

Senate Bill No. 521

(By Senators Laird, Palumbo, Kirkendoll, Cookman, Stollings,
Kessler (Mr. President), Snyder, Cann, Plymale, Williams, Miller
and Chafin)

[Introduced March 14, 2013; referred to the Committee on
Transportation and Infrastructure; and then to the Committee on
the Judiciary.]

**FISCAL
NOTE**

A BILL to amend and reenact §17B-3-3c and §17B-3-9 of the Code of
West Virginia, 1931, as amended; and to amend said code by
adding thereto a new section, designated §17B-3-9a, all
relating to creating an amnesty program for certain persons
with suspended licenses to allow reinstatement; establishing
a time period and certain procedures for the amnesty program;
creating exceptions to the amnesty period; making certain
technical corrections; requiring certain tickets amnestied
remain listed as unsatisfied on court records; requiring
certain suspension or revocation time remaining be waived in
certain situations; requiring a public awareness campaign

1 regarding the amnesty program; and providing for rule-making
2 authority.

3 *Be it enacted by the Legislature of West Virginia:*

4 That §17B-3-3c and §17B-3-9 of the Code of West Virginia,
5 1931, as amended, be amended and reenacted; and that said code be
6 amended by adding thereto a new section, designated §17B-3-9a, all
7 to read as follows:

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

9 **§17B-3-3c. Suspending license for failure to pay fines or**
10 **penalties imposed as the result of criminal**
11 **conviction or for failure to appear in court.**

12 (a) The division shall suspend the license of ~~any~~ a resident
13 of this state or the privilege of a nonresident to drive a motor
14 vehicle in this state upon receiving notice from a circuit court,
15 magistrate court or municipal court of this state, pursuant to
16 section ~~two-b,~~ two-a article three, chapter fifty of this code, ~~or~~
17 section two-b, article ten, chapter eight of ~~said~~ this code or
18 section seventeen, article four, chapter sixty-two of ~~said~~ this
19 code, that ~~such~~ the person has defaulted on the payment of costs,
20 fines, forfeitures, penalties or restitution imposed on the person
21 by the circuit court, magistrate court or municipal court upon
22 conviction for ~~any~~ a criminal offense by the date ~~such~~ the court

1 had required ~~such~~ the person to pay ~~the same,~~ or that ~~such~~ the
2 person has failed to appear in court when charged with ~~such~~ an
3 offense. For the purposes of this section; section ~~two-b,~~ two-a
4 article three, chapter fifty of said code; section two-b, article
5 ten, chapter eight of said code; and section seventeen, article
6 four, chapter sixty-two of said code, "criminal offense" ~~shall be~~
7 is defined as ~~any~~ a violation of the provisions of this code or the
8 violation of ~~any~~ a municipal ordinance ~~for which the violation~~
9 ~~thereof~~ which may result in a fine, confinement in jail or
10 imprisonment in a correctional facility of this state. ~~Provided,~~
11 ~~That any~~ A parking violation or other violation for which a
12 citation may be issued to an unattended vehicle ~~shall not be~~
13 ~~considered~~ is not a criminal offense for the purposes of this
14 section; section two-b, article ten, chapter eight of said code;
15 section ~~two-b,~~ two-a article three, chapter fifty of said code; or
16 section seventeen, article four, chapter sixty-two of said code.

17 (b) A copy of the order of suspension shall be forwarded to
18 ~~such~~ the person by certified mail, return receipt requested. No
19 order of suspension becomes effective until ten days after receipt
20 of a copy of ~~such~~ the order. The order of suspension shall advise
21 the person that because of the receipt of notice of the failure to
22 pay costs, fines, forfeitures or penalties, or the failure to
23 appear, a presumption exists that the person named in the order of

1 suspension is the same person named in the notice. The
2 ~~Commissioner~~ Office of Administrative Hearings' Chief Hearing
3 Examiner may grant an administrative hearing which substantially
4 complies with the requirements of the provisions of section two,
5 article five-a, chapter seventeen-c of this code upon a preliminary
6 showing that ~~a possibility exists that~~ it is possible the person
7 named in the notice of conviction is not the ~~same~~ person whose
8 license is being suspended. ~~Such~~ The request for hearing shall be
9 made within ten days after receipt of a copy of the order of
10 suspension. The sole purpose of this hearing ~~shall be~~ is for the
11 person requesting the hearing to present evidence that he or she is
12 not the person named in the notice. In the event the ~~Commissioner~~
13 ~~grants an administrative hearing,~~ the ~~Commissioner~~ Office of
14 Administrative Hearings' Chief Hearing Examiner grants an
15 administrative hearing, the Office of Administrative Hearings will
16 send notice to the commissioner and the commissioner shall stay
17 the license suspension pending the ~~Commissioner's~~ Chief Hearing
18 Examiner's order resulting from the hearing.

19 (c) A suspension under this section and section three-a of
20 this ~~chapter~~ article will continue until the person provides proof
21 of compliance from the municipal, magistrate or circuit court and
22 pays the reinstatement fee as provided in section nine of this
23 article: Provided, That proof of compliance is not required when

1 the provisions of section nine-a of this article are met. The
2 reinstatement fee is assessed upon issuance of the order of
3 suspension regardless of the effective date of suspension.

4 **§17B-3-9. Surrender and return of license not required.**

5 The division, upon suspending or revoking a license, may not
6 require that the license be surrendered to and be retained by the
7 division. The surrender of a license may not be a precondition to
8 the commencement and tolling of any applicable period of suspension
9 or revocation. ~~Provided, That~~ Before the license may be
10 reinstated, the licensee shall pay a fee of \$50, in addition to all
11 other fees and charges, which shall be collected by the division
12 and deposited in a special revolving fund to be appropriated to the
13 division for use in the enforcement of the provisions of this
14 section. A fee or charge assessed for a reinstatement of
15 suspension for failure to satisfy a citation or unpaid ticket ten
16 years old or older for which amnesty was granted under the
17 provision of section nine-a of this article is waived.

18 **§17B-3-9a. Amnesty program for certain licenses.**

19 (a) Notwithstanding any other provisions of this code to the
20 contrary, from October 1, 2013, until September 30, 2014, in
21 addressing whether a licensee is qualified for reinstatement, the
22 Division of Motor Vehicles shall treat all instances of failure to
23 satisfy a citation or unpaid ticket pursuant to section three-a or

1 three-c of this article or for driving while suspended or revoked
2 related to an unpaid citation or ticket as fully paid and complied
3 if the date of the unpaid citation or ticket is ten years old or
4 older: *Provided*, That the person does not hold a commercial
5 driver's license and the citation or ticket is not pertaining to an
6 offense related to the operation of a commercial motor vehicle as
7 defined in chapter seventeen-e of this code.

8 (b) All unpaid citations or tickets that are ten years old or
9 older will remain unpaid on the court's record despite the amnesty
10 provisions of subsection (a) of this section.

11 (c) The division shall waive any remaining time on a
12 suspension or revocation for a second or subsequent conviction of
13 subsection (a), section three, article four of this chapter if the
14 only underlying suspensions in effect at the time of the incident
15 were resolved through the amnesty program contained in this
16 section.

17 (d) This section does not waive any requirement for the
18 retesting of a driver's vision, written or road skills if an
19 offender's driver's license has expired for more than six months.

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

22 (1) Violates federal laws or federal rules pertaining to
23 commercial drivers or other licensees;

1 (2) Disqualifies or jeopardizes the ability of this state to
2 receive federal highway funding or highway safety funding; or

3 (3) Places this state in noncompliance with Interstate or
4 reciprocal agreements that may be in effect now or in the future.

5 (f) The division shall prepare and execute a public awareness
6 campaign to inform the public about the amnesty program contained
7 in this section and how the public can participate in the program.

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

NOTE: The purpose of this bill is to create an amnesty program for drivers with suspended licenses based on nonpayment of certain court fees in order to allow them to obtain their legal driver's license without payment of tickets ten years old or older.

§17B-3-9a 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.