohol by motor vehicle  
18 drivers and adult pedestrians.

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

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

Originated in the Senate.

In effect 90 days from passage.

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within is ..... this the.....  
Day of ....., 2026.

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*Governor*