WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1995

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ENROLLED

Concurrent Substitute for
SENATE BILL NO. 202

(By Senators WIEDEBLOCH; MUNNAUGH)

PASSED March 14, 1995
In Effect 90 Days From Passage
ENROLLED
COMMITEE SUBSTITUTE
FOR
Senate Bill No. 202
(SENATORS WIEDEBUSCH AND MACNAUGHTAN, original sponsors)
[Passed March 11, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact sections one and three-a, article six, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section two, article nineteen of said chapter, all relating to establishing speed limitations generally; defining the misdemeanor offense of driving in excess of the established speed limits and providing penalties therefor; prescribing the penalty for driving less than ten miles per hour above the posted speed limit on a controlled access highway or interstate highway; describing when a certified abstract of a judgment of conviction shall not be transmitted or shall not be recorded by the division of motor vehicles if a person is convicted of driving above the speed limit on a controlled access highway or interstate highway; establishing minimum speed regulations; defining the misdemeanor offense of driving a motor vehicle at such a slow
speed as to impede traffic, and providing penalties therefor; describing offenses by persons owning or controlling vehicles; and providing, under certain circumstances, for an owner present in a vehicle to be arrested for a traffic violation rather than the driver.

Be it enacted by the Legislature of West Virginia:

That sections one and three-a, article six, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section two, article nineteen of said chapter be amended and reenacted, all to read as follows:

ARTICLE 6. SPEED RESTRICTIONS.

§17C-6-1. Speed limitations generally; penalties for violation of speed limits in school zones.

1 (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 so controlled as may be 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.

9 (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 hereinafter authorized is lawful, but any speed in excess of the limits specified below in this subsection or established as hereinafter authorized is unlawful.

16 (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 such school grounds and extending one hundred twenty-five feet along such street or highway from the school grounds. Such 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 state road commissioner;

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

(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 sections two and three of this article.

(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 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 fifty-five miles per hour and the speed limits specified in subsection (b) of this section do not apply.

(e) Any person who violates the provisions of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars: Provided, That any person who violates the provisions of this section after having been previously convicted under the provisions of this section for a prior offense which occurred within the preceding one-year period, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than two hundred dollars: Provided, however, That any person who violates the provisions of this section after having been previously convicted under the provisions of this section for two or more prior offenses which occurred within the preceding two-year period, is guilty of a misdemeanor,
and, upon conviction thereof, shall be fined not more
than five hundred dollars or confined in jail for not more
than six months, or both: Provided further, That any
person who violates subdivision (1) of subsection (b) of
this section is guilty of a misdemeanor, and, upon
conviction thereof, shall be fined not less than one
hundred dollars nor more than five hundred dollars, or
shall be fined not less than one hundred dollars nor more
than five hundred dollars and confined in jail for not
more than six months, or both, for a violation of said
subdivision after having been previously convicted for
one or more violations of said subdivision which oc-
curred within the preceding two-year period.

(f) If an owner or driver is arrested under the provi-
sions 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 shall show that
the motor vehicle was being operated at less than ten
miles per hour above said speed limit, then, upon convic-
tion thereof, such person shall be fined not more than
five dollars, plus court costs.

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 shall show that
the motor vehicle was being operated at less than ten
miles per hour above said speed limit, then notwith-
standing the provisions of section four, article three,
chapter seventeen-b of this code, a certified abstract of
the judgment on such conviction shall not be transmitted
to the department of motor vehicles.

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 such other state is less
than the maximum speed limit for a comparable con-
trolled access highway or interstate highway in this
state, and if the evidence shall show that the motor
vehicle was being operated at less than ten miles per hour 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 section four, article three, chapter seventeen-b of this code, a certified abstract of the judgment on such conviction shall not be transmitted to the department of motor vehicles, or, if transmitted, shall not be recorded by the department, unless within a reasonable time after conviction, the person convicted has failed to pay all fines and costs imposed by the other state.

§17C-6-3a. Minimum speed regulations.

(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 one hundred dollars: Provided, That any person who violates the provisions of this section after having been previously convicted under the provisions of this section for a prior offense which occurred within the preceding one year period, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than two hundred dollars: Provided, however, That any person who violates the provisions of this section after having been previously convicted under the provisions of this section for two or more prior offenses which occurred within the

27 preceding two year period, is guilty of a misdemeanor,
28 and, upon conviction thereof, shall be fined not more
29 than five hundred dollars or confined in jail for not more
30 than six months, or both.

ARTICLE 19. PARTIES, PROCEDURE ON ARREST AND REPORTS IN
CRIMINAL CASES.

§17C-19-2. Offenses by persons owning or controlling vehi-
cles; owner present in vehicle to be arrested
rather than driver for certain traffic violations.

1 It is unlawful for the owner, or any other person,
2 employing or otherwise directing the driver of any
3 vehicle to require or knowingly to permit the operation
4 of such vehicle upon a highway in any manner contrary
5 to law.

6 If the owner of a motor vehicle is present in the vehicle
7 at a time when another driver is operating the vehicle
8 upon the highways of this state: (1) With defective or
9 improper equipment in violation of the provisions of
10 article fifteen of this chapter; (2) in violation of the
11 weight, height, length or width provisions of article
12 seventeen of this chapter; (3) with improper registration
13 in violation of the provisions of article three, chapter
14 seventeen-a of this code; or (4) with an expired vehicle
15 inspection decal or certificate in violation of the provi-
16 sions of article sixteen of this chapter, the owner rather
17 than the driver shall be arrested for any violation
18 enumerated herein in lieu of an arrest of the driver. If
19 the owner of the vehicle is not present therein, then the
20 driver shall be arrested for any violation enumerated in
21 this section.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 24th day of March 1995.

Governor