

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 575

**FISCAL
NOTE**

By Senator Barrett

[Introduced January 22, 2026; referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

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; and providing that the county prosecuting attorney shall attend to all
4 matters related to a refusal review hearing.

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.
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§17A-2-20. Legal service rendered commissioner.

1 It shall be the duty of the Attorney General of this state and of his assistants and of the
2 prosecuting attorneys of the several counties, to render to the commissioner, without additional
3 compensation, such legal services as he or she shall require of them in the discharge of his or her
4 duties under the provisions of this chapter: Provided: That any legal services provided pursuant to
5 the provisions of §17C-5-7a of this code shall be sole responsibility of the prosecuting attorneys of
6 the several counties.

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

ARTICLE	5.	SERIOUS	TRAFFIC	OFFENSES.
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§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 to
2 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, the court shall enter an order finding that a person charged with a
5 violation of §17C-5-2 of this code did refuse to submit to a secondary chemical test, as required by
6 §17C-5-4 of this code, subject to the following:

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 a
19 statement submitted to the court by a law-enforcement officer pursuant to §17C-5-7, requests the
20 hearing within 30 days following his or her first appearance before the court. During the refusal
21 review hearing, the court shall review the statement documenting the person's refusal to submit to
22 the secondary chemical test, along with any testimony or evidence presented by the person or
23 law-enforcement officer during the hearing.

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

28 (2) (3) Based on the hearing, the court shall enter an order finding that the person did
29 refuse 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 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 chemical test or tests requested by the
38 law-enforcement officer.

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

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

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

69 (h) Nothing in this section would confer upon the Division of Motor Vehicles the status of a
70 party in any refusal review proceeding.

NOTE: The purpose of this bill is to clarify county prosecuting attorneys' obligations for
DMV refusal review hearings.

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