

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 575

BY SENATORS BARRETT, WILLIS, AND DEEDS

[Reported February 10, 2026, from the Committee on
the Judiciary]

1 A BILL to amend and reenact §17A-2-20 and §17C-5-7a of the Code of West Virginia, 1931, as
2 amended, relating to refusal review hearings; clarifying legal representation at refusal
3 review hearings; providing that either the prosecuting attorney of the county with
4 jurisdiction or legal representative of the municipality with jurisdiction shall attend to all
5 matters related to a refusal review hearing; and clarifying that certain provisions do not
6 confer upon the Division of Motor Vehicles the status of a party to any refusal review
7 proceeding.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,
CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

ARTICLE 2. DIVISION OF MOTOR VEHICLES.

§17A-2-20. Legal-service services rendered to the commissioner.

1 (a) It shall be is the duty of the Attorney General and assistant attorneys general of this
2 state, ~~and of his assistants and of the prosecuting attorneys of the several counties, and the legal~~
3 representatives of the municipalities of this state to render to the commissioner, without additional
4 compensation, ~~such any~~ legal services as ~~he shall require of them~~ required in the discharge of
5 ~~his~~ the commissioner's duties under the provisions of this chapter.

6 (b) Any legal services provided pursuant to the provisions of §17C-5-7a of this code:

7 (1) Are not services provided to the commissioner in the discharge of his or her duties;

8 and

9 (2) Are the sole responsibility of either the prosecuting attorney of the county with
10 jurisdiction over the matter or the legal representative of the municipality with jurisdiction over the
11 matter, as appropriate.

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

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-7a. Suspension of license to operate a motor vehicle for refusal of secondary test; refusal review hearing.

1 (a) For the purposes of this section, the term "refusal review hearing" refers to a hearing
2 to review a person's alleged refusal to submit to a secondary chemical test, as documented in a
3 statement submitted to the court by a law-enforcement officer pursuant to §17C-5-7 of this code.

4 (b) ~~Effective July 1, 2020~~ Subject to the provisions of this subsection, the court shall enter
5 an order finding that a person charged with a violation of §17C-5-2 of this code did refuse to
6 submit to a secondary chemical test, as required by §17C-5-4 of this code. ~~subject to the following~~

7 (1) At the person's first appearance before the court, the court shall advise the person that
8 his or her license to operate a motor vehicle shall be revoked for the applicable period provided
9 in subsection (e) of this section, unless the person requests a refusal review hearing within ~~the~~
10 30 days following the first appearance.

11 (2) If the person does not request a refusal review hearing within 30 days following the
12 first appearance, the court shall enter an order finding that a ~~the~~ person charged with a violation
13 of §17C-5-2 of this code did refuse to submit to a secondary chemical test. ~~and~~

14 (3) If the person requests a refusal review hearing within 30 days following the first
15 appearance, the court shall conduct the review and enter the appropriate order, as provided in
16 subsection (c) of this section.

17 (c) *Refusal review hearing.* —

18 (1) The court shall schedule and conduct a refusal review hearing if the person, named in
19 a statement submitted to the court by a law-enforcement officer pursuant to §17C-5-7 of this code,
20 requests the hearing within 30 days following his or her first appearance before the court. During
21 the refusal review hearing, the court shall review the statement documenting the person's refusal
22 to submit to the secondary chemical test, along with any testimony or evidence presented by the
23 person or law-enforcement officer during the hearing.

24 (2) Pursuant to the provisions of §7-4-1 and §8-10-2 of this code, either the prosecuting
25 attorney of the county with jurisdiction over the refusal review hearing or the legal representative
26 of the municipality with jurisdiction over the refusal review hearing shall attend to all matters,
27 actions, and proceedings of the refusal review hearing to protect the interests of the state.

28 (3) Based on the hearing, the court shall enter an order finding that the person did refuse
29 to submit to a secondary chemical test if the court determines, by a preponderance of the
30 evidence, that:

31 (A) The arresting law-enforcement officer had reasonable grounds to believe the arrested
32 person had committed a violation of §17C-5-2 of this code;

33 (B) The law-enforcement officer requested the arrested person to submit to ~~the a~~ a chemical
34 ~~test or tests~~ designated pursuant to §17C-5-4 of this code;

35 (C) At the time the test was requested, the law-enforcement officer administered the
36 required written and verbal warnings required by §17C-5-4 and §17C-5-7 of this code; and

37 (D) The arrested person refused to submit to ~~the a~~ a chemical test ~~or tests~~ as requested by
38 the law-enforcement officer.

39 ~~(3)-(4)~~ (4) If the court determines, by a preponderance of the evidence, that one or more of
40 the required conditions listed in subdivision ~~(2)~~ (3) of this subsection did not occur, the court shall
41 enter an order finding that the person did not refuse to submit to the secondary chemical test. If
42 the court enters such an order, the Commissioner of the Division of Motor Vehicles may not revoke
43 the person's license to operate a motor vehicle based on the alleged refusal to submit to a
44 secondary chemical test.

45 (d) The clerk of the court in which the charges are pending shall immediately transmit any
46 order entered pursuant to this section to the Commissioner of the Division of Motor Vehicles.

47 (e) Upon receipt of an order provided pursuant to this section finding that a person did
48 refuse to submit to a secondary chemical test, the Commissioner of the Division of Motor Vehicles
49 shall revoke the person's license to operate a motor vehicle as follows:

50 (1) For the first refusal to submit to the designated secondary chemical test, the
51 commissioner shall enter an order revoking the person's license to operate a motor vehicle in this
52 state for a period of one year or for a period of 45 days, with an additional one year of participation
53 in the Motor Vehicle Alcohol Test and Lock Program in accordance with the provisions of
54 §17C-5A-3a of this code.

55 (2) If the person's license to operate a motor vehicle has previously been revoked under
56 the provisions of this section, the commissioner shall, for the refusal to submit to the designated
57 secondary chemical test, enter an order revoking the person's license to operate a motor vehicle
58 in this state for a period of 10 years. ~~Provided, That~~ The license may be reissued in five years in
59 accordance with the provisions of §17C-5A-3 of this code.

60 (3) If the person's license to operate a motor vehicle has previously been revoked more
61 than once under the provisions of this section, the commissioner shall, for the refusal to submit to
62 the designated secondary chemical test, enter an order revoking the person's license to operate
63 a motor vehicle in this state for a period of life.

64 (f) The commissioner shall forward a copy of each order entered pursuant to this section
65 ~~shall be forwarded~~ to the person by registered or certified mail, return receipt requested. ~~and~~ An
66 order shall contain the reasons for any revocation and shall specify the revocation period
67 imposed. ~~pursuant to this section~~

68 (g) A revocation ordered pursuant to this section shall run concurrently with the period of
69 any suspension or revocation imposed in accordance with §17C-5A-2 of this code.

70 (h) The provisions of this section do not confer upon the Division of Motor Vehicles the
71 status of a party to any refusal review proceeding.