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## PART THREE — TRAFFIC CODE

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### ARTICLE 313 Miscellaneous Rules

- 313.01 Unattended motor vehicle.
- 313.02 Backing a vehicle.
- 313.021 Safety turnout zones.
- 313.03 Driver's view and control to be unobstructed by load or persons.
- 313.04 Passengers in seat with operator.
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- 313.09 Opening door of vehicle on traffic side.
- 313.10 Boarding or alighting from vehicle.
- 313.11 Unlawful riding.
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- 313.13 Taking, injuring or tampering with vehicle.
- 313.14 Driving upon sidewalk, street lawn or curb.
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- 313.21 Motorized scooters.
- 313.22 Play streets.
- 313.23 Toy vehicles on streets.
- 313.24 Parades and assemblages.
- 313.25 Use of an electronic communications device without handheld features while driving.
- 313.99 Penalty.

#### CROSS REFERENCES

See sectional histories for similar State law.  
Obedience to traffic control devices – see Ord. Art. 313.01

#### **313.01 Unattended motor vehicle.**

No person driving or in charge of a motor vehicle shall permit it to set unattended on public, commercial or private property, without first stopping the engine, locking the ignition, removing the key, and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the side, such as to the curb or side of a street or highway. A "written warning" shall be given for the first offense on private property, but no such written warning is required for violations on public or commercial property. (WV Code 17C-14-1. Ord. 2013-01, passed 02-11-2013.) <sup>[313.01]</sup>

#### **313.02 Backing a vehicle.**

The driver of a vehicle shall not back the same unless such movement can be made with

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#### FOOTNOTES:

313.01 This section was previously codified as 349.01.

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reasonable safety and without interfering with other traffic. (WV Code 17C-14-2. Ord. 2013-01, passed 02-11-2013.) <sup>[313.02]</sup>

### **313.021 Safety turnout zones.**

“Safety turnout zones” shall be established where feasible on narrow (single lane) roads. The vehicle closest to the “safety turnout zone” shall pull into the turnout zone to allow safe passage of the other vehicle to eliminate where possible unsafe backing. Parking is prohibited in these turnout zones. (Ord. 2013-01, passed 02-11-2013.)

### **313.03 Driver’s view and control to be unobstructed by load or persons.**

- (a) No person shall drive a vehicle when it is so loaded as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.
- (b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his or her control over the driving mechanism of the vehicle. (WV Code 17C-14-4. Ord. 2013-01, passed 02-11-2013.) <sup>[313.03]</sup>

### **313.04 Passengers in seat with operator.**

No more than three persons including the operator shall ride or be permitted by such operator to ride in the seat with the operator of any motor vehicle while such motor vehicle is being operated on the streets or highways in the Corporation of Harpers Ferry; provided, however, that the limitation of this section shall not apply to a truck cab or truck crew compartment properly designed for the occupancy of four persons including the operator, and so designated on the registration card by the Division of Motor Vehicles. (WV Code 17C-14-5. Ord. 2013-01, passed 02-11-2013.) <sup>[313.04]</sup>

### **313.05 Passengers on running board.**

No passenger shall ride nor shall the operator permit any passenger to ride on the running boards of any motor vehicle while such vehicle is being operated on the streets or highways of this Corporation. (WV Code 17C-14-9. Ord. 2013-01, passed 02-11-2013.) <sup>[313.05]</sup>

### **313.06 Following authorized emergency vehicles.**

The driver of any vehicle, other than one on official business, may not follow any authorized emergency vehicle traveling in response to a fire alarm or other emergency closer than 500 feet or drive into or park such vehicle within the block where such authorized emergency vehicle has stopped in answer to a fire alarm or other emergency. (WV Code 17C-14-9. Ord. 2013-01, passed 02-11-2013.) <sup>[313.06]</sup>

### **313.061 Approaching authorized emergency vehicles.**

The driver of any vehicle approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is giving a signal by displaying alternately flashing red, red and white, blue, or red and blue lights, or amber or yellow warning lights, shall:

- (a) Proceed with due caution, yield the right-of-way by making a lane change not adjacent to that of the authorized emergency vehicle, if possible with regard to safety and traffic

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#### **FOOTNOTES:**

- 313.02 This section was previously codified as 349.02.
- 313.03 This section was previously codified as 349.03.
- 313.04 This section was previously codified as 349.04.
- 313.05 This section was previously codified as 349.05.
- 313.06 This section was previously codified as 349.06.

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conditions, if on a highway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle and reduce speed to a safe level for road conditions; or

- (b) Proceed with due caution, reduce the speed of the vehicle, maintaining a safe speed not to exceed fifteen miles per hour on any non-divided highway or street and twenty-five miles per hour on any divided highway depending on road conditions, if changing lanes would be impossible or unsafe. (WV Code 17C-14-9a. Ord. 2013-01, passed 02-11-2013.)

### **313.07 Driving over fire hose.**

No vehicle shall be driven over any unprotected hose of the Fire Department when laid down on any street or private driveway to be used at any fire or alarm of fire, without the consent of the Fire Department official in command. (WV Code 17C-14-10. Ord. 2013-01, passed 02-11-2013.) <sup>[313.07]</sup>

### **313.08 Funeral processions.**

(a) Definitions.

- (1) "Funeral director" and "funeral establishment" have the same meaning as set forth in West Virginia Code 30-6-4.
- (2) "Funeral procession" means two or more vehicles accompanying the body of a deceased person, or traveling to the church, chapel, cemetery, or other location at which the funeral service or final disposition is to be held, including a funeral lead vehicle or a funeral escort vehicle.
- (3) "Funeral lead vehicle" means any authorized law enforcement or non law enforcement motor vehicle or a funeral escort vehicle being used to lead and facilitate the movement of a funeral procession. A funeral hearse may serve as a funeral lead vehicle.
- (4) "Funeral escort" means a person or entity that provides escort services for funeral processions, including law-enforcement personnel and agencies.
- (5) "Funeral escort vehicle" means any motor vehicle that escorts a funeral procession.

(b) Funeral procession right-of-way.

- (1) Regardless of any traffic control device or right-of-way provisions prescribed by state or local ordinance, pedestrians and operators of all vehicles, except as stated in subsection (b)(3) of this section, shall yield the right-of-way to any vehicle which is part of a funeral procession being led by a funeral escort vehicle or a funeral lead vehicle.
- (2) When the funeral lead vehicle lawfully enters an intersection, either by reason of a traffic control device or at the direction of law-enforcement personnel, the remaining vehicles in the funeral procession may follow through the intersection regardless of any traffic control devices or right-of-way provisions prescribed by state or local law.
- (3) Funeral processions have the right-of-way at intersections regardless of traffic control devices subject to the following conditions and exceptions:
  - A. Operators of vehicles in a funeral procession shall yield the right-of-way to an approaching emergency vehicle giving an audible or visible signal;
  - B. Operators of vehicles in a funeral procession shall yield the right-of-way when directed to do so by a police officer; and

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**FOOTNOTES:**

313.07 This section was previously codified as 349.07.

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- C. Operators of vehicles in a funeral procession must exercise due care when participating in a funeral procession.
- (c) Driving in procession.
- (1) All vehicles comprising a funeral procession shall follow the preceding vehicle in the funeral procession as closely as is practical and safe.
  - (2) Any ordinance, law or rule stating that motor vehicles shall be operated to allow sufficient space enabling any other vehicle to enter and occupy such space without danger is not applicable to vehicles in a funeral procession.
- (d) Liability. Liability for any death, personal injury or property damage suffered on or after the first day of July, one thousand nine hundred ninety-nine, by any person in a funeral procession may not be imposed upon a funeral director or funeral establishment or their employees or agents unless the death, personal injury or property damage is proximately caused by the negligent or intentional act of a funeral director or funeral establishment or their employees or agents.
- (e) Equipment. All non law-enforcement funeral escort vehicles and funeral lead vehicles may be equipped with at least one lighted circulation flashing lamp exhibiting an amber or purple light or lens. Flashing amber or purple lights may be used when such vehicles are used in a funeral procession. (WV Code 17C-23. Ord. 2013-01, passed 02-11-2013.) <sup>[313.08]</sup>

### **313.09 Opening door of vehicle on traffic side.**

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than is necessary to load or unload passengers. (Ord. 2013-01, passed 02-11-2013.) <sup>[313.09]</sup>

### **313.10 Boarding or alighting from vehicle.**

No person shall board or alight from any vehicle while such vehicle is in motion. (Ord. 2013-01, passed 02-11-2013.) <sup>[313.10]</sup>

### **313.11 Unauthorized riding or jumping onto vehicles.**

No person shall ride on any vehicle upon any portion thereof not designated or intended for the use of passengers when the vehicle is in motion. This provision shall not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise. (Ord. 2013-01, passed 02-11-2013.) <sup>[313.11]</sup>

### **313.12 Squealing tires; cracking exhaust noises.**

No person shall unnecessarily race the motor of any vehicle and no person shall operate any motor vehicle, except in an emergency, in such a manner that the vehicle is so rapidly accelerated or started from a stopped position that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation, or whereby the tires of such vehicle squeal or leave tire marks on the roadway, commonly called "peeling." (Ord. 2013-01, passed 02-11-2013.) <sup>[313.12]</sup>

### **313.13 Injuring or tampering with vehicle.**

- (a) No person shall drive a vehicle, not his own, without consent of the owner thereof, and

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#### **FOOTNOTES:**

- 313.08 This section was previously codified as 349.08.  
313.09 This section was previously codified as 349.09.  
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with intent temporarily to deprive such owner of his possession of such vehicle, but without intent to steal the vehicle. The consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking or driving of such vehicle by the same or a different person. Any person who assists in, or is a party or accessory to or an accomplice in any such unauthorized taking or driving, shall also be guilty of a violation of this section. (WV Code 17A-8-4.)

- (b) No person either individually or in association with one or more persons shall willfully injure or tamper with any vehicle or break or remove any part or parts of or from a vehicle without the consent of the owner.
- (c) No person with intent to commit any malicious mischief, injury or other crime shall climb into or upon a vehicle whether it is in motion or at rest or with like intent attempt to manipulate any of the levers, starting mechanism, brakes or other mechanism or device of a vehicle while the same is at rest and unattended or with like intent set in motion any vehicle while the same is at rest and unattended. (WV Code 17A-8-6. Ord. 2013-01, passed 02-11-2013.) <sup>[313.13]</sup>

### **313.14 Driving upon sidewalk, street lawn or curb.**

- (a) No person shall drive any vehicle, other than a bicycle, upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.
- (b) No person shall drive a vehicle on a street lawn area or the curb of a street, except upon a permanent or duly authorized temporary driveway or when otherwise lawfully authorized. (Ord. 2013-01, passed 02-11-2013.) <sup>[313.14]</sup>

### **313.15 Shortcutting; avoiding traffic control devices.**

- (a) No driver shall leave the roadway and enter upon a public or private lot, street or any other property to avoid a traffic control device.
- (b) Any person who violates any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), or imprisoned in jail for not more than thirty days, or both fined and imprisoned. (Ord. 2013-01, passed 02-11-2013.) <sup>[313.15]</sup>

### **313.16 Coasting prohibited.**

The operator of any motor vehicle when traveling on a down grade on any street, alley or highway shall not coast with the gears of such vehicle in neutral. (Ord. 2013-01, passed 02-11-2013.) <sup>[313.16]</sup>

### **313.17 Driving through safety zone.**

No operator of a vehicle shall drive the same over or through a safety zone. (Ord. 2013-01, passed 02-11-2013.) <sup>[313.17]</sup>

### **313.18 Driving upon street posted as closed for repair.**

No person shall drive upon, along or across a street or highway, or any part thereof, which has been closed in the process of its construction, reconstruction or repair, and posted with appropriate signs by the authority having jurisdiction to close such street or highway. (Ord.

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#### **FOOTNOTES:**

- 313.12 This section was previously codified as 349.12.
- 313.13 This section was previously codified as 349.13.
- 313.14 This section was previously codified as 349.14.
- 313.15 This section was previously codified as 349.15.

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2013-01, passed 02-11-2013.) <sup>[313.18]</sup>

### **313.19 Obstruction of traffic.**

No person shall operate, stop, stand or park any motor vehicle or portion thereof on any street, or alley within the Corporation so as to obstruct or hinder the free flow of motor vehicle traffic, except in compliance with a lawful order of a police officer or in compliance with a traffic control sign, signal or marking or except if necessary by virtue of a natural disaster as defined in Section 909.01(c).

The Chief of Police may momentarily close a street or streets to the passage of traffic in order to facilitate and permit the presentation of or gathering for a special event of a transient nature otherwise permitted by the Corporation in order that there be an orderly traffic flow during the time allowed for such special event. (See Section 909.01(c).)

Violation of this section shall constitute a crime against the laws of the Corporation of Harpers Ferry and shall be punishable by a fine of one hundred dollars (\$100.00) and / or ten days imprisonment for each such violation. In the event of a violation of this section, each hour thereof shall be deemed to be a separate offense punishable as set forth; provided, however, this section shall not be deemed to be a separate offense punishable as set forth. (See Section 909.01(c).) (Ord. 2013-01, passed 02-11-2013.) <sup>[313.19]</sup>

### **313.20 Vehicle security.**

Every owner or registrant of a motor vehicle shall maintain security upon such vehicle as required by West Virginia Code Article 17D-2A, and no person shall knowingly drive or operate on any street within the Corporation any motor vehicle upon which security is required by such Article unless the security is provided, and violation of any of the provisions of West Virginia Code Article 17D-2A including failure to have a certificate of insurance, if required, shall constitute a violation under this section. (Ord. 2013-01, passed 02-11-2013.) <sup>[313.20]</sup>

### **313.21 Motorized scooters.**

- (a) Definitions. "Motorized scooter" means a scooter that is powered by a gasoline or electric motor.
- (b) Prohibited acts: exemptions.
- (1) The riding, operation, or other use of motorized scooters for transportation or recreational purposes, within or upon the streets, alleys, sidewalks, parking lots, and other property owned, leased, or controlled by the Corporation of Harpers Ferry and any of its boards, authorities or commissions is prohibited, unless the person using such motorized scooter has a valid drivers license under the provisions of the West Virginia Code.
  - (2) It shall not be an offense for a motorized scooter to be operated upon a designated parade route, when such person is a duly registered and recognized participant in any properly permitted parade, provided that such operation occurs in conjunction with said parade.
  - (3) The Federal government, the State of West Virginia, and the Corporation of Harpers Ferry are exempt from the provisions of this article.
  - (4) The provisions of this section do not apply to an Electric Personal Assistive

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#### **FOOTNOTES:**

- 313.16 This section was previously codified as 349.16.  
313.17 This section was previously codified as 349.17.  
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313.20 This section was previously codified as 349.20.

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Mobility Device as defined in Section 317.09 of the Code and as operated by a mobility impaired person as defined in Section 320.06(a)(1).

- (5) Any licensed driver permitted to operate a motorized scooter, under subsection (a) hereof, shall comply with the required safety equipment set forth in Section 311.29 of the Corporation of Harpers Ferry.

(c) Penalty.

- (1) Any violation shall constitute the commission of a misdemeanor criminal offense, and any officer of the police department of the Corporation of Harpers Ferry or any officer of any other police agency, exercising proper jurisdiction within the corporate limits of Harpers Ferry is hereby authorized and empowered to issue a citation and to charge any such person who commits a violation. Any person convicted of a first offense shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). Any person convicted of a second or further offense shall be fined not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250.00).
- (2) The parent or other guardian of any person violating the provisions of this article when such person shall not have attained the age of eighteen years shall not authorize or knowingly permit any such minor to violate any provision of this article. Any such authorization or if such parent or other guardian shall knowingly permit any such minor to violate the provisions of this article shall constitute a criminal violation and shall subject such parent or guardian to the criminal penalties set forth in this article. The citing and conviction of any parent or guardian shall not prohibit the citing and conviction of the operator of such motorized scooter. (Ord. 2013-01, passed 02-11-2013.)

### **313.22 Play streets.**

- (a) No person shall use the public streets, highways, alleys, thoroughfares, roads or avenues of the Corporation for the purpose of engaging in or playing any games, except public ways specifically set aside for such purposes and so indicated by signage.
- (b) When authorized signs are erected indicating any street or part thereof as a play street, no such person shall drive a vehicle upon any such street or highway or portion thereof except drivers of vehicles having business or whose residence is within such closed area, and then any such driver shall exercise the greatest care in driving upon any such street or highway or portion thereof. (Ord. 2013-01, passed 02-11-2013.)

### **313.23 Toy vehicles on streets.**

No person on roller skates or riding in or by means of any sled, toy vehicle, skateboard or similar device shall go upon any roadway except while crossing a street on a crosswalk and except on streets set aside as play streets. (Ord. 2013-01, passed 02-11-2013.)

### **313.24 Parades and assemblages.**

No person, group of persons or organization shall conduct or participate in any parade, assemblage or procession other than a funeral procession upon any street or highway, or block off any street or highway area, without first obtaining a permit from the Police Chief. Applications for such permit shall be made on such forms as may be prescribed and shall contain such information as is reasonably necessary to a fair determination of whether a permit should be issued. Applications shall be filed not less than three days before the time intended for such parade, procession or assemblage.

The permit may be refused or canceled if:

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- (a) The time, place, size or conduct of the parade including the assembly areas and route of march would unreasonably interfere with the public convenience and safe use of the streets and highways such as interfering with the movement of police vehicles, fire-fighting equipment or ambulance service to the immediate area or to other areas of the Corporation.
- (b) The parade would require the diversion of so great a number of police officers to properly police the line of movement, assembly area and areas contiguous thereto so as to deny normal police protection to the Corporation.
- (c) The parade would unreasonably interfere with another parade for which a permit has been issued.
- (d) The information contained in the application is found to be false, misleading or incomplete in any material detail.
- (e) An emergency such as a fire or storm would prevent the proper conduct of the parade.

The permit or any order accompanying it may limit or prescribe reasonable conditions, including the hours, the places of assembly and of dispersal, the route of march or travel and the streets, highways or portions thereof which may be used or occupied. (Ord. 2013-01, passed 02-11-2013.)

### **313.25 Use of an electronic communications device without handheld features while driving.**

- (a) Except as provided in subsection (c) of this section, a person may not drive or operate a motor vehicle on a public street or highway while:
  - (1) Texting; or
  - (2) Using a cell phone or other electronic communications device, unless the use is accomplished by hands-free equipment.
- (b) For purposes of this section, the following terms shall mean:
  - (1) "Cell phone" shall mean a cellular, analog, wireless or digital telephone.
  - (2) "Driving" or "operating a motor vehicle" means operating a motor vehicle, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays, but does not include operating a motor vehicle after the driver has moved the vehicle to the side of, or off, a highway and halted in a location where the vehicle can safely remain stationary.
  - (3) "Electronic communication device" means a cell telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device, two-way messaging device, electronic game, or portable computing device. For the purposes of this section, an "electronic communication device" does not include:
    - (4) "Engaging in a call" means when a person talks into or listens on an electronic communication device, but shall not include when a person dials or enters a phone number on a pushpad or screen to initiate the call.
    - (5) "Hands-free electronic communication device" means an electronic communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such electronic communication device, by which a user engages in a call without the use of either hand or both hands.
    - (6) "Hands-free equipment" means the internal feature or function of a hands-free electronic communication device or the attachment or addition to a hands-free electronic communication device by which a user may engage in a call or text without the use of either hand or both hands.



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- (7) “Texting” means manually entering alphanumeric text into, or reading text from, an electronic communication device, and includes, but is not limited to, short message service, e-mailing, instant messaging, a command or request to access a World Wide Web page or engaging in any other form of electronic text retrieval or entry, for present or future communication. For purposes of this section, “texting” does not include the following actions:
- A. Reading, selecting or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device by the pressing the device in order to initiate or receive a phone call or using voice commands to initiate or receive a telephone call;
  - B. Inputting, selecting or reading information on a global positioning system or navigation system; or
  - C. Using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smart phones, citizens band radios or music players, for a purpose that is not otherwise prohibited in this section.
- (8) “Using a cell phone or other electronic communication device” means holding in a person’s hand or hands an electronic communication device while:
- A. Viewing or transmitting images or data;
  - B. Playing games;
  - C. Composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages or other electronic data; or
  - D. Engaging in a call.
- (c) Subsection (a) of this section shall not apply to:
- (1) A law-enforcement officer, a firefighter, an emergency medical technician, a paramedic or the operator of an authorized emergency vehicle in the performance of their official duties;
  - (2) A person using an electronic communication device to report to appropriate authorities a fire, a traffic accident, a serious road hazard, or a medical or hazardous materials emergencies; or
  - (3) The activation or deactivation of hands-free equipment or a function of hands-free equipment.
- (d) This section does not supersede or apply to:
- (1) Any person under the age of eighteen years with a level one or level two graduated driver’s license who operates a motor vehicle pursuant to §17B-2-3 (a) of the West Virginia Code, where texting is regulated per §17B-2-3a(2)(F).
  - (2) Any more restrictive provisions for drivers of commercial motor vehicles prescribed by the provisions of West Virginia Code Chapter 17E or federal law or rule.
- (e) Any person who violates the provisions of subsection (a) of this section is guilty of a traffic offense and, upon conviction thereof, shall for a first offense be fined \$100; for a second offense be fined \$200; and for a third or subsequent offense be fined \$300. No court costs or other fees shall be assessed for a violation of subsection (a) of this section.
- (f) Notwithstanding any other provision of West Virginia Code or these Codified Ordinances to the contrary, points may not be entered on any driver’s record maintained by the Division of Motor Vehicles as a result of a violation of this section, except for the third and subsequent convictions of the offense, for which three points shall be entered on any driver’s record maintained by the Division of Motor Vehicles.
- (g) Driving or operating a motor vehicle on a public street or highway while texting shall be

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enforced as a primary offense. Driving or operating a motor vehicle on a public street or highway while using a cell phone or other electronic communication device without hands-free equipment shall be enforced as a secondary offense until 1 July 2013, when it shall be enforced as a primary offense for purposes of citation. (WV Code 17C-14-15. Ord. 2013-07, passed 06-10-2013.)<sup>[313.25]</sup>

### **313.99 Penalty.**

- (a) General article penalty. Whoever violates any provision of this article for which no other penalty is provided shall be fined not more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).
- (b) Taking, injuring or tampering with vehicle. Whoever violates Section 313.13 shall, for a first offense, be fined not more than five hundred dollars (\$500.00) or imprisoned not more than thirty days, or both. (WV Code 17A-11-1.)
- (c) Vehicle security. Whoever violates Section 313.20 shall be fined not less than two hundred dollars (\$200.00) or more than five thousand dollars (\$5,000) or imprisoned not more than thirty days, or both. (WV Code 17D-2A-9.)

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### **FOOTNOTES:**

313.25 This section was previously codified as 349.21 (passed 12-10-2012). Recodified as 313.25 by Ord. 2013-01 (passed 02-11-2013).