

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4712

By Delegates Holstein, Hanshaw (Mr. Speaker), T.

Howell, J. Cannon, and Chiarelli

[Introduced January 21, 2026; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §17C-5-2 of the Code of West Virginia, 1931, as amended, relating
2 to Baylea's Law and increasing penalties for DUI causing injury or death.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-2. Driving under influence of alcohol, controlled substances, or drugs; penalties.

1 (a) Definitions. —

2 (1) "Impaired state" means a person:

3 (A) Is under the influence of alcohol;

4 (B) Is under the influence of any controlled substance;

5 (C) Is under the influence of any other drug or inhalant substance;

6 (D) Is under the combined influence of alcohol and any controlled substance or any other
7 drug; or

8 (E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or
9 more, by weight.

10 (2) "Bodily injury" means injury that causes substantial physical pain, illness, or any
11 impairment of physical condition.

12 (3) "Controlled substance" has the meaning provided in §60A-1-101 of this code.

13 (4) "Serious bodily injury" means bodily injury that creates a substantial risk of death, that
14 causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or
15 impairment of the function of any bodily organ.

16 (5) "Test and lock program" means the Motor Vehicle Test and Lock Program, established
17 in §17C-5A-3a and administered by the Division of Motor Vehicles.

18 (b) Any person who drives a vehicle in this state while he or she is in an impaired state, and
19 such impaired state proximately causes the death of any person, including an embryo or fetus as
20 defined in §61-2-30 of this code, is guilty of a felony and, upon conviction thereof, shall be
21 imprisoned in a state correctional facility for not less than ~~three~~ five nor more than ~~45~~ 30 years and

22 shall be fined not less than ~~\$1,000~~ \$2,000 nor more than ~~\$3,000~~ \$6,000, and shall have his or her
23 license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles
24 for a period of 10 years or for a period of time conditioned on participation in the test and lock
25 program in accordance with §17C-5A-3a of this code: *Provided*, That any death charged under
26 this subsection must occur within one year of the offense: *Provided, however*, That if the person
27 has previously been convicted under this section, the person shall have his or her license to
28 operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or
29 for a period of time conditioned on participation in the test and lock program in accordance with
30 §17C-5A-3a of this code. The changes made to this section during the 2026 regular legislative
31 session may be known as Baylea's Law.

32 (c) Any person who drives a vehicle in this state while he or she is in an impaired state, and
33 such impaired state proximately causes serious bodily injury to any person, including an embryo or
34 fetus as defined in §61-2-30 of this code, other than himself or herself, is guilty of a felony and,
35 upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor
36 more than 10 years and shall be fined not less than \$1,000 nor more than \$3,000, and shall have
37 his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor
38 Vehicles for a period of five years or for a period of time conditioned on participation in the test and
39 lock program in accordance with §17C-5A-3a of this code: *Provided*, That if the person has
40 previously been convicted under this section, the person shall have his or her license to operate a
41 motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a period
42 of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of
43 this code.

44 (d) Any person who drives a vehicle in this state while he or she is in an impaired state, and
45 such impaired state proximately causes a bodily injury to any person other than himself or herself,
46 is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than
47 one day nor more than one year and shall be fined not less than \$200 nor more than \$1,000, and

48 shall have his or her license to operate a motor vehicle revoked by the Commissioner of the
49 Division of Motor Vehicles for a period of two years or for a period of time conditioned on
50 participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*,
51 That if the person has previously been convicted under this section, the person shall have his or
52 her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor
53 Vehicles for life or for a period of time conditioned on participation in the test and lock program in
54 accordance with §17C-5A-3a of this code. Any jail term imposed pursuant to this subsection shall
55 include actual confinement of not less than 24 hours: *Provided, however*, That a person sentenced
56 pursuant to this subsection shall receive credit for any period of actual confinement he or she
57 served upon arrest for the subject offense.

58 (e) Any person who drives a vehicle on any public highway or private road in this state: (1)
59 while he or she is in an impaired state; or (2) while he or she is in an impaired state but has an
60 alcohol concentration in his or her blood of less than fifteen hundredths of one percent, by weight,
61 is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for up to six
62 months and shall be fined not less than \$100 nor more than \$500, and shall have his or her license
63 to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a
64 period of six months or for a period of time conditioned on participation in the test and lock program
65 in accordance with §17C-5A-3a of this code: *Provided*, That a person sentenced pursuant to this
66 subsection shall receive credit for any period of actual confinement he or she served upon arrest
67 for the subject offense.

68 (f) Any person who drives a vehicle on any public highway or private road in this state while
69 he or she has an alcohol concentration in his or her blood of fifteen hundredths of one percent or
70 more, by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail
71 for not less than two days nor more than six months, which jail term is to include actual
72 confinement of not less than 24 hours, and shall be fined not less than \$200 nor more than \$1,000,
73 and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the

74 Division of Motor Vehicles for a period of one year or for a period of time conditioned on
75 participation in the test and lock program in accordance with §17C-5A-3a of this code. A person
76 sentenced pursuant to this subsection shall receive credit for any period of actual confinement he
77 or she served upon arrest for the subject offense.

78 (g) Any person who, being a habitual user of narcotic drugs or amphetamines, or any
79 derivative thereof, drives a vehicle on any public highway or private road in this state is guilty of a
80 misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day nor
81 more than six months, which jail term is to include actual confinement of not less than 24 hours,
82 and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to
83 operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a
84 period of six months. A person sentenced pursuant to this subsection shall receive credit for any
85 period of actual confinement he or she served upon arrest for the subject offense.

86 (h) Any person who knowingly permits his or her vehicle to be driven on any public highway
87 or private road in this state by any other person who is in an impaired state is guilty of a
88 misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months
89 and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to
90 operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a
91 period of six months or for a period of time conditioned on participation in the test and lock program
92 in accordance with §17C-5A-3a of this code.

93 (i) Any person who knowingly permits his or her vehicle to be driven on any public highway
94 or private road in this state by any other person who is a habitual user of narcotic drugs or
95 amphetamines, or any derivative thereof, is guilty of a misdemeanor and, upon conviction thereof,
96 shall be confined in jail for not more than six months and shall be fined not less than \$100 nor more
97 than \$500, and shall have his or her license to operate a motor vehicle revoked by the
98 Commissioner of the Division of Motor Vehicles for a period of six months.

99 (j) (1) Any person under the age of 21 years who drives a vehicle on any public highway or

private road in this state while he or she has an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, for a first offense under this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$100, and have his or her license to operate a motor vehicle suspended by the Commissioner of the Division of Motor Vehicles for a period of 60 days or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code. For a second or subsequent offense under this subsection, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for 24 hours and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or until the person's 21st birthday, whichever period is longer, or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code. A person who is charged with a first offense under the provisions of this subsection may move for a continuance of the proceedings, from time to time, to allow the person to participate in the test and lock program as provided in §17C-5A-3a of this code. Upon successful completion of the program, the court shall dismiss the charge against the person and expunge the person's record as it relates to the alleged offense. In the event the person fails to successfully complete the program, the court shall proceed to an adjudication of the alleged offense. A motion for a continuance under this subsection may not be construed as an admission or be used as evidence.

(2) (A) Notwithstanding subdivision (1) of this subsection, a person shall have his or her license to operate a motor vehicle suspended or revoked for a minimum period of one year or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code, if the person:

(i) Has previously been convicted under this subsection and is subsequently convicted of an offense under another subsection of this section; or

(ii) Is convicted under this subsection and has previously been convicted of an offense under another subsection of this section.

(B) Nothing in this subdivision permits a shorter period of license revocation, license suspension, or participation in the test and lock program than is mandatory for the specific offense for which the person is convicted.

(3) A person arrested and charged with an offense under the provisions of this subsection or subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section may not also be charged with an offense under this subsection arising out of the same transaction or occurrence.

(k) Any person who drives a vehicle on any public highway or private road in this state while he or she is in an impaired state and has within the vehicle one or more other persons who are unemancipated minors who have not yet reached their 16th birthday is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than 12 months, and shall be fined not less than \$200 nor more than \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That such jail term shall include actual confinement of not less than 48 hours: *Provided, however*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(l) A person convicted of an offense under this section, who has previously been convicted of any offense under this section on one occasion, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than six months nor more than one year, may be fined not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for 10 years or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That if the second conviction is for an offense as described in subsections (b),

(c), or (d) of this section and the subsection creating the offense requires a period of incarceration, period of license revocation, or fine that is greater than what is required for a conviction under this subsection, the greater period of incarceration, period of revocation, or fine shall be imposed: *Provided, however,* That this section does not apply to a second conviction that is subject to a period of license revocation under subsection (j) of this section.

(m) A person convicted of an offense under this section, who has previously been convicted of any offense under this section on two or more occasions, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than five years, shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code, and the court may, in its discretion, impose a fine of not less than \$3,000 nor more than \$5,000: *Provided,* That if the third or subsequent conviction is for an offense as described in subsections (b), (c), or (d) of this section and the subsection creating the offense requires a period of incarceration, period of license revocation, or fine that is greater than what is required for a conviction under this subsection, the greater period of incarceration, period of revocation, and fine shall be imposed: *Provided, however,* That this section does not apply to a third or subsequent conviction that is subject to a period of license revocation under subsection (j) of this section.

(n) For purposes of subsections (l) and (m) of this section relating to second, third, and subsequent offenses, the following events shall be regarded as offenses and convictions under this section:

(1) Any conviction under the provisions of subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section, or under a prior enactment of this section, for an offense which occurred within the 10-year period immediately preceding the date of arrest in the current proceeding;

(2) Any conviction under a municipal ordinance of this state or any other state or a statute of the United States or of any other state of an offense which has the same elements as an offense

described in subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section, which offense occurred within the 10-year period immediately preceding the date of arrest in the current proceeding; and

(3) Any period of conditional probation imposed pursuant to §17C-5-2b of this code for violation of subsection (e) of this section, which violation occurred within the 10-year period immediately preceding the date of arrest in the current proceeding.

(o) A person may be charged in a warrant, indictment, or information for a second or subsequent offense, as described in subsection (j), (l), or (m) of this section, if the person has been previously arrested for, or charged with, a violation of this section which is alleged to have occurred within the applicable time period for prior offenses, notwithstanding the fact that there has not been a final adjudication of the charges for the alleged previous offense. In that case, the warrant or indictment or information must set forth the date, location, and particulars of the previous offense or offenses. No person may be convicted of a second or subsequent offense under this section unless the conviction for the previous offense has become final, or the person has previously had a period of conditional probation imposed pursuant to §17C-5-2b of this code.

(p) The fact that any person charged with a violation of subsection (b), (c), (d), (e), (f), or (g) of this section, or any person permitted to drive as described under subsection (h) or (i) of this section, is or has been legally entitled to use alcohol, a controlled substance, or a drug does not constitute a defense against any charge of violating subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section.

(q) The sentences provided in this section upon conviction for a violation of this article are mandatory and are not subject to suspension or probation: *Provided*, That the court may apply the provisions of §62-11A-1 *et seq.* of this code to a person sentenced or committed to a term of one year or less for a first offense under this section: *Provided, however*, That the court may impose a term of conditional probation pursuant to §17C-5-2b of this code to persons adjudicated thereunder. An order for home detention by the court pursuant to the provisions of §62-11B-1 *et seq.* of this code may be used as an alternative sentence to any period of incarceration required by

204 this section for a first or subsequent offense: *Provided further*, That for any period of home
205 incarceration ordered for a person convicted of a second offense under this section, electronic
206 monitoring shall be required for no fewer than five days of the total period of home confinement
207 ordered and the offender may not leave home for those five days notwithstanding the provisions of
208 §62-11B-5 of this code: *And provided further*, That for any period of home incarceration ordered for
209 a person convicted of a third or subsequent violation of this section, electronic monitoring shall be
210 included for no fewer than 10 days of the total period of home confinement ordered and the
211 offender may not leave home for those 10 days notwithstanding §62-11B-5 of this code.

212 (r) A person whose license to operate a motor vehicle has been revoked or suspended by
213 the Commissioner of the Division of Motor Vehicles pursuant to this section must complete a
214 comprehensive safety and treatment program as set forth in §17C-5A-3 of this code before his or
215 her license to operate a motor vehicle can be reinstated and his or her driving privileges restored.

216 (s) For any offense for which an alternative revocation period is permitted conditioned upon
217 participation in the test and lock program, an alternative sentence may not be imposed without the
218 consent of the driver.

219 (t) Upon entering the order of conviction for an offense under this section, or the imposition
220 of conditional probation as provided in §17C-5-2b of this code, the clerk of the court shall
221 immediately transmit the order to the Commissioner of the Division of Motor Vehicles.

222 (u) The amendments made to this section during the 2020 regular session of the
223 Legislature shall become effective on July 1, 2020.

NOTE: The purpose of this bill is to enact Baylea's Law and increase the penalties for DUI causing death.

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