WEST VIRGINIA CODE CHAPTER 17C ARTICLE 15

WV Legislature

§17C-15-1. Unsafe and improperly equipped vehicles; additional parts and accessories; applicability of article to farm and road equipment.

(a) It is a misdemeanor for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this article, or which is equipped in any manner in violation of this article, or for any person to do any act forbidden or fail to perform any act required under this article.

(b) Nothing contained in this article shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this article.

(c) The provisions of this article with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable. Every farm tractor equipped with an electric lighting system shall at all times mentioned in section two of this article display a red tail lamp and either multiple-beam or single-beam head lamps meeting the requirements of sections two, twenty and twenty-two of this article, respectively.

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§17C-15-2. When lighted lamps are required.

Every vehicle other than a school bus, motorcycle, motor-driven cycle or moped operated upon a highway within this state at any time from sunset to sunrise, or during fog, smoke, rain or other unfavorable atmospheric conditions, or at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred feet ahead, shall display lighted head lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles as provided for in subsection (c), section fifteen-c of this article. Every school bus, motorcycle, motor-driven cycle and moped shall display lighted head lamps at all times when upon the highway. Lighted lamps and other lighting devices that consist of multiple light-emitting diodes (LEDs) or other illuminating components that function as a single lighting unit are deemed to be functional so long as at least sixty-six percent of the LEDs or other illuminating components are functional: Provided, That the lighted lamps or lighting devices must still project sufficient illumination to satisfy all other requirements contained in this article.

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§17C-15-3. Visibility distance and mounted height of lamps.

(a) Whenever requirement is hereinafter declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible said provisions shall apply during the times stated in section two of this article in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

(b) Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

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§17C-15-4. Head lamps on motor vehicles.

(a) Every motor vehicle other than a motorcycle, motor- driven cycle or moped shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this article.

(b) Every motorcycle, motor-driven cycle and moped shall be equipped with at least one and not more than two head lamps which shall comply with the requirements and limitations of this article.

(c) Every head lamp upon every motor vehicle, including every motorcycle, motor-driven cycle and moped, shall be located at a height measured from the center of the head lamp of not more than fifty-four inches nor less than twenty-four inches to be measured as set forth in section three of this article.

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§17C-15-5. Tail lamps.

(a) Every motor vehicle, trailer or semitrailer, and any other vehicle which is being drawn at the end of a train of vehicles, shall be equipped with at least one tail lamp mounted on the rear, which, when lighted as hereinbefore required, shall emit a red light plainly visible from a distance of five hundred feet to the rear, provided that in the case of a train of vehicles only the tail lamp on the rearmost vehicle need actually be seen from the distance specified.

(b) Every tail lamp upon every vehicle shall be located at a height of not more than sixty inches nor less than twenty inches to be measured as set forth in section three (b) of this article.

(c) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

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§17C-15-6. Penalty for violations of the provisions of this article.

(a) Unless otherwise provided for in this article and, except as otherwise provided in subsection (b) of this section, any person violating the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100; upon a second conviction within one year thereafter, shall be fined not more than $200; and upon a third or subsequent conviction, shall be fined not more than $500.

(b) Any person violating the provisions of sections thirty-one or thirty-two of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100, or confined in the county or regional jail for not more than ten days, or both; upon a second conviction within one year thereafter, shall be fined not more than $200, or confined in the county or regional jail for not more than twenty days, or both; and upon a third or subsequent conviction, shall be fined not more than $500, or confined in the county or regional jail not more than six months, or both.

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§17C-15-7.

Repealed.

Acts, 1996 Reg. Sess., Ch. 90.

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§17C-15-8. Application of §§ 17C-15-9 to 17C-15-13.

Those sections of this chapter which follow immediately, including sections nine, ten, eleven, twelve and thirteen of this article, and relating to clearance and marker lamps, reflectors, and stop lights shall apply as stated in said sections to vehicles of the type therein enumerated, namely passenger busses, trucks, truck tractors, and certain trailers, semitrailers, and pole trailers, respectively, when operated upon any highway, and said vehicles shall be equipped as required and all lamp equipment required shall be lighted at the times mentioned in section two of this article except that clearance and side marker lamps need not be lighted on any said vehicle when operated within any municipality where there is sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred feet.

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§17C-15-9. Additional lighting and reflector equipment required on certain vehicles.

In addition to other equipment required in this chapter the following vehicles shall be equipped as herein stated under the conditions stated in section eight of this article.

(a) On every bus or truck, whatever its size, there shall be the following:

On the rear, two reflectors, one at each side, and one stop light.

(b) On every bus or truck eighty inches or more in overall width, in addition to the requirements in paragraph (a):

On the front, two clearance lamps, one at each side.

On the rear, two clearance lamps, one at each side.

On each side, two side marker lamps, one at or near the front and one at or near the rear.

On each side, two reflectors, one at or near the front and one at or near the rear.

(c) On every truck tractor:

On the front, two clearance lamps, one at each side.

On the rear, one stop light.

(d) On every trailer or semitrailer having a gross weight in excess of three thousand pounds:

On the front, two clearance lamps, one at each side.

On each side, two side marker lamps, one at or near the front and one at or near the rear.

On each side, two reflectors, one at or near the front and one at or near the rear.

On the rear, two clearance lamps, one at each side, also two reflectors, one at each side, and one stop light.

(e) On every pole trailer in excess of three thousand pounds gross weight:

On each side, one side marker lamp and one clearance lamp which may be in combination, to show to the front, side, and rear.

On the rear of the pole trailer or load, two reflectors, one at each side.

(f) On every trailer, semitrailer, or pole trailer weighing three thousand pounds gross or less:

On the rear, two reflectors, one on each side. If any trailer or semitrailer is so loaded or is of

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such dimensions as to obscure the stop light on the towing vehicle, then such vehicle shall also be equipped with one stop light.

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§17C-15-10. Color of clearance lamps, side marker lamps and reflectors.

(a) Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.

(b) Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.

(c) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal device, which may be red, amber, or yellow, and except that the light illuminating the license plate or the light emitted by a back-up light shall be white.

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§17C-15-11. Mounting of reflectors, clearance lamps and side marker lamps.

(a) Reflectors when required by section nine of this article shall be mounted at a height not less than twenty-four inches and not higher than sixty inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than twenty-four inches the reflector at such point shall be mounted as high as that part of the permanent structure will permit.

The rear reflectors on a pole trailer may be mounted on each side of the bolster or load.

Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this chapter.

(b) Clearance lamps shall be mounted on the permanent structure of the vehicle in such manner as to indicate its extreme width and as near the top thereof as practicable. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required herein with reference to both.

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§17C-15-12. Visibility of reflectors, clearance lamps and marker lamps.

(a) Every reflector upon any vehicle referred to in section nine of this article shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within five hundred feet to fifty feet from the vehicle when directly in front of lawful upper beams of head lamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

(b) Front and rear clearance lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of five hundred feet from the front and rear, respectively, of the vehicle.

(c) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of five hundred feet from the side of the vehicle on which mounted.

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§17C-15-13. Obstructed lights not required to be lighted.

Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp (except tail lamps) need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

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§17C-15-14. Lamp or flag on projecting load.

Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load, at the times specified in section two of this article, a red light or lantern plainly visible from a distance of at least five hundred feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than twelve inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

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§17C-15-15. Lamps on parked vehicles.

(a) Whenever a vehicle is lawfully parked upon a street or highway during the hours between sunset and sunrise and in the event there is sufficient light to reveal any person or object within a distance of five hundred feet upon such street or highway no lights need be displayed upon such parked vehicle.

(b) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between sunset and sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred feet upon such highway, such vehicle so parked or stopped shall be equipped with one or more lamps meeting the following requirements: At least one lamp shall display a white or amber light visible from a distance of five hundred feet to the front of the vehicle, and the same lamp or at least one other lamp shall display a red light visible from a distance of five hundred feet to the rear of the vehicle, and the location of said lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. The foregoing provisions shall not apply to a motorcycle, motor-driven cycle or moped.

(c) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed.

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§17C-15-16. Lamps on animal-drawn and other vehicles and equipment.

All vehicles including animal-drawn vehicles and including those referred to in section one (c) of this article not hereinbefore specifically required to be equipped with lamps, shall at the times specified in section two of this article be equipped with at least one lighted lamp or lantern exhibiting a white light visible from a distance of five hundred feet to the front of such vehicle and with a lamp or lantern exhibiting a red light visible from a distance of five hundred feet to the rear.

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§17C-15-17. Spot lamps and other auxiliary lamps.

For the purposes of this section, a lamp or lighting device meets the requirements specified below so long as any portion of the illuminating surface of the lamp or lighting device is within the specified range.

All lamps and lighting devices covered in this section may be installed so that the entire lamp or lighting device exceeds forty-two inches above the level surface upon which the vehicle stands so long as such lamps or lighting devices are either covered or dimmable.

(a) Spot lamps. — Any motor vehicle except a public utility company maintenance vehicle may be equipped with not more than one spot lamp and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than one hundred feet ahead of the vehicle. A public utility company maintenance vehicle may be equipped with more than one spot lamp but all lighted spot lamps shall be aimed and used in conformity to the requirements of this subsection.

(b) Fog lamps. — Any motor vehicle may be equipped with not more than two fog lamps mounted on the front at a height not less than twelve inches nor more than thirty inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high-intensity portion of the light to the left of the center of the vehicle shall at a distance of twenty-five feet ahead project higher than a level of four inches below the level of the center of the lamp from which it comes.

(c) Auxiliary passing lamp. — Any motor vehicle may be equipped with not more than two auxiliary passing lamps mounted on the front at a height not less than twenty-four inches nor more than forty-two inches above the level surface upon which the vehicle stands and every auxiliary passing lamp shall meet the requirements and limitations set forth in this article.

(d) Auxiliary driving lamp. — Any motor vehicle may be equipped with not more than two auxiliary driving lamps mounted on the front at a height not less than sixteen inches nor more than forty-two inches above the level surface upon which the vehicle stands and every such auxiliary driving lamp shall meet the requirements and limitations set forth in this article.

(e) Roof-mounted off-road light bar lighting device. — Any motor vehicle may be equipped with a roof-mounted off-road light bar lighting device comprised of multiple lamps: Provided, That whenever the vehicle is operated or driven upon any road or highway of this state, the roof-mounted off-road light bar lighting device shall be turned off while the vehicle is being operated on any road or highway of this state.

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§17C-15-18. Signal lamps and signal devices.

(a) Any motor vehicle may be equipped and when required under this chapter shall be equipped with the following signal lamps or devices:

(1) A stop lamp on the rear which shall emit a red or yellow light and which shall be actuated upon application of the service (foot) brake and which may but need not be incorporated with a tail lamp.

(2) A lamp or lamps or mechanical signal device capable of clearly indicating any intention to turn either to the right or to the left and which shall be visible both from the front and rear.

(b) A stop lamp shall be plainly visible and understandable from a distance of one hundred feet to the rear both during normal sunlight and at nighttime and a signal lamp or lamps indicating intention to turn shall be visible and understandable during daytime and nighttime from a distance of one hundred feet both to the front and rear. When a vehicle is equipped with a stop lamp or other signal lamps, such lamp or lamps shall at all times be maintained in good working condition. No stop lamp or signal lamp shall project a glaring or dazzling light.

(c) All mechanical signal devices shall be self-illuminated when in use at the times mentioned in section two of this article.

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§17C-15-19. Additional lighting equipment.

(a) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

(b) Any motor vehicle may be equipped with not more than one running board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

(c) All motor vehicles shall be equipped with a minimum of at least two functioning back-up lamps either separately or in combination with other lamps, unless the vehicle was originally equipped with one lamp. Any such back-up lamp shall not be lighted when the motor vehicle is in forward motion. School buses used for the transportation of school children in this state, whether owned and operated by a county board of education or privately owned and operated under contract with a county Board of Education, shall be equipped with at least two back-up lamps, one on each side of the rear door, with white lens or reflectors, capable of lighting the roadway and objects to the rear of the bus for safe backing during darkness, and which, at the option of the county board of education, may each provide fifty candlepower in illumination intensity instead of thirty-two candlepower.

(d) Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display such warning in addition to any other warning signals required by this article. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red.

(e) Vehicles used by "rural mail carriers" in carrying or delivering mail in rural areas may be equipped with amber flashing lights. Such lights shall be on the front and rear of the vehicle and may be activated when the vehicle is stopped or decreasing speed in order to stop in the course of carrying, delivering or picking up mail along the route.

(f) Vehicles used as the lead car in a funeral procession are hereby authorized to be equipped with, but are not required to use, purple lamps or purple flashing lights. Such lamps may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing a funeral procession, and when so equipped may display such warning in addition to any other warning signals required by this article. The lamps or flashing lights used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously either illuminated or flashing purple lights. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously

flashing or illuminated purple light.

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§17C-15-20. Multiple-beam road-lighting equipment -- Requirements generally.

Except as hereinafter provided, the head lamps or the auxiliary driving lamp or the auxiliary passing lamp or combinations thereof on motor vehicles other than a motorcycle, motor-driven cycle or moped shall be so arranged that the driver may select at will between distributions of light projected to different elevations and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

(a) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least three hundred and fifty feet ahead for all conditions of loading.

(b) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

(c) Every new motor vehicle, other than a motorcycle, motor- driven cycle or moped, registered in the state after January 1, 1952, which has multiple- beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

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§17C-15-21. Same -- Use of; dimming lights upon approaching or overtaking.

(a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in section two, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(b) Whenever a driver of a vehicle approaches an oncoming vehicle within five hundred feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam specified in section twenty, subdivision (b) shall be deemed to avoid glare at all times, regardless of road contour and loading.

(c) Whenever the driver of a vehicle follows another vehicle within two hundred feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in subdivision (a) of section twenty.

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§17C-15-22. Single-beam road-lighting equipment.

Head lamps arranged to provide a single distribution of light shall be permitted on motor vehicles manufactured and sold prior to one year after the effective date of this chapter in lieu of multiple-beam road-lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations:

(1) The head lamps shall be so aimed that when the vehicle is not loaded none of the high-intensity portion of the light shall at a distance of twenty-five feet ahead project higher than a level of five inches below the level of the center of the lamp from which it comes, and in no case higher than forty-two inches above the level on which the vehicle stands at a distance of seventy-five feet ahead.

(2) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred feet.

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§17C-15-23. Lighting equipment on motorcycles, motor-driven cycles and mopeds.

The head lamp or head lamps upon every motorcycle, motor- driven cycle and moped may be of the single-beam or multiple-beam type but in either event shall comply with the requirements and limitations as follows:

(1) Every head lamp or head lamps shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred feet when the motorcycle, motor-driven cycle or moped is operated at any speed less than twenty-five miles per hour and at a distance of not less than two hundred feet when it is operated at a speed of twenty-five or more miles per hour.

(2) If the motorcycle, motor-driven cycle or moped is equipped with a multiple-beam type head lamp or head lamps the upper beam shall meet the minimum requirements set forth above and not exceed the limitations set forth in section twenty (a) of this article and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in section twenty (b) of this article.

(3) If the motorcycle, motor-driven cycle or moped is equipped with a single-beam lamp or lamps, the lamp or lamps shall be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of twenty-five feet ahead, shall project higher than the level of the center of the lamp from which it comes.

(4) (A) Subject to paragraph (B) of this subdivision, a motorcycle may be equipped with, and an operator of a motorcycle may use, the following auxiliary lighting:

(I) Amber and white illumination;

(ii) Standard bulb running lights; or

(iii) Light-emitting diode pods and strips.

(B) Lighting under this subdivision shall be:

(I) Nonblinking;

(ii) Nonflashing;

(iii) Nonoscillating; and

(iv) Directed toward the engine and the drive train of the motorcycle to prevent interference with the driver's operation of the vehicle.

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§17C-15-24. Alternate road-lighting equipment.

Any motor vehicle may be operated under the conditions specified in section two of this article when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects seventy-five feet ahead in lieu of lamps required in section twenty or section twenty-two of this article: Provided, however, That at no time shall it be operated at a speed in excess of twenty miles per hour.

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§17C-15-25. Number of driving lamps required or permitted.

(a) At all times specified in section two of this article at least two lighted lamps shall be displayed, one on each side at the front of every motor vehicle other than a motorcycle, motor-driven cycle or moped, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

(b) Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than three hundred candlepower, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.

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§17C-15-26. Special restrictions on lamps.

(a) Any lighted lamp or illuminating device upon a motor vehicle other than head lamps, spot lamps, auxiliary lamps, or flashing front-direction signals which projects a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(b) No person may drive or move any vehicle or equipment upon any highway with any lamp or device on the vehicle displaying other than a white or amber light visible from directly in front of the center of the vehicle except as authorized by §17C-15-26(d) of this code.

(c) Except as authorized in §17C-15-26(d) and §17C-15-26(g) of this code and authorized in §17C-15-19 of this code, flashing lights are prohibited on motor vehicles: *Provided*, That any vehicle as a means for indicating right or left turn or any vehicle as a means of indicating the same is disabled or otherwise stopped for an emergency may have blinking or flashing lights.

(d) Notwithstanding any other provisions of this chapter, the following colors of flashing warning lights are restricted for the use of the type of vehicle designated:

(1) Blue flashing warning lights are restricted to police vehicles. Authorization for police vehicles shall be designated by the chief administrative official of each police department.

(2) Except for standard vehicle equipment authorized by §17C-15-19 of this code, red flashing warning lights are restricted to the following:

(A) Ambulances;

(B) Fire-fighting vehicles;

(C) Hazardous material response vehicles;

(D) Industrial fire brigade vehicles;

(E) Rescue squad vehicles not operating out of a fire department;

(F) School buses;

(G) Class A vehicles, as defined by §17A-10-1 *et seq.* of this code, of those firefighters who are authorized by their fire chiefs to have the lights;

(H) Class A vehicles of members of duly chartered rescue squads not operating out of a fire department;

(I) Class A vehicles of members of ambulance services or duly chartered rescue squads who

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are authorized by their respective chiefs to have the lights;

(J) Class A vehicles of out-of-state residents who are active members of West Virginia fire departments, ambulance services, or duly chartered rescue squads who are authorized by their respective chiefs to have the lights;

(K) West Virginia Department of Agriculture emergency response vehicles;

(L) Vehicles designated by the Secretary of the Department of Homeland Security for emergency response or emergency management by the Division of Corrections, Regional Jail and Correctional Facility Authority, Division of Juvenile Services, and Division of Homeland Security and Emergency Management;

(M) Class A vehicles of emergency response or emergency management personnel as designated by the Secretary of the Department of Homeland Security and the county commission of the county of residence; and

(N) Emergency management and operations vehicles operated by airports.

Red flashing warning lights attached to a Class A vehicle may be operated only when responding to or engaged in handling an emergency requiring the attention of the firefighters, members of the ambulance services, or chartered rescue squads.

(3) The use of red flashing warning lights is authorized as follows:

(A) Authorization for all ambulances shall be designated by the Department of Health and the sheriff of the county of residence.

(B) Authorization for all fire department vehicles shall be designated by the fire chief and the State Fire Marshal’s Office.

(C) Authorization for all hazardous material response vehicles and industrial fire brigades shall be designated by the chief of the fire department and the State Fire Marshal’s Office.

(D) Authorization for all rescue squad vehicles not operating out of a fire department shall be designated by the squad chief, the sheriff of the county of residence, and the Department of Health.

(E) Authorization for school buses shall be designated as set out in §17C-14-12 of this code.

(F) Authorization for firefighters to operate Class A vehicles shall be designated by their fire chiefs and the State Fire Marshal’s Office.

(G) Authorization for members of ambulance services or any other emergency medical service personnel to operate Class A vehicles shall be designated by their chief official, the Department of Health, and the sheriff of the county of residence.

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(H) Authorization for members of duly chartered rescue squads not operating out of a fire department to operate Class A vehicles shall be designated by their squad chiefs, the sheriff of the county of residence, and the Department of Health.

(I) Authorization for out-of-state residents operating Class A vehicles who are active members of a West Virginia fire department, ambulance services, or duly chartered rescue squads shall be designated by their respective chiefs.

(J) Authorization for West Virginia Department of Agriculture emergency response vehicles shall be designated by the Commissioner of the Department of Agriculture.

(K) Authorization for vehicles for emergency response or emergency management by the Division of Corrections, Regional Jail and Correctional Facility Authority, Division of Juvenile Services, and Division of Homeland Security and Emergency Management shall be designated by the Secretary of the Department of Homeland Security.

(L) Authorization for Class A vehicles of emergency response or emergency management personnel as designated by the Secretary of the Department of Homeland Security and the county commission of the county of residence.

(M) Authorization for emergency management and operations vehicles operated by airports shall be designated by the airport director and the Secretary of the Department of Homeland Security.

(4) Yellow or amber flashing warning lights are restricted to the following:

(A) All other emergency vehicles, including tow trucks and wreckers, authorized by this chapter and by §17C-15-27 of this code;

(B) Postal service vehicles and rural mail carriers, as authorized in §17C-15-19 of this code;

(C) Rural newspaper delivery vehicles;

(D) Flag car services;

(E) Vehicles providing road service to disabled vehicles;

(F) Service vehicles of a public service corporation;

(G) Snow removal equipment;

(H) School buses; and

(I) Automotive fire apparatus owned by a municipality or other political subdivision, by a volunteer or part-volunteer fire company or department, or by an industrial fire brigade.

(5) The use of yellow or amber flashing warning lights shall be authorized as follows:

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(A) Authorization for tow trucks, wreckers, rural newspaper delivery vehicles, flag car services, vehicles providing road service to disabled vehicles, service vehicles of a public service corporation, and postal service vehicles shall be designated by the sheriff of the county of residence.

(B) Authorization for snow removal equipment shall be designated by the Commissioner of the Division of Highways.

(C) Authorization for school buses shall be designated as set out in §17C-14-12 of this code.

(D) Authorization for automotive fire apparatus shall be designated by the fire chief in conformity with the NFPA 1901 Standard for Automotive Fire Apparatus as published by the National Fire Protection Association (NFPA) on July 18, 2003, and adopted by the state Fire Commission by legislative rule (87 CSR 1, *et seq*.), except as follows:

(i) With the approval of the State Fire Marshal, used automotive fire apparatus may be conformed to the NFPA standard in effect on the date of its manufacture or conformed to a later NFPA standard; and

(ii) Automotive fire apparatus may be equipped with blinking or flashing headlamps.

(6) Green flashing warning lights are restricted to the following:

(A) Vehicles operated by the Division of Highways; and

(B) Other vehicles or equipment as designated in writing by the Commissioner of the Division of Highways.

(e) Notwithstanding the foregoing provisions of this section, any vehicle belonging to a county board of education, an organization receiving funding from the state or Federal Transit Administration for the purpose of providing general public transportation or hauling solid waste may be equipped with a white flashing strobotron warning light. This strobe light may be installed on the roof of a school bus, a public transportation vehicle, or a vehicle hauling solid waste not to exceed one-third the body length forward from the rear of the roof edge. The light shall have a single clear lens emitting light 360 degrees around its vertical axis and may not extend above the roof more than six and one-half inches. A manual switch and a pilot light must be included to indicate the light is in operation.

(f) Notwithstanding the foregoing provisions of this section, any waste service vehicle as defined in §17C-6-11 of this code may be equipped with yellow or amber flashing warning lights.

(g) It is unlawful for flashing warning lights of an unauthorized color to be installed or used on a vehicle other than as specified in this section, except that a police vehicle may be equipped with either or both blue or red warning lights.

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§17C-15-27. Standards for lights on snow removal equipment.

(a) The state road commission shall adopt standards and specifications applicable to head lamps, clearance lamps, identification and other lamps on snow removal equipment when operated on the highways of this state in lieu of the lamps otherwise required on motor vehicles by this chapter. Such standards and specifications may permit the use of flashing lights for purposes of identification on snow removal equipment when in service upon the highways. The standards and specifications for lamps referred to in this section shall correlate with and, so far as possible, conform with those approved by the American association of state highway officials.

(b) It shall be unlawful to operate any snow removal equipment on any highway unless the lamps thereon comply with and are lighted when and as required by the standards and specifications adopted as provided in this section.

WV Legislature

§17C-15-28. Selling and using unapproved lamps or equipment; legibility of name, etc., of approved equipment; use of improperly mounted, etc., equipment.

(a) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer, or use upon any such vehicle any head lamp, auxiliary, or fog lamp, rear lamp, signal lamp, or reflector, which reflector is required hereunder, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been submitted to the state road commissioner and approved by him The foregoing provisions of this section shall not apply to equipment in actual use when this section is adopted or replacement parts therefor, provided that such equipment complies with the laws relating thereto prior to the enactment hereof.

(b) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer any lamp or device mentioned in this section which has been approved by the state road commissioner unless such lamp or device bears thereon the trademark or name under which it is approved so as to be legible when installed.

(c) No person shall use upon any motor vehicle, trailer, or semitrailer any lamps mentioned in this section unless said lamps are mounted, adjusted and aimed in accordance with instructions of the state road commissioner.

WV Legislature

§17C-15-29

Repealed

Acts, 2018 Reg. Sess., Ch. 42.

WV Legislature

§17C-15-30. Revocation of certificate of approval on lighting devices.

When the state road commissioner has reason to believe that an approved device as being sold commercially does not comply with the requirements of this chapter, he may, after giving thirty days' previous notice to the person holding the certificate of approval for such device in this state, conduct a hearing upon the question of compliance of said approved device. After said hearing the state road commissioner shall determine whether said approved device meets the requirements of this chapter. If said device does not meet the requirements of this chapter he shall give notice to the person holding the certificate of approval for such device in this state.

If at the expiration of ninety days after such notice the person holding the certificate of approval for such device has failed to satisfy the state road commissioner that said approved device as thereafter to be sold meets the requirements of this chapter, the state road commissioner shall suspend or revoke the approval issued therefor until or unless such device is resubmitted to and retested by an authorized testing agency and is found to meet the requirements of this chapter, and may require that all said devices sold since the notification following the hearing be replaced with devices that do comply with the requirements of this chapter. The state road commissioner may at the time of the retest purchase in the open market and submit to the testing agency one or more sets of such approved devices, and if such device upon such retest fails to meet the requirements of this chapter, the state road commissioner may refuse to renew the certificate of approval of such device.

WV Legislature

§17C-15-31. Brakes -- Generally.

(a) Brake equipment required. -- (1) Every motor vehicle, other than a motorcycle, motor-driven cycle or moped, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

(2) Every motorcycle, motor-driven cycle and moped, when operated upon a highway, shall be equipped with at least one brake which may be operated by hand or foot.

(3) Every trailer or semitrailer of a gross weight of three thousand pounds or more when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and said brakes shall be so designed and connected that in case of an accidental breakaway of the towed vehicle the brakes shall be automatically applied.

(4) Every new motor vehicle, trailer or semitrailer hereinafter sold in this state and operated upon the highways shall be equipped with service brakes upon all wheels, with the following exceptions: (1) That trucks and truck-tractors having three or more axles need not have brakes on the front wheels, except when such vehicles are equipped with at least two steerable axles, the wheels of one such axle need not be equipped with brakes, (2) any motorcycle, motor-driven cycle or moped, and (3) that any semitrailer of less than one thousand five hundred pounds gross weight need not be equipped with brakes.

(5) In any combination of motor-driven vehicles, means shall be provided for applying the rearmost trailer brakes, of any trailer equipped with brakes, in approximate synchronism with the brakes on the towing vehicle and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost trailer equipped with brakes; or both of the above means capable of being used alternatively may be employed.

(6) Every such vehicle and combination of vehicles, except motorcycles, motor-driven cycles and mopeds, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied

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they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that a failure of any one part shall not leave the vehicle without operative brakes.

(7) The brake shoes operating within or upon the drums on the vehicle wheels of any motor vehicle may be used for both service and hand operation.

(b) Performance ability of brakes. -- Every motor vehicle or combination of motor-drawn vehicles shall be capable, at all times and under all conditions of loading, of being stopped on a dry, smooth, level road free from loose material, upon application of the service (foot) brake, within the distances specified below, or shall be capable of being decelerated at a sustained rate corresponding to these distances:

Feet to stop Deceleration

from 20 miles in feet per

per hour second

Vehicles or combinations

of vehicles having

brakes on all wheels 30 14

Vehicles or combinations

of vehicles not having brakes

on all wheels 40 10.7

(c) Maintenance of brakes. -- All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.

WV Legislature

§17C-15-32. Brakes on motorcycles, motor-driven cycles and mopeds.

(a) The commissioner is authorized to require an inspection of the brake on any motorcycle, motor-driven cycle or moped and to disapprove any such brake which he finds will not comply with the performance ability standard set forth in section thirty-one of this article, or which in his opinion is not so designed or constructed as to insure reasonable and reliable performance in actual use.

(b) The commissioner may refuse to register or may suspend or revoke the registration of any vehicle referred to in this section when he determines that the brake thereon does not comply with the provisions of this section.

(c) No person shall operate on any highway any vehicle referred to in this section in the event the commissioner has disapproved the brake equipment upon such vehicle or type of vehicle.

WV Legislature

§17C-15-33. Horns and warning devices.

(a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway.

(b) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section.

(c) It is permissible but not required that any commercial vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

Any authorized emergency vehicle may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type approved by the department, but such siren shall not be used except when such vehicle is operated in response to an emergency or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof.

WV Legislature

§17C-15-34. Mufflers; prevention of noise, fumes and smoke.

(a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise. Such muffler shall be the muffler originally installed by the manufacturer of the vehicle or, if a replacement, the equivalent thereof. No person shall use a muffler cutout, bypass, or similar device upon a motor vehicle on a highway.

(b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

WV Legislature

§17C-15-35. Mirrors.

Every motor vehicle which is so constructed or loaded as to obstruct the driver's view to the rear thereof from the driver's position shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle.

WV Legislature

§17C-15-36. Windshields must be unobstructed and equipped with wipers.

(a) No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows of such vehicle which obstructs the driver's clear view of the highway or any intersecting highway.

(b) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(c) Every windshield wiper upon a motor vehicle shall be maintained in good working order.

WV Legislature

§17C-15-36a. Sun-screening devices; penalty.

(a) No person may operate a motor vehicle that is registered or required to be registered in the state on any public highway, road or street that has a sun-screening device on the windshield, the front side wings and side windows adjacent to the right and left of the driver and windows adjacent to the rear of the driver that do not meet the requirements of this section: Provided, That law-enforcement K-9 and other emergency vehicles that are designed to haul animals, unmarked law-enforcement vehicles primarily used for covert or undercover enforcement and automobiles that have sun-screening devices installed at the factory by the manufacturer are exempt from this requirement. No unmarked law-enforcement vehicle, herein exempted, may engage in routine traffic stops.

(b) A sun-screening device when used in conjunction with the windshield must be nonreflective and may not be red, yellow or amber in color. A sun-screening device may be used only along the top of the windshield and may not extend downward beyond the ASI line or more than five inches from the top of the windshield whichever is closer to the top of the windshield.

(c) A sun-screening device when used in conjunction with the automotive safety glazing materials of the side wings or side windows located at the immediate right and left of the driver shall be a nonreflective type with reflectivity of not more than twenty percent and have a light transmission of not less than thirty-five percent. The side windows behind the driver and the rear most windows may have a sun-screening device that is designed to be used on automotive safety glazing materials that has a light transmission of not less than thirty-five percent and a reflectivity of not more than twenty percent. If a sun-screening device is used on glazing behind the driver, one right and one left outside rear view mirror is required.

(d) Each manufacturer shall:

(1) Certify to the West Virginia State Police and Division of Motor Vehicles that a sun-screening device used by it is in compliance with the reflectivity and transmittance requirements of this section;

(2) Provide a label not to exceed one and one-half square inches in size, with a means for the permanent and legible installations between the sun-screening material and each glazing surface to which it is applied that contains the manufacturer's name and its percentage of light transmission; and

(3) Include instructions with the product or material for proper installation, including the affixing of the label specified in this section. The labeling or marking must be placed in the left lower corner of each glazing surface when facing the vehicle from the outside.

(e) No person may:

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(1) Offer for sale or for use any sun-screening product or material for motor vehicle use not in compliance with this section; or

(2) Install any sun-screening product or material on vehicles intended for use on public roads without permanently affixing the label specified in this section.

(f) The provisions of this section do not apply to a motor vehicle registered in this state in the name of a person, or the person's legal guardian, who has an affidavit signed by a physician or an optometrist licensed to practice in this state that states that the person has a physical condition that makes it necessary to equip the motor vehicle with sun-screening material which would be of a light transmittance or luminous reflectance in violation of this section. The affidavit must be in the possession of the person so afflicted, or the person's legal guardian, at all times while being transported in the motor vehicle.

(g) The light transmittance requirement of this section does not apply to windows behind the driver on trucks, buses, trailers, mobile homes and multipurpose passenger vehicles.

(h) As used in this section:

(1) "Bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than ten persons.

(2) "Light transmission" means the ratio of the amount of total light to pass through a product or material to the amount of the total light falling on the product or material.

(3) "Luminous reflectants" means the ratio of the amount of total light that is reflected outward by the product or material to the amount of the total light falling on the product or materials.

(4) "Manufacturer" means any person engaged in the manufacturing or assembling of sun-screening products or materials designed to be used in conjunction with vehicle glazing materials for the purpose of reducing the effects of the sun.

(5) "Motor homes" means vehicular units designed to provide temporary living quarters built into and an integral part of or permanently attached to a self-propelled motor vehicle chassis.

(6) "Multipurpose passenger vehicle" means a motor vehicle with motive power, except a trailer, designed to carry ten persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.

(7) "Nonreflective" means a product or material designed to absorb light rather than to reflect it.

(8) "Passenger car" means a motor vehicle with motive power, except a multipurpose passenger vehicle, motorcycle or trailer, designed for carrying ten persons or less.

WV Legislature

(9) "Sun-screening device" means film material or device that is designed to be used in conjunction with motor vehicle safety glazing materials for reducing the effects of the sun.

(10) "Truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment.

(i) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $200.

WV Legislature

§17C-15-37. Tire equipment restrictions; rules and regulations as to certain tires.

(a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(b) No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer having any metal tire in contact with the roadway.

(c) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, or spike, or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that: (1) It shall be permissible to use farm machinery with tires having protuberances which will not injure the highway; (2) it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid; and (3) it shall be permissible to use studded tires during the period from November 1 of each year until April 15 of the following year: *Provided*, That in the interest of highway maintenance, no vehicle moved on a highway, other than school buses, shall be equipped with studded tires which are operational with a recommended air pressure greater than 40 pounds per square inch.

(d) The Commissioner of the Division of Highways and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon the highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this chapter.

WV Legislature

§17C-15-38

Repealed

Acts, 2018 Reg. Sess., Ch. 42.

WV Legislature

§17C-15-39. Flares and other warning devices to be carried in certain vehicles.

(a) No person shall operate any motor truck, passenger bus, road tractor or truck tractor upon any highway outside the corporate limits of municipalities at any time from a half hour after sunset to a half hour before sunrise unless there shall be carried in such vehicle the following equipment except as provided in subsection (b):

(1) At least three flares or three red electric lanterns each of which shall be capable of being seen and distinguished at a distance of five hundred feet under normal atmospheric conditions at nighttime.

Each flare (liquid-burning pot torch) shall be capable of burning for not less than twelve hours in five miles per hour wind velocity and capable of burning in any air velocity from zero to forty miles per hour. Every such flare shall be substantially constructed so as to withstand reasonable shocks without leaking. Every such flare shall be carried in the vehicle in a metal rack or box. Every such red electric lantern shall be capable of operating continuously for not less than twelve hours and shall be substantially constructed so as to withstand reasonable shock without breakage.

(2) At least three red-burning fusees unless red electric lanterns are carried.

Every fusee shall be made in accordance with specifications of the Bureau of Explosives, Thirty Vesey Street, New York City, and so marked and shall be capable of burning at least fifteen minutes.

(3) At least two red cloth flags, not less than twelve inches square, with standards to support same.

(b) No person shall operate at the time and under the conditions stated in subsection (a) any motor vehicle used in the transportation of flammable liquids in bulk, or transporting compressed flammable gases, unless there shall be carried in such vehicle three red electric lanterns meeting the requirements above stated, and there shall not be carried in any said vehicle any flares, fusees, or signal produced by a flame.

(c) As an alternative it shall be deemed a compliance with this section in the event a person operating any motor vehicle described in this section shall carry in such vehicle three portable reflector units on standards of a type approved by the state road commissioner. No portable reflector unit shall be approved unless it is so designed and constructed as to include two reflectors, one above the other, each of which shall be capable of reflecting red light clearly visible from all distances within five hundred feet to fifty feet under normal atmospheric conditions at nighttime when directly in front of lawful upper beams of head lamps.

WV Legislature

§17C-15-40. Display of warning devices when vehicle is disabled.

(a) Whenever any motor truck, passenger bus, truck tractor, trailer, semitrailer, or pole trailer is disabled upon the traveled portion of any highway or the shoulder thereof outside of any municipality at any time when lighted lamps are required on vehicles the driver of such vehicle shall display the following warning devices upon the highway during the time the vehicle is so disabled on the highway except as provided in subsection (b):

(1) A lighted fusee shall be immediately placed on the roadway at the traffic side of the motor vehicle unless electric lanterns are displayed.

(2) Within the burning period of the fusee and as promptly as possible three lighted flares (pot torches) or three electric lanterns shall be placed on the roadway as follows:

One at a distance of approximately one hundred feet in advance of the vehicle, one at a distance of approximately one hundred feet to the rear of the vehicle, each in the center of the lane of traffic occupied by the disabled vehicle, and one at the traffic side of the vehicle approximately ten feet rearward or forward thereof.

(b) Whenever any vehicle used in the transportation of flammable liquids in bulk, or transporting compressed flammable gases is disabled upon a highway at any time or place mentioned in subsection (a) of this section, the driver of such vehicle shall display upon the roadway the following lighted warning devices: One red electric lantern shall be immediately placed on the roadway at the traffic side of the vehicle and two other red electric lanterns shall be placed to the front and rear of the vehicle in the same manner prescribed in subsection (a) above for flares.

When a vehicle of a type specified in subsection (b) is disabled the use of flares, fusees, or any signal produced by flame as warning signals is prohibited.

(c) Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion of a highway or the shoulder thereof outside of any municipality at any time when the display of fusees, flares, or electric lanterns is not required, the driver of such vehicle shall display two red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, one at a distance of approximately one hundred feet in advance of the vehicle, and one at a distance of approximately one hundred feet to the rear of the vehicle.

(d) In the alternative it shall be deemed a compliance with this section in the event three portable reflector units on standards of a type approved by the state road commissioner are displayed at the times and under the conditions specified in this section either during the daytime or at nighttime and such portable reflector units shall be placed on the roadway in the locations as described with reference to the placing of electric lanterns and lighted flares.

(e) The flares, fusees, lanterns, and flags to be displayed as required in this section shall

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conform with the requirements of section thirty-nine of this article applicable thereto.

WV Legislature

§17C-15-41. Vehicles transporting explosives.

Any person operating any vehicle transporting any explosive as a cargo or part of a cargo upon a highway shall at all times comply with the provisions of this section.

(a) Said vehicle shall be marked or placarded on each side and the rear with the word "Explosives" in letters not less than eight inches high, or there shall be displayed on the rear of such vehicle a red flag not less than twenty-four inches square marked with the word "Danger" in white letters six inches high.

(b) Every said vehicle shall be equipped with not less than two fire extinguishers, filled and ready for immediate use, and placed at a convenient point on the vehicle so used.

(c) The state road commissioner is hereby authorized and directed to promulgate such additional regulations governing the transportation of explosives and other dangerous articles by vehicles upon the highways as he shall deem advisable for the protection of the public.

WV Legislature

§17C-15-42. Video screens, video monitors and television receivers in view of driver prohibited; exceptions.

(a) No motor vehicle may be operated on a street or highway in this state when equipped with a television receiver, video monitor, television or video screen unless the receiver, screen or monitor is configured so that the moving images are not in view of the operator while the vehicle is in motion, or it falls within one or more of the categories set forth in subsections (b) or (c) of this section.

(b) This prohibition does not apply to the following equipment installed in a vehicle:

(1) A visual display if it does not show video or television broadcast images in view of the operator while the motor vehicle is in motion;

(2) A global positioning device;

(3) A mapping display;

(4) A visual display used to enhance or supplement the driver's view forward, behind or to the sides of a motor vehicle for the purpose of maneuvering the vehicle;

(5) A visual display used to enhance or supplement a driver's view of vehicle occupants; or

(6) Television-type receiving equipment used exclusively for safety or traffic engineering information.

(c) A television receiver, video monitor, television or video screen or other similar means of visually displaying a television broadcast or video signal is not prohibited if the equipment has an interlock device that, when the motor vehicle is driven, disables the equipment for all uses except as a visual display described in subdivisions (1) through (6) of subsection (b) of this section.

WV Legislature

§17C-15-43. Vehicles to be equipped with safety belts.

No dealer in new or used automobiles shall sell, lease, transfer or trade, at retail, any passenger automobile which is manufactured after January 1, 1965, unless such vehicle is equipped with safety seat belts for the front seat, which seat belts shall meet the standards set and approved by the Society of Automotive Engineers, Inc.

WV Legislature

§17C-15-44. Safety equipment and requirements for motorcyclists, motorcycles, motor-driven cycles and mopeds; motorcycle safety standards and education committee.

(a) A person may not operate or be a passenger on any motorcycle or motor-driven cycle unless the person is wearing securely fastened on his or her head by either a neck or chin strap a protective helmet designed to deflect blows, resist penetration, and spread impact forces. Any helmet worn by an operator or passenger shall meet the current performance specifications established by the American National Standards Institute Standard, Z 90.1, the United States Department of Transportation Federal Motor Vehicle Safety Standard No. 218, or Snell Safety Standards for Protective Headgear for Vehicle Users.

(b) A person may not operate or be a passenger on any motorcycle or motor-driven cycle unless the person is wearing safety, shatter-resistant eyeglasses, excluding contact lenses, or eye goggles or face shield that complies with the performance specifications established by the American National Standards Institute for Head, Eye and Respiratory Protection, Z 2.1. In addition, if any motorcycle, motor-driven cycle or moped is equipped with a windshield or windscreen, the windshield or windscreen shall be constructed of safety, shatter-resistant material that complies with the performance specifications established by Department of Transportation Federal Motor Vehicle Safety Standard No. 205 and American National Standards Institute, Safety Glazing Materials for Glazing Motor Vehicles Operated on Land Highways, Standard Z 26.1.

(c) A person may not operate a motorcycle, motor-driven cycle or moped on which the handlebars or grips are more than 15 inches higher than the uppermost part of the operator’s seat when the seat is not depressed in any manner.

(d) A person operating a motorcycle, motor-driven cycle, or moped shall face forward and either sit astride a permanent operator’s seat attached to the vehicle or stand astride the vehicle with both feet on the vehicle’s footpegs or pedals. An operator may not carry any other person and any other person may not ride on the vehicle unless the vehicle is designed to carry more than one person, in which case a passenger may ride: (i) behind the operator upon the permanent operator’s seat if it is designed for two persons; (ii) upon another seat firmly attached to the vehicle to the rear of the operator’s seat and equipped with footrests designed and located for use by the passenger; or (iii) in a sidecar firmly attached to the vehicle. A person may not ride side saddle on a seat. An operator may carry as many passengers as there are seats and footrests to accommodate those passengers. Additional passengers may be carried in a factory-produced sidecar so long as there is one passenger per seat. Any passenger riding in a sidecar shall be restrained by a safety belt.

(e) Every motorcycle, motor-driven cycle, and moped shall be equipped with a rearview mirror affixed to the handlebars or fairings and adjusted so that the operator has a clear view of the road and condition of traffic behind him or her for a distance of at least two hundred feet.

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(f) Notwithstanding any provision of this code to the contrary, a person with a valid driver's license who is operating a fully enclosed autocycle, as defined in §17C-1-69 of this code, is exempt from the provisions of this section.

WV Legislature

§17C-15-45. Certification labels on mopeds.

Every moped sold in this state shall have permanently affixed to it a certification label which shall contain the following information:

(1) Name of manufacturer;

(2) Month and year of manufacture;

(3) Gross vehicle weight rating (GVWR);

(4) Gross axle weight rating for front and rear axles (GAWR);

(5) Vehicle identification number;

(6) Classification type; and

(7) Statement of conformance to federal standards as required by federal law.

WV Legislature

§17C-15-46. Child passenger safety devices required; child safety seats and booster seats.

Every driver who transports a child under the age of eight years in a passenger automobile, van or pickup truck other than one operated for hire shall, while the motor vehicle is in motion and operated on a street or highway of this state, provide for the protection of the child by properly placing, maintaining and securing the child in a child passenger safety device system meeting applicable federal motor vehicle safety standards: Provided, That if a child is under the age of eight years and at least four feet nine inches tall, a safety belt shall be sufficient to meet the requirements of this section.

Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $10 nor more than $20.

A violation of this section does not by virtue of the violation constitute evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages.

If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity may not affect other provisions or applications of this section and to this end the subsections of this section are declared to be severable.

If all seat belts in a vehicle are being used at the time of examination by a law officer and the vehicle contains more passengers than the total number of seat belts or other safety devices as installed in compliance with federal motor vehicle safety standards, the driver may not be considered in violation of this section.

WV Legislature

§17C-15-47. Commercial towing vehicles to employ safety chains.

Every vehicle used in any business in West Virginia for towing wrecked or disabled vehicles shall carry a safety chain at all times. No such towing vehicle may tow a wrecked or disabled vehicle unless a safety chain is securely in place coupling the towing vehicle to the vehicle being towed. For purposes of this section, safety chain means chain or cable of sufficient strength to keep the towing and towed vehicles connected in the event that the towing sling or other primary connection fails.

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§17C-15-48. Alteration of motor vehicles; bumper height limits; other modifications; exceptions; required inspection; and rules of division of public safety.

(a) No person may operate upon a public highway any motor vehicle registered or required to be registered in this state if it has been modified by alteration of its height from the ground to the extent that its bumpers, measured to any point on the lower edge of the main horizontal bumper bar, exclusive of any bumper guards, do not fall within the limits specified herein for its gross vehicle weight rating category. The front and rear bumper height of motor vehicles whose gross vehicle weight rating is ten thousand pounds or less may be no less than six inches and no more than thirty-one inches. In the absence of bumpers, and in cases where bumper heights have been altered or modified, height measurements shall be made to the bottom of the frame rail. If a motor vehicle has a bumper, the bumper must be at least three inches in vertical width, centered on the center line of the motor vehicle and not less than the width of the wheel track distance. The provisions of this subsection do not apply to motor vehicles with a gross vehicle weight rating in excess of ten thousand pounds. For the purpose of this subsection, the term "gross vehicle weight ratings" means the manufacturer's gross vehicle weight ratings established for that vehicle.

(b) The maximum distance between the vehicle body to the vehicle frame may not exceed three inches. The distance from the vehicle body to the vehicle frame shall be measured from the vehicle body mount seat to the vehicle frame mount seat: Provided, That the maximum distance limitation shall not prohibit a body lift kit up to three inches to be added to the manufacturer's original spacer between the body and the frame. No vehicle may be modified to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation. No part of the original suspension system may be disconnected to defeat the safe operation of the suspension system. Modification of the front end suspension by the use of lift blocks is expressly prohibited.

(c) Nothing contained in this section prevents the installation of heavy duty equipment, including shock absorbers and overload springs.

(d) Nothing contained in this section prohibits the operation on a public highway of a motor vehicle with normal wear to the suspension system if such normal wear does not adversely affect the control of the vehicle.

(e) This section does not apply to specially designed or modified motor vehicles when operated off the public highways in races and similar events. Such motor vehicles may be lawfully towed on the highways of this state.

(f) Modifications to motor vehicles, not prohibited herein, shall be made subject to inspection as provided in subsection (g) herein.

(g) Nothing contained in this section shall subject a vehicle modified solely by the installation of tires not larger than two sizes beyond the maximum specified by the

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manufacturer to inspection as provided in subsection (h) herein.

(h) Any motor vehicle which has been altered from the manufacturer's specification with respect to bumper height for that vehicle make and model but within the allowable limits of subsection (a) or any motor vehicle which has been altered from the manufacturer's specification for that vehicle make and model with respect to the distance from the vehicle body to vehicle frame but within the allowable limits of subsection (b) may be operated upon a public highway in this state, subject to inspection hereunder: Provided, That any motor vehicle which has been altered from the manufacturer's specification by lowering the bumper height for that vehicle make and model within the allowable limits of subsection (a) shall be exempt from the inspection requirements hereunder and may be operated upon a public highway in this state subject to provisions of article sixteen of this chapter. If a motor vehicle and its equipment subject to inspection under this section are inspected and found to be in compliance with the provisions of this section and to be otherwise in safe condition, an official "modified vehicle sticker" shall be issued for display on the vehicle. The fee for the modified vehicle stickers will be $25 with the division of public safety establishing rules concerning such inspection. Each municipal, county and state law-enforcement agency must record on accident report forms whether a modified vehicle was involved in the accident.

(i) The division of public safety shall promulgate rules governing a complete safety inspection of these vehicles and other rules as necessary to fully enforce and implement the provisions of this section. Notwithstanding the provisions of article three, chapter twenty-nine-a of this code, the division of public safety may promulgate emergency legislative rules relating to vehicle modifications under this section and such rules shall be effective for a period of fifteen months beginning with November, 1991.

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§17C-15-49. Operation of vehicles with safety belts; exception; penalty; educational program by West Virginia State Police.

(a) A person may not operate a passenger vehicle on a public street or highway of this state unless the person, any passenger in the back seat under 18 years of age, and any passenger in the front seat of the passenger vehicle is restrained by a safety belt meeting applicable federal motor vehicle safety standards. For the purposes of this section, the term "passenger vehicle" means a motor vehicle which is designed for transporting 15 passengers or less, including the driver, except that the term does not include a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a federal motor vehicle safety standard to be equipped with a belt system. The provisions of this section apply to all passenger vehicles manufactured after January 1, 1967, and being 1968 models and newer.

(b) The required use of safety belts as provided in this section does not apply to a duly appointed or contracted rural mail carrier of the United States Postal Service who is actually making mail deliveries or to a passenger or operator with a physically disabling condition whose physical disability would prevent appropriate restraint in the safety belt if the condition is duly certified by a physician who states the nature of the disability as well as the reason the restraint is inappropriate. The Division of Motor Vehicles shall adopt rules, in accordance with §29A-3-1 *et seq*. of this code, to establish a method to certify the physical disability and to require use of an alternative restraint system where feasible or to waive the requirement for the use of any restraint system.

(c) Any person who violates the provisions of this section shall be fined $25. No court costs or other fees may be assessed for a violation of this section.

(d) Notwithstanding any other provision of this code to the contrary, no points may be entered on any driver's record maintained by the Division of Motor Vehicles as a result of a violation of this section.

(e) The Governor's Highway Safety Program, in cooperation with the West Virginia State Police and any other state departments or agencies and with county and municipal law-enforcement agencies, shall initiate and conduct an educational program designed to encourage compliance with safety belt usage laws. This program shall be focused on the effectiveness of safety belts, the monetary savings, and the other benefits to the public from usage of safety belts and the requirements and penalties specified in this law.

(f) This section does not abrogate or alter the provisions of §17C-15-46 of this code relating to the mandatory use of child passenger safety devices.

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§17C-15-49a. Admissibility of use or nonuse of safety belts in civil actions.

The admissibility of evidence of the failure of an occupant of a passenger vehicle to use a safety belt in any civil action is governed by the following rules:

(a) *Definitions*. — For the purposes of this section:

(1) "Adult" means a person who is 18 years of age or older;

(2) "Child" means a person who is under 18 years of age;

(3) "Claimant" means any person asserting a claim;

(4) "Driver" means a person, whether an adult or child, who is operating the passenger vehicle on a public street or highway of this state;

(5) "Passenger" means a person in the passenger vehicle other than the driver of the passenger vehicle while it is being operated on a public street or highway of this state; and

(6) "Passenger vehicle" means a passenger vehicle as defined in §17C-15-49(a) of this code.

(b) *Admissibility as evidence of negligence*. —

(1) *Claimant as driver*. —

(A) When a person making a claim for damages in a civil action was the driver of a passenger vehicle involved in the collision from which the damages suffered by the claimant driver are alleged to have arisen, evidence that the claimant driver of the passenger vehicle was not wearing a safety belt at the time of the collision is not admissible to show his or her negligence.

(B) The prohibition on the admissibility of evidence provided by this paragraph does not apply in an action against the manufacturer or seller of the passenger vehicle being driven by the claimant driver and/or a manufacturer or seller of any component or system incorporated into the passenger vehicle.

(2) *Claimant as adult passenger*. —

(A) When a person making a claim for damages in a civil action was an adult passenger in a passenger vehicle involved in the collision from which the damages suffered by that claimant adult passenger are alleged to have arisen, evidence that the claimant adult passenger was not wearing a safety belt at the time of the collision is not admissible to show his or her negligence.

(B) The prohibition on the admissibility of evidence provided by this paragraph does not apply in an action against the manufacturer or seller of the passenger vehicle in which the

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claimant adult passenger was a passenger and/or a manufacturer or seller of any component or system incorporated into the passenger vehicle.

(3) *Claimant as child passenger.* —

When a person making a claim for damages in a civil action was a child passenger, or when the person making a claim for damages in a civil action is making the claim on behalf of a child who was a passenger, in a passenger vehicle involved in the collision from which the damages suffered by that claimant child passenger are alleged to have arisen, evidence that said claimant child passenger was not wearing a safety belt at the time of the collision is not admissible to show any negligence of the claimant child passenger: *Provided*, That the evidence may be admissible, subject to the West Virginia Rules of Evidence, to show negligence of the driver of the passenger vehicle in which the claimant child was a passenger.

(c) *Admissibility as evidence of exacerbation of or contribution to a claimant's damages.* —

(1) *Claimant as driver.* — When a person making a claim for damages in a civil action was the driver of a passenger vehicle involved in the collision from which the damages suffered by the claimant driver are alleged to have arisen, evidence that the claimant driver of the passenger vehicle was not wearing a safety belt at the time of the collision may be admissible to show that his or her failure to wear a safety belt exacerbated or contributed to the claimant driver's damages: *Provided*, That the defendant's burden of proof as set forth in subdivision (d) of this subsection must be supported by expert testimony, subject to a finding by the court that the expert testimony satisfies the threshold requirements of Rule 702 of the West Virginia Rules of Evidence.

(2) *Claimant as adult passenger.* — When a person making a claim for damages in a civil action was an adult passenger in a passenger vehicle involved in the collision from which the damages suffered by that claimant adult passenger are alleged to have arisen, evidence that the claimant adult passenger was not wearing a safety belt at the time of the collision may be admissible to show that his or her failure to wear a safety belt exacerbated or contributed to that claimant adult passenger's damages: *Provided*, That the defendant's burden of proof as set forth in subdivision (d) of this subsection must be supported by expert testimony, subject to a finding by the court that the expert testimony satisfies the threshold requirements of Rule 702 of the West Virginia Rules of Evidence.

(3) *Claimant as child passenger.* — When a person making a claim for damages in a civil action was child passenger at the time of the accident, or when the person making a claim for damages in a civil action is making the claim on behalf of a child who was a passenger, in a passenger vehicle involved in the collision from which the damages suffered by that claimant child passenger are alleged to have arisen, evidence that the claimant child passenger was not wearing a safety belt at the time of the collision is not admissible to show that the claimant child passenger's failure to wear a safety belt exacerbated or contributed to the claimant child passenger's damages.

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(4) The admissibility of evidence provided by paragraphs (1) and (2) of this subdivision does not apply if any driver with fault was driving in an "impaired state" as defined by §17C-5-2 of this code, or if the driver is found to have concurrently violated §61-5-17(h), §61-5-17(i), or §61-5-17(j) of this code.

(d) Subject to subdivision (e) of this subsection, a claimant's failure to wear a safety belt shall constitute an affirmative defense.

(e) *Court to instruct jury.* — In a civil action for damages in which the court has determined that evidence that a person was not wearing a safety belt at the time of the collision is to be admitted, the court shall instruct the jury as to the purposes for which the jury may consider, and may not consider, the evidence.

(f) *Court's discretion as to bifurcation*. — In the discretion of the court, if the court determines that it is necessary to prevent prejudice or avoid confusion of the jury, the court may, upon request of a party, bifurcate the trial so that the questions of liability are tried first and the question of damages is presented separately thereafter. If the court, in its discretion, grants bifurcation, the court should consider whether it is possible to bifurcate these issues within a single trial, so that all of the issues to be tried in the case are tried together in a single trial with the same jury, but with the presentation of the evidence on the separate issues and the deliberations of the same jury ordered in such a way so as to achieve separation of the issues within a single trial.

(g) *Immunities not abrogated*. — It is the intent of the Legislature that the amendments made during the regular session of the Legislature, 2021, to this section and §17C-15-49 of this code do not abrogate or modify any immunities recognized by the law.

(h) *Effective date*. — This section and the amendments made during the regular session of the Legislature, 2021, to §17C-15-49 of this code applies to collisions occurring on or after the effective date of those amendments and this section.

(i) This section does not abrogate or alter the provisions of §17C-15-46 of this code relating to the mandatory use of child passenger safety devices.

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§17C-15-50. Air bag fraud; counterfeit and nonfunctional air bags prohibited; penalties; applicability; exceptions.

(a) For purposes of this section:

(1) "Air bag" means an inflatable occupant supplemental restraint system, including all component parts, such as the cover, sensors, controllers, inflators, and wiring, designed to activate in a motor vehicle in the event of a crash to mitigate injury or ejection and that meets the federal motor vehicle safety standards set forth in 49 C.F.R. 571.208 for the make, model, and model year of the motor vehicle.

(2) "Counterfeit air bag" means an air bag or component of an air bag displaying a mark identically or substantially similar to the genuine mark of a motor vehicle manufacturer or supplier of parts to a motor vehicle manufacturer, without the authorization of the motor vehicle manufacturer or supplier, respectively.

(3) "Disable" means to deliberately disconnect or otherwise render inoperable and includes the failure to replace a previously deployed airbag with a functional airbag.

(4) "Nonfunctional air bag" means any of the following:

(A) A replacement air bag that has been previously deployed or damaged;

(B) A replacement air bag that has an electric fault that is detected by the vehicle's air bag diagnostic system when the installation procedure is completed and the vehicle is returned to the customer who requested the work to be performed or when ownership is intended to be transferred;

(C) A counterfeit air bag, air bag cover, or some other object that is installed in a motor vehicle in order to mislead or deceive an owner or operator of the motor vehicle into believing that a functional air bag has been installed; or

(D) An air bag subject to the prohibitions of 49 U.S.C. § 30120(j).

(b) A person who does any of the following is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $1,000 nor more than $5,000, or confined in a regional jail for not more than one year, or both fined and confined: *Provided*, That if the violation results in the serious bodily injury or death of any person, the person in violation of this section is guilty of a felony, and, upon conviction thereof, shall be fined not less than $2,500 nor more than $10,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned:

(1) Knowingly import, manufacture, sell, offer for sale, install, or reinstall in a motor vehicle, a counterfeit air bag, a nonfunctional air bag, or an object that does not comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) for the make, model, and year of the motor vehicle;

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(2) Knowingly sell, offer for sale, install, or reinstall in any motor vehicle a device that causes a motor vehicle's diagnostic system to inaccurately indicate that the motor vehicle is equipped with a properly functioning air bag; or

(3) Knowingly sell, lease, trade or transfer a motor vehicle if the person knows that a counterfeit air bag, a nonfunctional air bag, or an object that does not comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) for the make model, and year of the motor vehicle has been installed as part of the motor vehicle's inflatable restraint system.

(c) This section does not apply to an owner or employee of a motor vehicle dealership or the owner of a vehicle who, before the sale of the vehicle, does not have knowledge that the vehicle's air bag, or another component of the vehicle's supplemental restraint system, is counterfeit or nonfunctioning.

(d) Nothing in this section shall be construed as to limit the liability in a civil action of any person who violates the provisions of this section.

(e) Nothing in this section shall be construed as to create a duty that, before the sale of a vehicle, an owner or employee of a motor vehicle dealership or the owner of a vehicle inspect a vehicle in possession of the dealership or owner to determine whether the air bag, or another component of the vehicle's supplemental restraint system is counterfeit or nonfunctional.

(f) The provisions of this section do not apply where:

(1) An individual who disables an airbag in a passenger vehicle owned by him or her and which is used exclusively for his or her personal use;

(2) An individual renders assistance in disabling an airbag in a passenger vehicle which is used exclusively for personal use; and

(3) An individual sells a passenger vehicle used exclusively for his or her personal use with an airbag he or she knows to be disabled, and the individual selling the passenger vehicle discloses in writing to the buyer that the airbag of the vehicle is disabled.

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