

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 138

**FISCAL
NOTE**

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

Be it enacted by the Legislature of West Virginia:

1 That §17B-3-3c and §17B-3-9 of the Code of West Virginia, 1931, as amended, be
 2 amended and reenacted; and that said code be amended by adding thereto a new section,
 3 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 resident of this state or the privilege of
 2 a nonresident to drive a motor vehicle in this state upon receiving notice from a circuit court,
 3 magistrate court or municipal court of this state, pursuant to section ~~two-b~~, two-a article three,
 4 chapter fifty of this code, ~~or~~ section two-b, article ten, chapter eight of ~~said this~~ code or section
 5 seventeen, article four, chapter sixty-two of ~~said this~~ code, that ~~such~~ the person has defaulted on
 6 the payment of costs, fines, forfeitures, penalties or restitution imposed on the person by the
 7 circuit court, magistrate court or municipal court upon conviction for ~~any~~ a criminal offense by the
 8 date ~~such~~ the court had required ~~such~~ the person to pay ~~the same~~, or that ~~such~~ the person has
 9 failed to appear in court when charged with ~~such~~ an offense. For the purposes of this section;
 10 section ~~two-b~~, two-a article three, chapter fifty of said code; section two-b, article ten, chapter

11 eight of said code; and section seventeen, article four, chapter sixty-two of said code, "criminal
12 offense" ~~shall be~~ is defined as ~~any~~ a violation of the provisions of this code or the violation of ~~any~~
13 a municipal ordinance ~~for which the violation thereof~~ which may result in a fine, confinement in
14 jail or imprisonment in a correctional facility of this state. ~~Provided, That any~~ A parking violation
15 or other violation for which a citation may be issued to an unattended vehicle ~~shall not be~~
16 ~~considered~~ is not a criminal offense for the purposes of this section; section two-b, article ten,
17 chapter eight of said code; section ~~two-b,~~ two-a article three, chapter fifty of said code; or section
18 seventeen, article four, chapter sixty-two of said code.

19 (b) A copy of the order of suspension shall be forwarded to ~~such~~ the person by certified
20 mail, return receipt requested. No order of suspension becomes effective until ten days after
21 receipt of a copy of ~~such~~ the order. The order of suspension shall advise the person that because
22 of the receipt of notice of the failure to pay costs, fines, forfeitures or penalties, or the failure to
23 appear, a presumption exists that the person named in the order of suspension is the same person
24 named in the notice. ~~The Commissioner~~ Office of Administrative Hearings' Chief Hearing
25 Examiner may grant an administrative hearing which substantially complies with the requirements
26 of the provisions of section two, article five-a, chapter seventeen-c of this code upon a preliminary
27 showing that ~~a possibility exists that~~ it is possible the person named in the notice of conviction is
28 not the ~~same~~ person whose license is being suspended. ~~Such~~ The request for hearing shall be
29 made within ten days after receipt of a copy of the order of suspension. The sole purpose of this
30 hearing ~~shall be~~ is for the person requesting the hearing to present evidence that he or she is not
31 the person named in the notice. In the event the ~~Commissioner grants an administrative hearing,~~
32 ~~the Commissioner~~ Office of Administrative Hearings' Chief Hearing Examiner grants an
33 administrative hearing, the Office of Administrative Hearings will send notice to the commissioner
34 and the commissioner shall stay the license suspension pending the ~~Commissioner's~~ Chief
35 Hearing Examiner's order resulting from the hearing.

36 (c) A suspension under this section and section three-a of this ~~chapter~~ article will continue

37 until the person provides proof of compliance from the municipal, magistrate or circuit court and
38 pays the reinstatement fee as provided in section nine of this article: Provided, That proof of
39 compliance is not required when the provisions of section nine-a of this article are met. The
40 reinstatement fee is assessed upon issuance of the order of suspension regardless of the
41 effective date of suspension.

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

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

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

1 (a) Notwithstanding any other provisions of this code to the contrary, from October 1, 2016,
2 until September 30, 2017, in addressing whether a licensee is qualified for reinstatement, the
3 Division of Motor Vehicles shall treat all instances of failure to satisfy a citation or unpaid ticket
4 pursuant to section three-a or three-c of this article or for driving while suspended or revoked
5 related to an unpaid citation or ticket as fully paid and complied if the date of the unpaid citation
6 or ticket is ten years old or older: Provided, That the person does not hold a commercial driver's
7 license and the citation or ticket is not pertaining to an offense related to the operation of a
8 commercial motor vehicle as defined in chapter seventeen-e of this code.

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

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

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

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

19 (1) Violates federal laws or federal rules pertaining to commercial drivers or other
20 licensees;

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

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

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

28 (g) The commissioner may propose rules for legislative approval, in accordance with the
29 provisions of article three, 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.

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