

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 103

**FISCAL
NOTE**

BY SENATORS LAIRD, UNGER, ROMANO, KESSLER,

MILLER, SNYDER AND FACEMIRE

[Introduced January 13, 2016;

Referred to the Committee on Government Organization;

and then to the Committee on the Judiciary.]

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

Be it enacted by the Legislature of West Virginia:

1 That §17B-3-3c of the Code of West Virginia, 1931, as amended, be repealed; that said
 2 code be amended by adding thereto a new section, designated §17B-3-14; and that §17B-4-3 of
 3 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 have their driver’s licenses
 3 suspended or revoked each year;

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

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

10 (4) That there are many areas within the state that are not adequately served by public
 11 transportation that provide a reasonable alternative to transportation by means other than a
 12 privately owned vehicle requiring the operator to have a valid driver’s license.

13 (b) The division is hereby required to establish a driver’s license restoration program for

14 state drivers who have driver's licenses suspended pursuant to section three-a of this article upon
15 notice of a state court for failure to resolve a citation or unpaid tickets. The program shall consist
16 of the waiving of any fees or other requirements for the reinstatement of a driver's license or the
17 privilege to operate a motor vehicle based on an unresolved or unpaid citation file and any driving
18 while suspended or revoked for an offense other than driving under the influence related to an
19 unpaid ticket more than ten years from the effective date of the suspension. Any offense or file
20 waived in accordance with this section may not appear on the licensee's driving record.

21 (c) Notwithstanding any other provisions of this code to the contrary, for the period from
22 July 1, 2015, through and including June 30, 2016, the Division of Motor Vehicles shall close the
23 unpaid ticket file and any driving while suspended or revoked for an offense other than driving
24 under the influence, created by an unpaid ticket license suspension of any person whose driver's
25 license or privilege to operate a motor vehicle has been suspended or revoked who presents
26 verification of satisfaction by mail and pays a reinstatement fee of \$25 in lieu of the reinstatement
27 fee required by section nine of this article. The division may waive any remaining time on a
28 suspension or revocation reinstated in accordance with this subsection.

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

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

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

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

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

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

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

44 (h) Unless otherwise provided in this section, a suspension under section three-a of this
45 article will continue until the person provides proof of compliance from the municipal, magistrate
46 or circuit court and pays the reinstatement fee as provided in section nine of this article. The
47 reinstatement fee is assessed upon issuance of the order of suspension regardless of the
48 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) of this section, any person who
2 drives a motor vehicle on any public highway of this state at a time when his or her privilege to do
3 so has been lawfully suspended or revoked by this state or any other jurisdiction is, for the first
4 offense, guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100
5 nor more than \$500; for the second offense, the person is guilty of a misdemeanor and, upon
6 conviction thereof, shall be fined not less than \$100 nor more than \$500; for the third or any
7 subsequent offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be
8 confined in jail for a period of not less than thirty days nor more than ninety days and shall be
9 fined not less than \$150 nor more than \$500.

10 (b) Any person who drives a motor vehicle on any public highway of this state at a time
11 when his or her privilege to do so has been lawfully revoked for driving under the influence of

12 alcohol, controlled substances or other drugs, or any combination thereof, or for driving while
13 having an alcoholic concentration in his or her blood of eight hundredths of one percent or more,
14 by weight, or for refusing to take a secondary chemical test of blood alcohol content, is, for the
15 first offense, guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a
16 period of not less than thirty days nor more than six months and shall be fined not less than \$100
17 nor more than \$500; for the second offense, the person is guilty of a misdemeanor and, upon
18 conviction thereof, shall be confined in jail for a period of not less than six months nor more than
19 one year and shall be fined not less than \$1,000 nor more than \$3,000; for the third or any
20 subsequent offense, the person is guilty of a felony and, upon conviction thereof, shall be
21 imprisoned in a state correctional facility for not less than one year nor more than three years and,
22 in addition to the mandatory prison sentence, shall be fined not less than \$3,000 nor more than
23 \$5,000.

24 (c) Upon receiving a record of the first or subsequent conviction of any person under
25 subsection (b) of this section upon a charge of driving a vehicle while the license of that person
26 was lawfully suspended or revoked, the division shall extend the period of the suspension or
27 revocation for an additional period of six months which may be served concurrently with any other
28 suspension or revocation. Upon receiving a record of the second or subsequent conviction of any
29 person under subsection (a) of this section upon a charge of driving a vehicle while the license of
30 that person was lawfully suspended or revoked, the division shall extend the period of the
31 suspension or revocation for an additional period of ~~ninety~~ thirty days which may be served
32 concurrently with any other suspension or revocation.

33 (d) Any person who drives a motor vehicle on any public highway of this state at a time
34 when his or her privilege to do so has been lawfully suspended for driving while under the age of
35 twenty-one years with an alcohol concentration in his or her blood of two hundredths of one
36 percent or more, by weight, but less than eight hundredths of one percent, by weight, is guilty of
37 a misdemeanor and, upon conviction thereof, shall be confined in jail for twenty-four hours or shall

38 be fined not less than \$50 nor more than \$500, or both fined and confined.

39 Upon receiving a record of a first or subsequent conviction under this subsection for a
40 charge of driving a vehicle while the license of that person was lawfully suspended or revoked,
41 the division shall extend the period of the suspension or revocation for an additional period of six
42 months which may be served concurrently with any other suspension or revocation.

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

NOTE: The purpose of this bill is to make legislative findings, establish a driver's license restoration program, permit waiving certain reinstatement requirements to restore driving privileges, and reduce from ninety days to thirty days the period for suspension upon receipt of notice of driving while suspended for offenses other than driving under the influence. The bill also grants rule-making authority.

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