



STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
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EARL RAY TOMBLIN  
GOVERNOR

March 17, 2015

**VIA HAND DELIVERY**

The Honorable Tim Armstead  
Speaker, West Virginia House of Delegates  
Room 228M, Building 1  
State Capitol Complex  
Charleston, WV 25305

Re: Enrolled House Bill No. 2664

Dear Speaker Armstead:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill No. 2664 for technical reasons.

First, the title of the bill is defective. *See State ex rel. Davis v. Oakley*, 156 W. Va. 154, 191 S.E.2d 610 (1972) (requiring bill title to provide notice of bill's contents). The title of the bill fails to note that the bill increases the criminal penalties for driving under the influence of alcohol, controlled substances or drugs causing death. Additionally, the title provides that the bill "eliminat[es] the misdemeanor offense of driving under the influence of alcohol, controlled substances or drugs." Section 17C-5-2(d) and § 17C-5-2(e) of the West Virginia Code provide for a misdemeanor offense of driving under the influence of alcohol, controlled substances or drugs. A suggested change to this clause of the title is to add the words "causing death" to the end of the clause.

Second, the enacting section of the bill is incorrect in form.

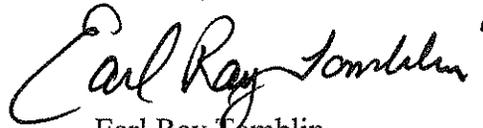
Third, the penalties provided for second and third offense violations of § 17C-5-2(b) set forth in § 17C-5-2(k) and § 17C-5-2(l) appear to be in conflict with § 17C-5-2(b). With respect to a second offense under § 17C-5-2(k), the penalty is less severe than that for a first offense under § 17C-5-2(b). For example, a person who commits the second offense of driving under the influence of alcohol, controlled substances or drugs causing serious bodily injury would only be convicted of a misdemeanor under § 17C-5-2(k); a first offense of the same crime is a felony under § 17C-5-2(b). Similarly, with respect to a third offense under § 17C-5-2(l), the imprisonment penalty is less severe than that for a first offense under § 17C-5-2(b). A suggested fix for this issue is to create a new subsection or subdivision that deals specifically with penalties

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for second and third offenses in violation of § 17C-5-2(b), along with removing the reference to subsection (b) in subsections (k) and (l) of § 17C-5-2. The bill's title will also require language added to cover these suggested revisions.

For the foregoing reasons, I disapprove and return this bill. I urge the Legislature to correct these technical issues, and to return the bill to my desk for signature.

Sincerely,

A handwritten signature in black ink that reads "Earl Ray Tomblin". The signature is written in a cursive style with a large initial "E" and "R".

Earl Ray Tomblin  
Governor

cc: The Hon. William P. Cole, III  
President of the Senate

The Hon. Natalie E. Tennant  
Secretary of State