WEST VIRGINIA CODE CHAPTER 17c ARTICLE 6

WV Legislature

§17C-6-1. Speed limitations generally; penalty.

(a) No person may drive a vehicle on a highway at a speed greater than is reasonable and prudent under the existing conditions and the actual and potential hazards. In every event speed shall be controlled as necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highways in compliance with legal requirements and the duty of all persons to use due care.

(b) Where no special hazard exists that requires lower speed for compliance with subsection (a) of this section, the speed of any vehicle not in excess of the limits specified in this section or established as authorized in this section is lawful, but any speed in excess of the limits specified in this subsection or established as authorized in this section is unlawful. The following speed limits apply:

(1) Fifteen miles per hour in a school zone during school recess or while children are going to or leaving school during opening or closing hours. A school zone is all school property, including school grounds and any street or highway abutting the school grounds and extending 125 feet along the street or highway from the school grounds and, in the case of school property not abutting a street or highway but accessed through a right-of-way granted for entrance to school property, a school zone established by an engineering study conducted by the Division of Highways is all school property, including school grounds and any property within the access right-of-way, and extending 125 feet along the street or highway from the entrance to the access right-of-way. The West Virginia Division of Highways shall erect signage indicating the place of entry and exit of each school zone. Upon a formal vote and a written request by a county board of education, governing board of a public charter school, or governing body of a private school to expand a school zone to a road that is adjacent to school property or from the entrance to an access right-of-way, the West Virginia Division of Highways shall expand the school zone by erecting new signage indicating the expanded school zone's location and speed limit within 90 days of receiving the request: *Provided*, That the school zone may not be expanded more than 125 feet along an adjacent road unless the division determines that the additional extension is needed and necessary for the safety of the school children. The speed restriction does not apply to vehicles traveling on a controlled-access highway which is separated from the school or school grounds by a fence or barrier approved by the Division of Highways. For purposes of this subdivision, the term "school property" includes any public school, public charter school, and any private school that requests the Division of Highways to designate a school zone;

(2) Twenty-five miles per hour in any business or residence district; and

(3) Fifty-five miles per hour on open country highways, except as otherwise provided by this chapter.

The speeds set forth in this section may be altered as authorized in §17C-6-2 and §17C-6-3 of this code.

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(c) The driver of every vehicle shall, consistent with the requirements of subsection (a) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(d) The speed limit on controlled access highways and interstate highways, where no special hazard exists that requires a lower speed, shall be not less than 55 miles per hour and the speed limits specified in subsection (b) of this section do not apply.

(e) Unless otherwise provided in this section, any person who violates the provisions of this section 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 within two years thereafter, shall be fined not more than $500: *Provided*, That if the third or subsequent conviction is based upon a violation of the provisions of this section where the offender exceeded the speed limit by 15 miles per hour or more, then upon conviction, shall be fined not more than $500 or confined in jail for not more than six months, or both fined and confined.

(f) Any person who violates the provisions of subdivision (1), subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $500: *Provided*, That if the conviction is based upon a violation of the provisions of subdivision (1), subsection (b) of this section where the offender exceeded the speed limit by 15 miles per hour or more in the presence of one or more children, then upon conviction, shall be fined not less than $100 nor more than $500 or confined in jail for not more than six months, or both fined and confined: *Provided, however*, That if the signage required by subdivision (1), subsection (b) of this section is not present in the school zone at the time of the violation, then any person who violates said provision is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $25.

(g) If an owner or driver is arrested under the provisions of this section for the offense of driving above the posted speed limit on a controlled access highway or interstate highway and if the evidence shows that the motor vehicle was being operated at 10 miles per hour or less above the speed limit, then, upon conviction thereof, that person shall be fined not more than $5, plus court costs.

(h) Any person operating a commercial motor vehicle engaged in the transportation of coal on the coal resource transportation road system who violates subsection (a), (b), or (c) of this section shall, upon conviction, be subject to fines in triple the amount otherwise provided in subsection (e) of this section.

(i) If an owner or driver is convicted under the provisions of this section for the offense of driving above the speed limit on a controlled access highway or interstate highway of this state and if the evidence shows that the motor vehicle was being operated at 10 miles per

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hour or less above the speed limit, then notwithstanding the provisions of §17B-3-4 of this code, a certified abstract of the judgment on the conviction may not be transmitted to the Division of Motor Vehicles or, if transmitted, may not be recorded by the division: *Provided*, That the provisions of this subsection do not apply to conviction of owners or drivers who have been issued a commercial driver's license as defined in chapter 17E of this code if the offense was committed while operating a commercial vehicle.

(j) If an owner or driver is convicted in another state for the offense of driving above the maximum speed limit on a controlled access highway or interstate highway and if the maximum speed limit in the other state is less than the maximum speed limit for a comparable controlled access highway or interstate highway in this state, and if the evidence shows that the motor vehicle was being operated at 10 miles per hour or less above what would be the maximum speed limit for a comparable controlled access highway or interstate highway in this state, then notwithstanding the provisions of §17B-3-4 of this code, a certified abstract of the judgment on the conviction may not be transmitted to the Division of Motor Vehicles or, if transmitted, may not be recorded by the division, unless within a reasonable time after conviction, the person convicted has failed to pay all fines and costs imposed by the other state: *Provided*, That the provisions of this subsection do not apply to conviction of owners or drivers who have been issued a commercial driver's license as defined in chapter 17E of this code, if the offense was committed while operating a commercial vehicle.

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§17C-6-2. Establishment of state speed zones.

Whenever the state road commissioner shall determine upon the basis of an engineering and traffic investigation that any speed limit set forth in this article is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a highway, said commissioner may determine and declare a reasonable and safe speed limit thereat which shall be effective at all times or during hours of daylight or darkness or at such other times as may be determined when appropriate signs giving notice thereof are erected at such intersection or other place or part of the highway.

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§17C-6-3. When local authorities may alter speed limits.

(a) At intersection. -- Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that the speed permitted under this chapter at any intersection is greater than is reasonable or safe under the conditions found to exist at such intersection, such local authority subject to subsection (e) of this section shall determine and declare a reasonable and safe speed limit thereat, which shall be effective at all times or during hours of daylight or darkness or at such other times as may be determined when appropriate signs giving notice thereof are erected at such intersection or upon the approaches thereto.

(b) Authority to increase twenty-five mile limit. -- Local authorities in their respective jurisdictions may in their discretion, but subject to subsection (e) of this section, authorize by ordinance higher speeds than those stated in section one of this article upon through highways or upon highways or portions thereof where there are no intersections or between widely spaced intersections, which higher speed shall be effective at all times or during hours of daylight or at such other times as may be determined when signs are erected giving notice of the authorized speed, but local authorities shall not have authority to modify or alter the basic rule set forth in subsection (a), section one of this article or in any event to authorize by ordinance a speed in excess of fifty-five miles per hour.

(c) Authority to decrease fifty-five mile limit. -- Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that the speed under this chapter upon open country highway outside a business or residence district is greater than is reasonable or safe under the conditions found to exist upon such street or highway, the local authority may determine and declare a reasonable and safe limit thereon but in no event less than thirty-five miles per hour and subject to subsection (e) of this section, which reduced limit shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.

(d) Authority to decrease twenty-five mile limit. -- A municipality may in its discretion, but subject to subsection (e) of this section, authorize by ordinance lower speeds than those stated in subdivision (2), subsection (b), section one of this article upon local dedicated rights-of-way in a residential district or portions thereof, which lower speed shall be effective at all times or during hours of daylight or at such other times as may be determined when signs are erected giving notice of the authorized speed.

(e) Alteration of limits on state highways in municipalities. -- Alteration of limits on state highways or extensions thereof in a municipality by local authorities shall not be effective until such alteration has been approved by the commissioner of highways.

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§17C-6-3a. Minimum speed regulations; penalty.

(a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(b) Whenever the commissioner or local authorities within their respective jurisdiction determine on the basis of an engineering and traffic investigation that slow speeds on any part of the highway consistently impede the normal and reasonable movement of traffic, the commissioner or such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

(c) Any person who violates the provisions of this section 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 within two years thereafter, shall be fined not more than $500.

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§17C-6-4. Special speed limitations on vehicles not designed for carrying passengers and equipped with pneumatic tires.

Subject to all other speed restrictions of this chapter no person shall drive a vehicle not designed for carrying passengers and equipped with pneumatic tires at a speed in excess of:

(1) Twenty miles per hour in any business district;

(2) Twenty-five miles per hour in any residence district;

(3) Forty miles per hour on open country highway;

(4) Trucks licensed at eight thousand pounds gross vehicle weight or less shall be permitted the same speed as passenger cars.

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§17C-6-5. Special speed limitations; penalty.

(a) No person shall drive any vehicle equipped with other than pneumatic tires at a speed greater than a maximum of ten miles per hour.

(b) No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such structure is signposted as provided in this section.

(c) The commissioner of highways upon request from any local authority shall, or upon its own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it shall thereupon find that such structure cannot with safety to itself withstand vehicles traveling at the speed otherwise permissible under this chapter, the commissioner shall determine and declare the maximum speed of vehicles which such structure can withstand, and shall cause or permit suitable signs stating such maximum speed to be erected and maintained at a distance of one hundred feet before each end of such structure.

(d) Upon the trial of any person charged with a violation of this section, proof of said determination of the maximum speed by said commissioner and the existence of said signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure.

(e) Any person violating the provisions of this section 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.

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§17C-6-6. Charging violations; rule in civil actions.

(a) In every charge of violation of any speed regulations in this chapter the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the speed applicable within the district or at the location and in the event charge shall also be made of violation of any other provision of this chapter, the complaint and the summons or notice to appear shall also specify such other offense alleged to have been committed.

(b) The provision of this chapter declaring speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

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§17C-6-7. Prima facie evidence of speed by devices employing microwaves or reflected light; placing of signs relative to radar or laser.

The speed of a motor vehicle may be proved by evidence obtained by use of any device designed to measure and indicate or record the speed of a moving object by means of microwaves or reflected light, when such evidence is obtained by members of the State Police, by police officers of incorporated municipalities in classes one, two and three, as defined in chapter eight-a of this code, by police officers of incorporated class four municipalities except upon controlled access or partially controlled access highways, and by the sheriff and his or her deputies. The evidence so obtained shall be accepted as prima facie evidence of the speed of the vehicle: Provided, That the evidence of speed is obtained and detected by a certified law enforcement officer who has completed training for speed measuring devices used to obtain the speed of the motor vehicle: Provided, however, That the Governor's Committee on Crime, Delinquency and Correction shall, on or before January 1, 2012, establish or certify an eight-hour training and certification program and standards for speed measuring device training that certified law enforcement officers who utilize speed measuring devices must complete or otherwise satisfy in order for any evidence of speed detected by a speed measuring device put forward by the officer to be accepted of prima facie evidence. All certified law enforcement officers must have completed or otherwise satisfied the requirements of this section prior to January 1, 2013.

In order to inform and educate the public generally that speed of motor vehicles operating within the state is being tested by radar or laser mechanisms, the Division of Highways shall locate and place suitable and informative stationary and movable signs at strategic points on and along highways in each county of the state giving notice to the public that such radar or laser mechanisms are in use.

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§17C-6-7a. Prohibition of the use of traffic law photo-monitoring devices to detect or prove traffic law violations.

(a) As used in this section "traffic law photo-monitoring device" means an electronic system consisting of a photographic, video, or electronic camera and a means of sensing the presence of a motor vehicle that automatically produces photographs, videotape, or digital images of the vehicle, its operator, or its license plate.

(b) No police officer may utilize a traffic law photo-monitoring device to determine compliance with, or to detect a violation of, a municipal or county ordinance or any provision of this code that governs or regulates the operation of motor vehicles.

(c) A violation of a municipal or county ordinance or any provision of this code that governs or regulates the operation of motor vehicles may not be proved by evidence obtained by the use of a traffic law photo-monitoring device.

(d) The provisions of this section do not prohibit the use of any device designed to measure and indicate the speed of a moving object by means of microwaves or reflected light to obtain evidence to prove the speed of a motor vehicle pursuant to section seven of this article.

(e) The provisions of this section do not prohibit use of a traffic law photo-monitoring device for any other lawful purposes other than to obtain evidence to prove violations of municipal or county ordinances or any provision of this code governing or regulating the operation of motor vehicles.

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§17C-6-8. Racing on streets and highways prohibited; legislative findings; penalties; mandatory revocation of licenses.

The Legislature hereby determines and finds that the racing of motor vehicles on the public streets and highways of this state, whether within or in excess of the lawful speed limit (much of which racing is commonly referred to as "illegal street racing"), is extremely dangerous to life, limb, and property, and that such racing is an ever increasing problem. It is, therefore, hereby declared to be the public policy of this state to prohibit all forms of such racing on the public streets and highways, and to provide criminal penalties for, and require the revocation of, the operator's or chauffeur's license or nonresident privilege to drive, of those persons who are convicted of engaging in or aiding or abetting such racing.

(a) It is unlawful for any person to engage in, or aid or abet by serving as lookout or timer or in any other capacity whatever, any speed race, as defined herein, on any public street or highway in this state. For the purposes of this subdivision, "speed race" means:

(1) The operation of a motor vehicle in speed acceleration competition with another motor vehicle or motor vehicles; or

(2) The operation of a motor vehicle in speed acceleration competition against time; or

(3) The operation of a motor vehicle in speed competition with another motor vehicle, or motor vehicles where speed exceeds the lawful speed limit.

(b) Any person who violates the provisions of subdivision (a) of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be punished for a first offense by a fine of not less than $50 nor more than $100; and for a second offense by a fine of not less than $50 nor more than $500, or by imprisonment for not less than six days nor more than 60 days, or by both such fine and imprisonment; and for a third and each subsequent offense by a fine of not less than $100 nor more than $1000, or by imprisonment for not less than 60 days nor more than four months, or by both such fine and imprisonment. For the purposes of this section, a forfeiture of bail or collateral deposited to secure such person's appearance in court, which forfeiture has not been vacated, shall be equivalent to a final conviction. If at the time of any violation of the provisions of subdivision (a) of this section by any person as an operator of a motor vehicle, such person was not entitled to operate a motor vehicle in this state because his or her operator's or chauffeur's license, or privilege to drive in this state if such person be a nonresident, had earlier been suspended or revoked, then in addition to the offense, penalties, and mandatory revocation provided for in this section, the provisions of §17B-4-3 of this code shall be applicable.

(c) Whenever a person is convicted for a violation of the provisions of subdivision (a) of this section, which conviction has become final, the Commissioner of the Division of Motor Vehicles shall in addition to the penalties hereinbefore provided, forthwith:

(1) For a first offense, revoke the operator's or chauffeur's license of such person, or such

person's privilege to drive in this state if he or she be a nonresident, for a period of six months;

(2) For a second offense occurring within a two-year period, revoke the operator's or chauffeur's license of such person, or such person's privilege to drive in this state if he or she be a nonresident, for a period of two years; or

(3) For a third or any subsequent offense occurring within a five-year period, revoke the operator's or chauffeur's license of such person, or such person's privilege to drive in this state if he or she be a nonresident, for a period of five years.

Whenever a person is convicted as aforesaid for a second, third, or subsequent offense which occurred while such person's operator's or chauffeur's license, or privilege to drive in this state if he or she be a nonresident, was revoked pursuant to the provisions of this subdivision, the period or periods of mandatory revocation for such second, third, or subsequent offense shall be cumulative and shall run consecutively. If a person's junior or probationary operator's license is revoked in accordance with the provisions of this subdivision, such person may not apply for a regular operator's or chauffeur's license until he or she reaches 18 years of age or until the period of revocation has elapsed, whichever event shall last occur. Notwithstanding the provisions of §17B-3-8 of this code, any person whose operator's or chauffeur's license, or privilege to drive in this state if he or she be a nonresident, is revoked, under the provisions of this subdivision, may, following the period or periods of revocation, immediately apply for and obtain a new operator's or chauffeur's license or nonresident privilege to drive, as the case may be, if and only if the Commissioner of the Division of Motor Vehicles is satisfied, after investigation of the character, habits, and driving ability of such person, that it will be safe to permit such person to drive a motor vehicle on the public streets and highways. Any period of revocation imposed under the provisions of this subdivision shall be computed from the date of such revocation.

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§17C-6-9. Slow-moving vehicle emblem.

(a) All farm machinery and other machinery including all road construction machinery except when guarded by flagmen or flares, designed to operate at twenty-five miles per hour or less, traveling on a public highway during day or night shall display a triangular slow-moving emblem on the rear of the vehicle.

(b) The commissioner shall adopt standards and specifications for design and the position of mounting the slow- moving vehicle emblem, as well as requirements for certification of conformance. The requirements of such emblem shall be in addition to any lighting devices required by law.

(c) The use of this emblem shall be restricted to the use specified in subsection (a) and its use on any other type of vehicle or as a clearance marker on wide machinery or on stationary objects on the highway is prohibited.

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§17C-6-10. Enforcement of article with respect to operations of commercial motor vehicles.

In addition to enforcement by officers and other persons authorized by law, commercial vehicle enforcement officers of the Public Service Commission of West Virginia may enforce the provisions of this article as they relate to the operation of commercial motor vehicles.

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§17C-6-11. Special speed limitations when meeting or overtaking waste service vehicles; penalty.

(a) No person shall drive a motor vehicle and meet or overtake from either direction a stopped waste service vehicle at a speed in excess of fifteen miles per hour.

(b) For purposes of this section, "waste service vehicle" means any garbage collection vehicle, including a vehicle collecting recyclables or yard waste, which is used for curbside collection, makes frequent stops and is not fully automated.

(c) The speed limitation set forth in subsection (a) of this section applies only under the following circumstances:

(1) The waste service vehicle is identifiable as a waste service vehicle based on the vehicle configuration or markings on the vehicle;

(2) The waste service vehicle operator is giving a visual signal by means of a stationary sign to warn of the presence of workers or must use flashing lights as permitted in this code to caution other drivers; and

(3) The waste service vehicle is not located on a private driveway, controlled access highway, interstate highway, turnpike or road or highway with a center line and more than two lanes.

(d) Any person who violates the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $300. If the person convicted of violating subsection (a) exceeded the speed limit by fifteen miles per hour or more or caused serious injury or death to a service vehicle worker, then the person shall be fined not less than $300 nor more than $1,000 or confined in jail for not more than one year, or both confined and fined.

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