

COMMITTEE SUBSTITUTE

FOR

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FOR

## **Senate Bill No. 521**

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

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[Originating in the Committee on the Judiciary;  
reported April 1, 2013.]

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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 or revoked licenses due to unpaid fines and assessments to allow reinstatement drivers' licenses; 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 and amounts remain due; requiring certain suspension or revocation time remaining be waived in certain situations; requiring a public awareness campaign regarding the amnesty program; and providing for emergency and standard rule-making authority.

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

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

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

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

- 1 (a) The division shall suspend the license of ~~any~~ a
- 2 resident of this state or the privilege of a nonresident to drive
- 3 a motor vehicle in this state upon receiving notice from a

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4 circuit court, magistrate court or municipal court of this  
5 state, pursuant to section ~~two-b~~ two-a, article three, chapter  
6 fifty of this code, ~~or~~ section two-b, article ten, chapter eight  
7 of ~~said~~ this code or section seventeen, article four, chapter  
8 sixty-two of ~~said~~ this code, that ~~such~~ the person has defaulted  
9 on the payment of costs, fines, forfeitures, penalties or  
10 restitution imposed on the person by the circuit court,  
11 magistrate court or municipal court upon conviction for ~~any~~  
12 a criminal offense by the date ~~such~~ the court had required  
13 ~~such~~ the person to pay ~~the same~~, or that ~~such~~ the person has  
14 failed to appear in court when charged with ~~such~~ an offense.  
15 For the purposes of this section; section ~~two-b~~ two-a, article  
16 three, chapter fifty of said code; section two-b, article ten,  
17 chapter eight of said code; and section seventeen, article  
18 four, chapter sixty-two of said code, “criminal offense” ~~shall~~  
19 ~~be~~ is defined as ~~any~~ a violation of the provisions of this code  
20 or the violation of ~~any~~ a municipal ordinance ~~for which the~~  
21 ~~violation thereof~~ which may result in a fine, confinement in  
22 jail or imprisonment in a correctional facility of this state:

23     Provided, That ~~any~~ a parking violation or other violation for  
24     which a citation may be issued to an unattended vehicle ~~shall~~  
25     ~~not be considered~~ is not a criminal offense for the purposes  
26     of this section; section two-b, article ten, chapter eight of  
27     said code; section ~~two-b~~ two-a, article three, chapter fifty of  
28     said code; or section seventeen, article four, chapter sixty-  
29     two of said code.

30           (b) A copy of the order of suspension shall be  
31     forwarded to ~~such~~ the person by certified mail, return receipt  
32     requested. No order of suspension becomes effective until  
33     ten days after receipt of a copy of ~~such~~ the order. The order  
34     of suspension shall advise the person that because of the  
35     receipt of notice of the failure to pay costs, fines, forfeitures  
36     or penalties, or the failure to appear, a presumption exists  
37     that the person named in the order of suspension is the same  
38     person named in the notice. The ~~Commissioner~~ Office of  
39     Administrative Hearings' Chief Hearing Examiner may grant  
40     an administrative hearing which substantially complies with  
41     the requirements of the provisions of section two, article

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42 five-a, chapter seventeen-c of this code upon a preliminary  
43 showing that ~~a possibility exists that~~ it is possible the person  
44 named in the notice of conviction is not the ~~same~~ person  
45 whose license is being suspended. ~~Such~~ The request for  
46 hearing shall be made within ten days after receipt of a copy  
47 of the order of suspension. The sole purpose of this hearing  
48 ~~shall be~~ is for the person requesting the hearing to present  
49 evidence that he or she is not the person named in the notice.  
50 In the event the ~~Commissioner grants an administrative~~  
51 ~~hearing, the Commissioner~~ Office of Administrative  
52 Hearings' Chief Hearing Examiner grants an administrative  
53 hearing, the Office of Administrative Hearings will send  
54 notice to the commissioner and the commissioner shall stay  
55 the license suspension pending the ~~Commissioner's~~ Chief  
56 Hearing Examiner's order resulting from the hearing.

57 (c) A suspension under this section and section three-a  
58 of this ~~chapter~~ article will continue until the person provides  
59 proof of compliance from the municipal, magistrate or circuit  
60 court and pays the reinstatement fee as provided in section

61     nine of this article: Provided, That proof of compliance is not  
62     required when the provisions of section nine-a of this article  
63     are met. The reinstatement fee is assessed upon issuance of  
64     the order of suspension regardless of the effective date of  
65     suspension.

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

1           The division, upon suspending or revoking a license,  
2     may not require that the license be surrendered to and be  
3     retained by the division. The surrender of a license may not  
4     be a precondition to the commencement and tolling of any  
5     applicable period of suspension or revocation. ~~Provided;~~  
6     ~~That~~ Before the license may be reinstated, the licensee shall  
7     pay a fee of \$50, in addition to all other fees and charges,  
8     which shall be collected by the division and deposited in  
9     a special revolving fund to be appropriated to the division  
10    for use in the enforcement of the provisions of this section.  
11    No fee or charge may be assessed for reinstatement of a  
12    suspension for failure to pay a citation or ticket five years old  
13    or older for which amnesty was granted under the provision

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14 of section nine-a of this article.

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

1           (a) Notwithstanding any other provisions of this code  
2 to the contrary, from October 1, 2013, until September  
3 30, 2014, in addressing whether a licensee is qualified for  
4 reinstatement, the Division of Motor Vehicles shall treat all  
5 instances of failure to satisfy payment requirements pursuant  
6 to section three-a or three-c of this article or for driving while  
7 suspended or revoked related solely due to failure to pay  
8 citations or tickets and shall treat such citations and tickets  
9 as fully paid and complied with if the date of imposition of  
10 the penalty for the unpaid citation or ticket was more than  
11 five years prior to the effective date of this section: Provided,  
12 That the person does not hold a commercial driver's license  
13 and the citation or ticket is not pertaining to an offense  
14 related to the operation of a commercial motor vehicle as  
15 defined in chapter seventeen-e of this code.

16           (b) All fines or costs assessed more than five years prior  
17 to the effective date of this section based upon traffic tickets

18 or citations will remain unpaid on the court's record despite  
19 the amnesty provisions of subsection (a) of this section.  
20 Any cost, fine, forfeiture, penalty, restitution or other money  
21 owed as indicated by the court would remain due.

22 (c) The division shall waive any remaining time on  
23 a suspension or revocation for a second or subsequent  
24 conviction of subsection (a), section three, article four of  
25 this chapter if the only underlying suspensions in effect at  
26 the time of the incident were resolved through the amnesty  
27 program contained in this section.

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

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

35 (1) Violates federal laws or federal rules pertaining to  
36 commercial drivers or other licensees;



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(2) Disqualifies or jeopardizes the ability of this state to

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receive federal highway funding or highway safety funding;

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or

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(3) Places this state in noncompliance with Interstate

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or reciprocal agreements that may be in effect now or in the

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future.

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(f) The division shall prepare and execute a public

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awareness campaign to inform the public about the amnesty

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program contained in this section and how the public can

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participate in the program.

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(g) The commissioner may promulgate emergency

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rules pursuant to the provisions of section fifteen, article

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three, chapter twenty-nine-a of this code and propose rules

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for legislative approval, in accordance with the provisions

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of article three, chapter twenty-nine-a of this code, to

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implement this section.

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(NOTE: The purpose of this bill is to create an amnesty program for drivers with suspended or revoked licenses based on non-payment of certain court fees in order to allow them to obtain their legal driver's license without having to pay citations or 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.)