

Senate Bill No. 519

(By Senators Laird, Beach, Unger, Klempa, Foster, Browning and
Plymale)

[Introduced February 6, 2012; referred to the Committee on
Transportation and Infrastructure; and then to the Committee on
the Judiciary.]

A BILL to repeal §17B-3-3c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §17B-3-14; and to amend and reenact §17B-4-3 of said code, all relating to the suspension or revocation of driver's licenses; making legislative findings; establishing a driver's license restoration program; waiving certain reinstatement requirements to restore driving privileges; reducing the period for suspension upon receipt of notice of driving while suspended for nondriving under the influence offenses; and granting rule-making authority.

Be it enacted by the Legislature of West Virginia:

That §17B-3-3c of the Code of West Virginia, 1931, as amended,

1 be repealed; that said code be amended by adding thereto a new
2 section, designated §17B-3-14; and to amend and reenact §17B-4-3 of
3 said code, all to read as follows:

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

5 **§17B-3-14. Legislative findings; license restoration program;**
6 **rulemaking.**

7 (a) The Legislature finds:

8 (1) That a growing number of drivers in West Virginia have
9 their driver's licenses suspended or revoked each year;

10 (2) That a majority of the suspension and revocation actions
11 undertaken by the Division of Motor Vehicles are for nondriving
12 related reasons including the nonpayment of citations and a variety
13 of other nonsafety related reasons;

14 (3) That there is a clear relationship between citizens having
15 a valid driver's license and the ability to gain and maintain
16 stable employment and other important matters affecting the quality
17 of life of citizens throughout the state; and

18 (4) That there are many areas within the state that are not
19 adequately served by public transportation that provide a
20 reasonable alternative to transportation by means other than a
21 privately owned vehicle requiring the operator to have a valid
22 driver's license.

23 (b) The division is hereby required to establish a driver's

1 license restoration program for state drivers who have driver's
2 licenses suspended pursuant to section three-a of this article upon
3 notice of a state court for failure to resolve a citation or unpaid
4 tickets. The program shall consist of the waiving of any fees or
5 other requirements for the reinstatement of a drivers's license or
6 the privilege to operate a motor vehicle based on an unresolved or
7 unpaid citation file and any driving while suspended or revoked for
8 a nondriving under the influence offense related to an unpaid
9 ticket more than ten years from the effective date of the
10 suspension. Any offense or file waived in accordance with this
11 section may not appear on the licensee's driving record.

12 (c) Notwithstanding any other provisions of this code to the
13 contrary, for the period from July 1, 2012, through and including
14 June 30, 2013, the Division of Motor Vehicles shall close the
15 unpaid ticket file and any driving while suspended or revoked for
16 a nondriving under the influence offense, created by an unpaid
17 ticket license suspension of any person whose driver's license or
18 privilege to operate a motor vehicle has been suspended or revoked
19 who presents verification of satisfaction by mail and pays a
20 reinstatement fee of \$25 in lieu of the reinstatement fee required
21 by section nine of this article. The division may waive any
22 remaining time on a suspension or revocation reinstated in
23 accordance with this subsection.

1 (d) A law-enforcement officer is authorized to bring any
2 driver to a magistrate or municipal judge if one is available if
3 the law-enforcement officer makes a determination that the driver
4 has more than three active unpaid citation files from separate
5 incidents.

6 (e) This section may not be construed to waive any requirement
7 for the retesting of a driver's vision, written or road skills if
8 an offender's driver's license has expired for more than six
9 months.

10 (f) The division may not waive any requirements or fees if the
11 waiver:

12 (1) Violates any federal laws or federal rules pertaining to
13 commercial drivers or other licensees;

14 (2) Disqualifies or jeopardize the ability of this state to
15 receive federal highway funding or highway safety funding; or

16 (3) Places this state in noncompliance with any interstate or
17 reciprocal agreements that may be in effect now or in the future.

18 (g) The commissioner may propose rules for legislative
19 approval, in accordance with the provisions of article three,
20 chapter twenty-nine-a of this code, to implement this section.

21 (h) Unless otherwise provided in this section, a suspension
22 under section three-a of this article will continue until the
23 person provides proof of compliance from the municipal, magistrate

1 or circuit court and pays the reinstatement fee as provided in
2 section nine of this article. The reinstatement fee is assessed
3 upon issuance of the order of suspension regardless of the
4 effective date of suspension.

5 **ARTICLE 4. VIOLATION OF LICENSE PROVISIONS.**

6 **§17B-4-3. Driving while license suspended or revoked; driving**
7 **while license revoked for driving under the influence**
8 **of alcohol, controlled substances or drugs, or while**
9 **having alcoholic concentration in the blood of eight**
10 **hundredths of one percent or more, by weight, or for**
11 **refusing to take secondary chemical test of blood**
12 **alcohol contents.**

13 (a) Except as otherwise provided in subsection (b) or (d) of
14 this section, any person who drives a motor vehicle on any public
15 highway of this state at a time when his or her privilege to do so
16 has been lawfully suspended or revoked by this state or any other
17 jurisdiction is, for the first offense, guilty of a misdemeanor
18 and, upon conviction thereof, shall be fined not less than \$100 nor
19 more than \$500; for the second offense, the person is guilty of a
20 misdemeanor and, upon conviction thereof, shall be fined not less
21 than \$100 nor more than \$500; for the third or any subsequent
22 offense, the person is guilty of a misdemeanor and, upon conviction
23 thereof, shall be confined in jail for a period of not less than

1 thirty days nor more than ninety days and shall be fined not less
2 than \$150 nor more than \$500.

3 (b) Any person who drives a motor vehicle on any public
4 highway of this state at a time when his or her privilege to do so
5 has been lawfully revoked for driving under the influence of
6 alcohol, controlled substances or other drugs, or any combination
7 thereof, or for driving while having an alcoholic concentration in
8 his or her blood of eight hundredths of one percent or more, by
9 weight, or for refusing to take a secondary chemical test of blood
10 alcohol content, is, for the first offense, guilty of a misdemeanor
11 and, upon conviction thereof, shall be confined in jail for a
12 period of not less than thirty days nor more than six months and
13 shall be fined not less than \$100 nor more than \$500; for the
14 second offense, the person is guilty of a misdemeanor and, upon
15 conviction thereof, shall be confined in jail for a period of not
16 less than six months nor more than one year and shall be fined not
17 less than \$1,000 nor more than \$3,000; for the third or any
18 subsequent offense, the person is guilty of a felony and, upon
19 conviction thereof, shall be imprisoned in a state correctional
20 facility for not less than one year nor more than three years and,
21 in addition to the mandatory prison sentence, shall be fined not
22 less than \$3,000 nor more than \$5,000.

23 (c) Upon receiving a record of the first or subsequent

1 conviction of any person under subsection (b) of this section upon
2 a charge of driving a vehicle while the license of that person was
3 lawfully suspended or revoked, the division shall extend the period
4 of the suspension or revocation for an additional period of six
5 months which may be served concurrently with any other suspension
6 or revocation. Upon receiving a record of the second or subsequent
7 conviction of any person under subsection (a) of this section upon
8 a charge of driving a vehicle while the license of that person was
9 lawfully suspended or revoked, the division shall extend the period
10 of the suspension or revocation for an additional period of ~~ninety~~
11 thirty days which may be served concurrently with any other
12 suspension or revocation.

13 (d) Any person who drives a motor vehicle on any public
14 highway of this state at a time when his or her privilege to do so
15 has been lawfully suspended for driving while under the age of
16 twenty-one years with an alcohol concentration in his or her blood
17 of two hundredths of one percent or more, by weight, but less than
18 eight hundredths of one percent, by weight, is guilty of a
19 misdemeanor and, upon conviction thereof, shall be confined in jail
20 for twenty-four hours or shall be fined not less than \$50 nor more
21 than \$500, or both.

22 Upon receiving a record of a first or subsequent conviction
23 under this subsection for a charge of driving a vehicle while the

1 license of that person was lawfully suspended or revoked, the
2 division shall extend the period of the suspension or revocation
3 for an additional period of six months which may be served
4 concurrently with any other suspension or revocation.

5 (e) An order for home detention by the court pursuant to the
6 provisions of article eleven-b, chapter sixty-two of this code may
7 be used as an alternative sentence to any period of incarceration
8 required by this section.

NOTE: The purpose of this bill concerns the suspension or revocation of driver's licenses. The bill makes legislative findings. The bill establishes a driver's license restoration program. The bill permits waiving certain reinstatement requirements to restore driving privileges. The bill reduces the period for suspension upon receipt of notice of driving while suspended for nondriving under the influence offenses from ninety to thirty days. The bill also grants rule-making authority.

§17B-3-14 is new; therefore, strike-throughs and underscoring have been omitted.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

This bill was recommended for introduction and passage during the Regular Session of the Legislature by the Division of Motor Vehicles.