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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1993

ENROLLED

Committee Substitute for
SENATE BILL NO. 133

(By Senators *Burdette, Mr. President, and*
Boley, By Request of the Executive)

PASSED April 10, 1993
In Effect 90 days from Passage

E N R O L L E D

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 133

(BY SENATORS BURDETTE, MR. PRESIDENT, AND BOLEY,
BY REQUEST OF THE EXECUTIVE)

[Passed April 10, 1993; in effect ninety days from passage.]

AN ACT to amend and reenact section six, article three, chapter seventeen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section twelve, all relating to motor vehicles; mandatory suspension for fraudulent use of driver license; and procedures.

Be it enacted by the Legislature of West Virginia:

That section six, article three, chapter seventeen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended; and that said article be further amended by adding thereto a new section, designated section twelve, all to read as follows:

**ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF
LICENSES.**

**§17B-3-6. Authority of division to suspend or revoke license;
hearing.**

1 (a) The division is hereby authorized to suspend the

2 driver's license of any person without preliminary
3 hearing upon a showing by its records or other
4 sufficient evidence that the licensee:

5 (1) Has committed an offense for which mandatory
6 revocation of a driver's license is required upon
7 conviction;

8 (2) Has by reckless or unlawful operation of a motor
9 vehicle, caused or contributed to an accident resulting
10 in the death or personal injury of another or property
11 damage;

12 (3) Has been convicted with such frequency of
13 serious offenses against traffic regulations governing
14 the movement of vehicles as to indicate a disrespect
15 for traffic laws and a disregard for the safety of other
16 persons on the highways;

17 (4) Is an habitually reckless or negligent driver of a
18 motor vehicle;

19 (5) Is incompetent to drive a motor vehicle;

20 (6) Has committed an offense in another state which
21 if committed in this state would be a ground for
22 suspension or revocation;

23 (7) Has failed to pay or has defaulted on a plan for
24 the payment of all costs, fines, forfeitures or penalties
25 imposed by a magistrate court or municipal court
26 within ninety days, as required by section two-a,
27 article three, chapter fifty or section two-a, article ten,
28 chapter eight of this code;

29 (8) Has failed to appear or otherwise respond before
30 a magistrate court or municipal court when charged
31 with a motor vehicle violation as defined in section
32 three-a of this article ; or

33 (9) Is under the age of eighteen and has withdrawn
34 either voluntarily or involuntarily from a secondary
35 school, as provided in section eleven, article eight,
36 chapter eighteen of this code.

37 (b) The driver's license of any person having his or
38 her license suspended shall be reinstated if:

39 (1) The license was suspended under the provisions
40 of subdivision (7), subsection (a) of this section and the
41 payment of costs, fines, forfeitures or penalties
42 imposed by the applicable court has been made; or

43 (2) The license was suspended under the provisions
44 of subdivision (8), subsection (a) of this section, and the
45 person having his or her license suspended has
46 appeared in court and has prevailed against the motor
47 vehicle violations charged;

48 (c) Any reinstatement of a license under subdivision
49 (1) or (2), subsection (b) of this section shall be subject
50 to a reinstatement fee designated in section nine of
51 this article.

52 (d) Upon suspending the driver's license of any
53 person as hereinbefore in this section authorized, the
54 division shall immediately notify the licensee in
55 writing, sent by certified mail, return receipt request-
56 ed, to the address given by the licensee in applying for
57 license, and upon his request shall afford him an
58 opportunity for a hearing as early as practical within
59 not to exceed twenty days after receipt of such request
60 in the county wherein the licensee resides unless the
61 division and the licensee agree that such hearing may
62 be held in some other county. Upon such hearing the
63 commissioner or his duly authorized agent may
64 administer oaths and may issue subpoenas for the
65 attendance of witnesses and the production of relevant
66 books and papers and may require a reexamination of
67 the licensee. Upon such hearing the division shall
68 either rescind its order of suspension or, good cause
69 appearing therefor, may extend the suspension of such
70 license or revoke such license.

**§17B-3-12. Mandatory suspension for fraudulent use of
driver's license.**

1 (a) The commissioner shall suspend for a period of
2 one year the driver's license of any person upon
3 receipt of a sworn affidavit from any law-enforcement
4 officer or employee of the division of motor vehicles
5 stating that the person committed any one of the
6 following acts:

7 (1) Displayed or caused or permitted to be displayed
8 to any law-enforcement officer or employee of the
9 division of motor vehicles or have in his or her
10 possession any canceled, revoked, suspended, fictitious
11 or fraudulently altered driver's license;

12 (2) Loaned or gave his or her driver's license to any
13 other person or knowingly permit the use thereof by
14 another for an unlawful or fraudulent purpose;

15 (3) Displayed or represented as one's own any
16 driver's license not issued to him or her; or

17 (4) Used a false or fictitious name or birth date on
18 any application for a driver's license or knowingly
19 made a false statement, knowingly concealed a mate-
20 rial fact or otherwise committed a fraud in making
21 application for a driver's license.

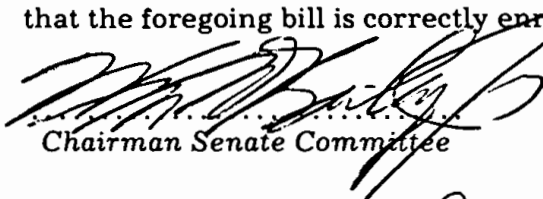
22 (b) For the purposes of this section, "driver's
23 license" means any permit, camera card, identification
24 card or driver's license issued by this state to a person
25 which authorizes the person to drive a motor vehicle
26 of a specific class or classes subject to any restriction
27 or endorsement contained thereon.

28 (c) No person shall have his or her driver's license
29 suspended under any provision of this section unless
30 he or she shall first be given written notice of such
31 suspension sent by certified mail, return receipt
32 requested, at least twenty days prior to the effective
33 date of the suspension. Within ten days of the receipt
34 of the notice of suspension, the person may submit a
35 written request by certified mail for a hearing and
36 request a stay of the suspension pending the results of
37 the hearing. Upon receipt of the request for a hearing
38 and request for a stay of the suspension, the commis-
39 sioner shall grant a stay of the suspension pending the
40 results of the hearing. If the commissioner shall after
41 hearing make and enter an order affirming the earlier
42 order of suspension, the person affected shall be
43 entitled to judicial review as set forth in chapter
44 twenty-nine-a of this code and, pending the appeal, the
45 court may grant a stay or supersedeas of such order.
46 If the person does not appeal the suspension or the

47 suspension is affirmed by the court, the person shall
48 surrender his or her driver's license or have the
49 license impounded in the manner set forth and subject
50 to the imposition of fees as provided in section nine of
51 this article.

52 (d) The suspended driver's license shall be reinstat-
53 ed following the period of suspension and upon
54 compliance with the conditions set forth in this
55 chapter.

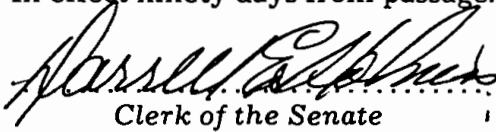
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

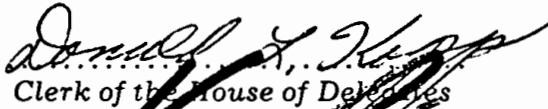

.....
Chairman Senate Committee

..... Ernest C. Moore
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

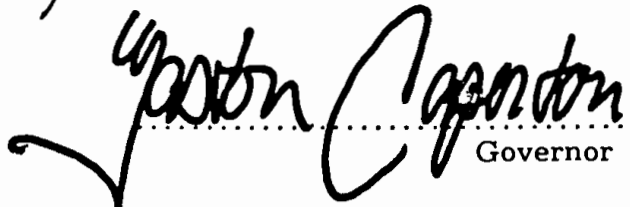

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved..... this the 6th.....
day of May....., 1993.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/23/93

Time 9:10 AM