

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 519

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

[Originating in the Committee on The Judiciary;
reported February 24, 2012.]

A BILL to amend the Code of West Virginia, 1931, as amended, 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 the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §17B-3-14; and that §17B-4-3 of said code be amended and reenacted, all to read as follows:

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

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

1 (a) The Legislature finds:

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

4 (2) That a majority of the suspension and revocation
5 actions undertaken by the Division of Motor Vehicles are for
6 nondriving- related reasons including the nonpayment of
7 citations and a variety of other nonsafety-related reasons;

8 (3) That there is a clear relationship between citizens
9 having a valid driver's license and the ability to gain and
10 maintain stable employment and other important matters
11 affecting the quality of life of citizens throughout the state;
12 and

13 (4) That there are many areas within the state that are
14 not adequately served by public transportation that provide

15 a reasonable alternative to transportation by means other
16 than a privately owned vehicle requiring the operator to
17 have a valid driver's license.

18 (b) The division is hereby required to establish a driver's
19 license restoration program for state drivers who have
20 driver's licenses suspended pursuant to section three-a of
21 this article upon notice of a state court for failure to resolve
22 a citation or unpaid tickets. The program shall consist of the
23 waiving of any fees or other requirements for the reinstate-
24 ment of a drivers's license or the privilege to operate a motor
25 vehicle based on an unresolved or unpaid nondriving under
26 the influence citation file and any driving while suspended
27 or revoked for a nondriving under the influence offense
28 related to an unpaid ticket more than ten years from the
29 effective date of the suspension. Any offense or file waived in
30 accordance with this section may not appear on the li-
31 censee's driving record.

32 (c) Notwithstanding any other provisions of this code to
33 the contrary, for the period from July 1, 2012, through and
34 including June 30, 2013, the Division of Motor Vehicles shall
35 close the unpaid ticket file and any driving while suspended
36 or revoked for a nondriving under the influence offense,

37 created by an unpaid ticket license suspension of any person
38 whose driver's license or privilege to operate a motor vehicle
39 has been suspended or revoked who presents verification of
40 satisfaction and pays a reinstatement fee of \$25 in lieu of the
41 reinstatement fee required by section nine of this article. The
42 division may waive any remaining time on a suspension or
43 revocation reinstated in accordance with this subsection. The
44 Division shall remove any unpaid ticket file from the
45 person's official driving record and shall waive any rein-
46 statement fee, provided that the information about the
47 tickets shall remain part of the driver's history in the
48 division's records. The division shall not revoke or suspend
49 for any conviction of driving while suspended or driving
50 while revoked unless the underlying offense was for a
51 driving while under the influence-related offense. The
52 conviction shall be recorded and two points will be assessed
53 for each conviction.

54 (d) This section may not be construed to waive any
55 requirement for the retesting of a driver's vision, written or
56 road skills if an offender's driver's license has expired for
57 more than six months.

58 (e) Notwithstanding any other provision of this section,
59 the division may not waive any requirements or fees if the
60 waiver:

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

63 (2) Disqualifies or jeopardize the ability of this state to
64 receive federal highway funding or highway safety funding;
65 or

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

69 (f) The commissioner may propose rules for legislative
70 approval, in accordance with the provisions of article three,
71 chapter twenty-nine-a of this code, to implement this
72 section.

73 (g) Unless otherwise provided in this section, a suspen-
74 sion under section three-a of this article will continue until
75 the person provides proof of compliance from the municipal,
76 magistrate or circuit court and pays the reinstatement fee as
77 provided in section nine of this article. The reinstatement fee
78 is assessed upon issuance of the order of suspension regard-
79 less of the effective date of suspension.

ARTICLE 4. VIOLATION OF LICENSE PROVISIONS.

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

1 (a) Except as otherwise provided in subsection (b) or (d)
2 of this section, any person who drives a motor vehicle on any
3 public highway of this state at a time when his or her
4 privilege to do so has been lawfully suspended or revoked by
5 this state or any other jurisdiction is, for the first offense,
6 guilty of a misdemeanor and, upon conviction thereof, shall
7 be fined not less than \$100 nor more than \$500; for the
8 second offense, the person is guilty of a misdemeanor and,
9 upon conviction thereof, shall be fined not less than \$100 nor
10 more than \$500; for the third or any subsequent offense, the
11 person is guilty of a misdemeanor and, upon conviction
12 thereof, shall be confined in jail for a period of not less than
13 thirty days nor more than ninety days and shall be fined not
14 less than \$150 nor more than \$500.

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

36 (c) Upon receiving a record of the first or subsequent
37 conviction of any person under subsection (b) of this section
38 upon a charge of driving a vehicle while the license of that
39 person was lawfully suspended or revoked, the division shall
40 extend the period of the suspension or revocation for an
41 additional period of six months which may be served
42 concurrently with any other suspension or revocation. Upon
43 receiving a record of the second or subsequent conviction of
44 any person under subsection (a) of this section upon a charge
45 of driving a vehicle while the license of that person was
46 lawfully suspended or revoked, the division shall extend the
47 period of the suspension or revocation for an additional
48 period of ~~ninety~~ thirty days which may be served concur-
49 rently with any other suspension or revocation.

50 (d) Any person who drives a motor vehicle on any public
51 highway of this state at a time when his or her privilege to do
52 so has been lawfully suspended for driving while under the
53 age of twenty-one years with an alcohol concentration in his
54 or her blood of two hundredths of one percent or more, by
55 weight, but less than eight hundredths of one percent, by
56 weight, is guilty of a misdemeanor and, upon conviction

57 thereof, shall be confined in jail for twenty-four hours or
58 shall be fined not less than \$50 nor more than \$500, or both.

59 Upon receiving a record of a first or subsequent conviction
60 tion under this subsection for a charge of driving a vehicle
61 while the license of that person was lawfully suspended or
62 revoked, the division shall extend the period of the suspension
63 sion or revocation for an additional period of six months
64 which may be served concurrently with any other suspension
65 or revocation.

66 (e) An order for home detention by the court pursuant to
67 the provisions of article eleven-b, chapter sixty-two of this
68 code may be used as an alternative sentence to any period of
69 incarceration 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 non driving 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.