WEST VIRGINIA CODE: §17c-25-6

§17C-25-6. Interpretation and use of chemical test.

(a)(1) Upon trial for the offense of operating an aircraft in this state while under the influence of alcohol, controlled substances, or drugs, or upon the trial of any civil or criminal action arising out of acts alleged to have been committed by any person operating an aircraft while under the influence of alcohol, controlled substances, or drugs, evidence of the amount of alcohol in the person's blood at the time of the arrest or of the acts alleged, as shown by a chemical analysis of his or her breath, blood, or urine, is admissible if the sample or specimen was taken within two hours from and after the time of arrest or of the acts alleged, and shall give rise to the following presumption or have the following effect: Evidence that there was, at that time, four-hundredths of one percent or more by weight of alcohol in his or her blood, is prima facie evidence that the person was under the influence of alcohol.

(2) Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per 100 cubic centimeters of blood.

(b) A chemical analysis of a person's breath, blood, or urine, in order to give rise to the presumption or to have the effect provided for in subsection (a) of this section, shall be performed in accordance with methods and standards approved by the state Bureau for Public Health. A chemical analysis of blood or urine to determine the alcoholic concentration of blood shall be conducted by a qualified laboratory or by the scientific laboratory of the criminal identification bureau of the State Police.

(c) The provisions of this article shall not limit the introduction in any administrative or judicial proceeding of any other competent evidence bearing on the question of whether the person was under the influence of alcohol, controlled substances, or drugs.

WV Legislature