

HB 4712

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENROLLED

FILED
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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Committee Substitute

for

House Bill 4712

BY DELEGATES HOLSTEIN, HANSHAW (MR. SPEAKER), T.

HOWELL, J. CANNON, CHIARELLI, VANCE, PARSONS,

HECKERT, AND AKERS

[Passed March 14, 2026; in effect 90 days from
passage (June 12, 2026)]

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1 AN ACT to amend and reenact §17C-5-2 of the Code of West Virginia, 1931, as amended, relating
2 to the creation of Baylea's Law and driving under the influence; providing that a person
3 who drives a vehicle in an impaired state and with deliberate disregard for the safety of
4 others and proximately causes the death of another is guilty of a felony; establishing
5 penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-2. Driving under influence of alcohol, controlled substances, or drugs; penalties.

1 (a) Definitions. —

2 (1) "Impaired state" means a person:

3 (A) Is under the influence of alcohol;

4 (B) Is under the influence of any controlled substance;

5 (C) Is under the influence of any other drug or inhalant substance;

6 (D) Is under the combined influence of alcohol and any controlled substance or any other
7 drug; or

8 (E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or
9 more, by weight.

10 (2) "Bodily injury" means injury that causes substantial physical pain, illness, or any
11 impairment of physical condition.

12 (3) "Controlled substance" has the meaning provided in §60A-1-101 of this code.

13 (4) "Serious bodily injury" means bodily injury that creates a substantial risk of death, that
14 causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or
15 impairment of the function of any bodily organ.

16 (5) "Test and lock program" means the Motor Vehicle Test and Lock Program, established
17 in §17C-5A-3a and administered by the Division of Motor Vehicles.

18 (b)(1) Any person who drives a vehicle in this state while he or she is in an impaired state

19 and does so with deliberate disregard for the safety of others, as defined in §17C-5-1 of this code,
20 and such impaired state and deliberate disregard for the safety of others proximately causes the
21 death of any person, including an embryo or fetus as defined in §61-2-30 of this code, is guilty of
22 a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not
23 less than five nor more than 30 years and shall be fined not less than \$2,000 nor more than
24 \$10,000, and shall have his or her license to operate a motor vehicle revoked by the
25 Commissioner of the Division of Motor Vehicles for life: *Provided*, That any death charged under
26 this subdivision must occur within one year of the offense: *Provided further*, That upon conviction
27 for a violation of this subdivision, the sentence is mandatory, and not eligible for suspension
28 pursuant to the provisions of §25-4-6 of this code, or an order for home incarceration pursuant to
29 the provisions of §62-11B-1 *et seq.* of this code. The amendments to this section enacted during
30 the 2026 regular legislative session shall be known as "Baylea's Law".

31 (2) Any person who drives a vehicle in this state while he or she is in an impaired state,
32 and such impaired state proximately causes the death of any person, including an embryo or fetus
33 as defined in §61-2-30 of this code, is guilty of a felony and, upon conviction thereof, shall be
34 imprisoned in a state correctional facility for not less than three nor more than 15 years and shall
35 be fined not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate
36 a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of 10
37 years or for a period of time conditioned on participation in the test and lock program in
38 accordance with §17C-5A-3a of this code: *Provided*, That any death charged under this
39 subsection must occur within one year of the offense: *Provided, however*, That if the person has
40 previously been convicted under this section, the person shall have his or her license to operate
41 a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a
42 period of time conditioned on participation in the test and lock program in accordance with §17C-
43 5A-3a of this code.

44 (c) Any person who drives a vehicle in this state while he or she is in an impaired state,

45 and such impaired state proximately causes serious bodily injury to any person, including an
46 embryo or fetus as defined in §61-2-30 of this code, other than himself or herself, is guilty of a
47 felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less
48 than two nor more than 10 years and shall be fined not less than \$1,000 nor more than \$3,000,
49 and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the
50 Division of Motor Vehicles for a period of five years or for a period of time conditioned on
51 participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*,
52 That if the person has previously been convicted under this section, the person shall have his or
53 her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor
54 Vehicles for life or for a period of time conditioned on participation in the test and lock program in
55 accordance with §17C-5A-3a of this code.

56 (d) Any person who drives a vehicle in this state while he or she is in an impaired state,
57 and such impaired state proximately causes a bodily injury to any person other than himself or
58 herself, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not
59 less than one day nor more than one year and shall be fined not less than \$200 nor more than
60 \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner
61 of the Division of Motor Vehicles for a period of two years or for a period of time conditioned on
62 participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*,
63 That if the person has previously been convicted under this section, the person shall have his or
64 her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor
65 Vehicles for life or for a period of time conditioned on participation in the test and lock program in
66 accordance with §17C-5A-3a of this code. Any jail term imposed pursuant to this subsection shall
67 include actual confinement of not less than 24 hours: *Provided, however*, That a person
68 sentenced pursuant to this subsection shall receive credit for any period of actual confinement he
69 or she served upon arrest for the subject offense.

70 (e) Any person who drives a vehicle on any public highway or private road in this state:

(1) while he or she is in an impaired state; or (2) while he or she is in an impaired state but has an alcohol concentration in his or her blood of less than fifteen hundredths of one percent, by weight, is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for up to six months and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(f) Any person who drives a vehicle on any public highway or private road in this state while he or she has an alcohol concentration in his or her blood of fifteen hundredths of one percent or more, by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than six months, which jail term is to include actual confinement of not less than 24 hours, and shall be fined not less than \$200 nor more than \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code. A person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(g) Any person who, being a habitual user of narcotic drugs or amphetamines, or any derivative thereof, drives a vehicle on any public highway or private road in this state is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day nor more than six months, which jail term is to include actual confinement of not less than 24 hours, and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months. A person sentenced pursuant to this subsection shall receive credit for any

97 period of actual confinement he or she served upon arrest for the subject offense.

98 (h) Any person who knowingly permits his or her vehicle to be driven on any public highway
99 or private road in this state by any other person who is in an impaired state is guilty of a
100 misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months
101 and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to
102 operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a
103 period of six months or for a period of time conditioned on participation in the test and lock
104 program in accordance with §17C-5A-3a of this code.

105 (i) Any person who knowingly permits his or her vehicle to be driven on any public highway
106 or private road in this state by any other person who is a habitual user of narcotic drugs or
107 amphetamines, or any derivative thereof, is guilty of a misdemeanor and, upon conviction thereof,
108 shall be confined in jail for not more than six months and shall be fined not less than \$100 nor
109 more than \$500, and shall have his or her license to operate a motor vehicle revoked by the
110 Commissioner of the Division of Motor Vehicles for a period of six months.

111 (j) (1) Any person under the age of 21 years who drives a vehicle on any public highway
112 or private road in this state while he or she has an alcohol concentration in his or her blood of two
113 hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by
114 weight, for a first offense under this subsection is guilty of a misdemeanor and, upon conviction
115 thereof, shall be fined not less than \$25 nor more than \$100, and have his or her license to operate
116 a motor vehicle suspended by the Commissioner of the Division of Motor Vehicles for a period of
117 60 days or for a period of time conditioned on participation in the test and lock program in
118 accordance with §17C-5A-3a of this code. For a second or subsequent offense under this
119 subsection, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined
120 in jail for 24 hours and shall be fined not less than \$100 nor more than \$500, and shall have his
121 or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor
122 Vehicles for a period of one year or until the person's 21st birthday, whichever period is longer,

123 or for a period of time conditioned on participation in the test and lock program in accordance with
124 §17C-5A-3a of this code. A person who is charged with a first offense under the provisions of this
125 subsection may move for a continuance of the proceedings, from time to time, to allow the person
126 to participate in the test and lock program as provided in §17C-5A-3a of this code. Upon
127 successful completion of the program, the court shall dismiss the charge against the person and
128 expunge the person's record as it relates to the alleged offense. In the event the person fails to
129 successfully complete the program, the court shall proceed to an adjudication of the alleged
130 offense. A motion for a continuance under this subsection may not be construed as an admission
131 or be used as evidence.

132 (2) (A) Notwithstanding subdivision (1) of this subsection, a person shall have his or her
133 license to operate a motor vehicle suspended or revoked for a minimum period of one year or for
134 a period of time conditioned on participation in the test and lock program in accordance with §17C-
135 5A-3a of this code, if the person:

136 (i) Has previously been convicted under this subsection and is subsequently convicted of
137 an offense under another subsection of this section; or

138 (ii) Is convicted under this subsection and has previously been convicted of an offense
139 under another subsection of this section.

140 (B) Nothing in this subdivision permits a shorter period of license revocation, license
141 suspension, or participation in the test and lock program than is mandatory for the specific offense
142 for which the person is convicted.

143 (3) A person arrested and charged with an offense under the provisions of this subsection
144 or subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section may not also be charged with an
145 offense under this subsection arising out of the same transaction or occurrence.

146 (k) Any person who drives a vehicle on any public highway or private road in this state
147 while he or she is in an impaired state and has within the vehicle one or more other persons who
148 are unemancipated minors who have not yet reached their 16th birthday is guilty of a

149 misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor
150 more than 12 months, and shall be fined not less than \$200 nor more than \$1,000, and shall have
151 his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor
152 Vehicles for a period of one year or for a period of time conditioned on participation in the test and
153 lock program in accordance with §17C-5A-3a of this code: *Provided*, That such jail term shall
154 include actual confinement of not less than 48 hours: *Provided, however*, That a person
155 sentenced pursuant to this subsection shall receive credit for any period of actual confinement he
156 or she served upon arrest for the subject offense.

157 (l) A person convicted of an offense under this section, who has previously been convicted
158 of any offense under this section on one occasion, is guilty of a misdemeanor and, upon conviction
159 thereof, shall be confined in jail for not less than six months nor more than one year, may be fined
160 not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate a motor
161 vehicle revoked by the Commissioner of the Division of Motor Vehicles for 10 years or for a period
162 of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a
163 of this code: *Provided*, That if the second conviction is for an offense as described in subsections
164 (b), (c), or (d) of this section and the subsection creating the offense requires a period of
165 incarceration, period of license revocation, or fine that is greater than what is required for a
166 conviction under this subsection, the greater period of incarceration, period of revocation, or fine
167 shall be imposed: *Provided, however*, That this section does not apply to a second conviction that
168 is subject to a period of license revocation under subsection (j) of this section.

169 (m) A person convicted of an offense under this section, who has previously been
170 convicted of any offense under this section on two or more occasions, is guilty of a felony and,
171 upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two
172 nor more than five years, shall have his or her license to operate a motor vehicle revoked by the
173 Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on
174 participation in the test and lock program in accordance with §17C-5A-3a of this code, and the

175 court may, in its discretion, impose a fine of not less than \$3,000 nor more than \$5,000: *Provided*,
176 That if the third or subsequent conviction is for an offense as described in subsections (b), (c), or
177 (d) of this section and the subsection creating the offense requires a period of incarceration, period
178 of license revocation, or fine that is greater than what is required for a conviction under this
179 subsection, the greater period of incarceration, period of revocation, and fine shall be imposed:
180 *Provided, however*, That this section does not apply to a third or subsequent conviction that is
181 subject to a period of license revocation under subsection (j) of this section.

182 (n) For purposes of subsections (l) and (m) of this section relating to second, third, and
183 subsequent offenses, the following events shall be regarded as offenses and convictions under
184 this section:

185 (1) Any conviction under the provisions of subsection (b), (c), (d), (e), (f), (g), (h), or (i) of
186 this section, or under a prior enactment of this section, for an offense which occurred within the
187 10-year period immediately preceding the date of arrest in the current proceeding;

188 (2) Any conviction under a municipal ordinance of this state or any other state or a statute
189 of the United States or of any other state of an offense which has the same elements as an offense
190 described in subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section, which offense occurred
191 within the 10-year period immediately preceding the date of arrest in the current proceeding; and

192 (3) Any period of conditional probation imposed pursuant to §17C-5-2b of this code for
193 violation of subsection (e) of this section, which violation occurred within the 10-year period
194 immediately preceding the date of arrest in the current proceeding.

195 (o) A person may be charged in a warrant, indictment, or information for a second or
196 subsequent offense, as described in subsection (j), (l), or (m) of this section, if the person has
197 been previously arrested for, or charged with, a violation of this section which is alleged to have
198 occurred within the applicable time period for prior offenses, notwithstanding the fact that there
199 has not been a final adjudication of the charges for the alleged previous offense. In that case, the
200 warrant or indictment or information must set forth the date, location, and particulars of the

201 previous offense or offenses. No person may be convicted of a second or subsequent offense
202 under this section unless the conviction for the previous offense has become final, or the person
203 has previously had a period of conditional probation imposed pursuant to §17C-5-2b of this code.

204 (p) The fact that any person charged with a violation of subsection (b), (c), (d), (e), (f), or
205 (g) of this section, or any person permitted to drive as described under subsection (h) or (i) of this
206 section, is or has been legally entitled to use alcohol, a controlled substance, or a drug does not
207 constitute a defense against any charge of violating subsection (b), (c), (d), (e), (f), (g), (h), or (i)
208 of this section.

209 (q) The sentences provided in this section upon conviction for a violation of this article are
210 mandatory and are not subject to suspension or probation: *Provided*, That the court may apply
211 the provisions of §62-11A-1 *et seq.* of this code to a person sentenced or committed to a term of
212 one year or less for a first offense under this section: *Provided, however*, That the court may
213 impose a term of conditional probation pursuant to §17C-5-2b of this code to persons adjudicated
214 thereunder. An order for home detention by the court pursuant to the provisions of §62-11B-1 *et*
215 *seq.* of this code may be used as an alternative sentence to any period of incarceration required
216 by this section for a first or subsequent offense: *Provided further*, That for any period of home
217 incarceration ordered for a person convicted of a second offense under this section, electronic
218 monitoring shall be required for no fewer than five days of the total period of home confinement
219 ordered and the offender may not leave home for those five days notwithstanding the provisions
220 of §62-11B-5 of this code: *And provided further*, That for any period of home incarceration ordered
221 for a person convicted of a third or subsequent violation of this section, electronic monitoring shall
222 be included for no fewer than 10 days of the total period of home confinement ordered and the
223 offender may not leave home for those 10 days notwithstanding §62-11B-5 of this code.

224 (r) A person whose license to operate a motor vehicle has been revoked or suspended
225 by the Commissioner of the Division of Motor Vehicles pursuant to this section must complete a
226 comprehensive safety and treatment program as set forth in §17C-5A-3 of this code before his or

227 her license to operate a motor vehicle can be reinstated and his or her driving privileges restored.

228 (s) For any offense for which an alternative revocation period is permitted conditioned
229 upon participation in the test and lock program, an alternative sentence may not be imposed
230 without the consent of the driver.

231 (t) Upon entering the order of conviction for an offense under this section, or the imposition
232 of conditional probation as provided in §17C-5-2b of this code, the clerk of the court shall
233 immediately transmit the order to the Commissioner of the Division of Motor Vehicles.

Enr CS for HB 4712

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.


Clerk of the House of Delegates

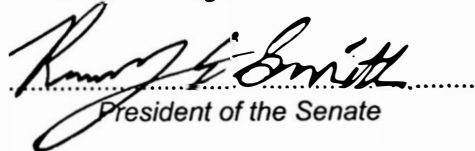

Clerk of the Senate

FILED
205 APR - 1 P 10:47
OFFICE OF THE SECRETARY OF STATE

Originated in the House of Delegates.

In effect 90 days from passage.


Speaker of the House of Delegates


President of the Senate

The within is approved this the 18th
Day of April, 2026.


Governor

PRESENTED TO THE GOVERNOR

MAR 25 2013

Time 3:30pm