WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1993

ENROLLED

Com. Sub. for
HOUSE BILL No. 2098

(By Delegate Mr. Speaker, Mr. Chambers,
and Del. Bittrick & Kessel

Passed March 16, 1993

In Effect 90 Days From Passage
AN ACT to amend article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section forty-nine, relating to the mandatory use of safety belts in the front seat of passenger vehicles; mandating the use of safety belts for all passengers in the back seat of passenger vehicles who are under the age of eighteen years; defining the term "passenger vehicle" for purposes of said section; creating exceptions for certain disabled persons and United States rural postal service carriers; providing a penalty for a violation of said section; limiting the enforcement of such violation to a secondary action when the driver of a motor vehicle has been detained for probable cause of violating another section of this code; providing that evidence of a violation of this section is not admissible to prove negligence, contributory negligence or comparative negligence or to mitigate damages; exception; when certain damages may be mitigated; establishing procedure for reducing certain damages; prohibiting the entry of points on a driver's record for a violation of this section; mandating the governor's highway safety program, in cooperation with other governmental
agencies, to initiate and conduct safety courses and educational programs encouraging compliance with safety belt usage laws; and clarifying the effect of this section on existing provisions governing the use of child passenger safety devices.

Be it enacted by the Legislature of West Virginia:

That article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section forty-nine, to read as follows:

ARTICLE 15. EQUIPMENT.

§17C-15-49. Operation of vehicles with safety belts; exception; penalty; civil actions; educational program by department of public safety.

(a) Effective the first day of September, one thousand nine hundred ninety-three, 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 eighteen years of age, and any passenger in the front seat of such 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 ten passengers or less, including the driver, except that such 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 shall apply to all passenger vehicles manufactured after the first day of January, one thousand nine hundred sixty-seven, and being 1968 models and newer.

(b) The required use of safety belts as provided herein 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 such safety belt if the condition is duly certified by
a physician who shall state the nature of the disability
as well as the reason such restraint is inappropriate. The
division of motor vehicles shall adopt rules, in accor-
dance with the provisions of chapter twenty-nine-a 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 not more than twenty-five dollars.
No court costs or other fees shall be assessed for a
violation of this section. Enforcement of this section
shall be accomplished only as a secondary action when
a driver of a passenger vehicle has been detained for
probable cause of violating another section of this code.

(d) A violation of this section is not admissible as
evidence of negligence or contributory negligence or
comparative negligence in any civil action or proceeding
for damages, and shall not be admissible in mitigation
of damages: Provided, That the court may, upon motion
of the defendant, conduct an in camera hearing to
determine whether an injured party’s failure to wear a
safety belt was a proximate cause of the injuries
complained of. Upon such a finding by the court, the
court may then, in a jury trial, by special interrogatory
to the jury, determine (1) that the injured partv failed
to wear a safety belt and (2) that the failure to wr the
safety belt constituted a failure to mitigate damages.
The trier of fact may reduce the injured party’s recovery
for medical damages by an amount not to exceed five
percent thereof. In the event the plaintiff stipulates to
the reduction of five percent of medical damages, the
court shall make the calculations and the issue of
mitigation of damages for failure to wear a safety belt
shall not be presented to the jury. In all cases, the actual
computation of the dollar amount reduction shall be
determined by the court.

(e) Notwithstanding any other provision of this code
to the contrary, no points may be entered on any driver’s
(f) Commencing the first day of July, one thousand
nine hundred ninety-three, the governor's highway
safety program, in cooperation with the division of
public safety and any other state departments or
agencies and with county and municipal law-enforce-
ment 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.

(g) Nothing contained in this section shall be
construed to abrogate or alter the provisions of section
forty-six of this article, relating to the mandatory use
of child passenger safety devices.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 23rd day of March, 1993.

Governor