

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Committee Substitute

for

Senate Bill 363

BY SENATOR WALTERS

[Originating in the Committee on the Judiciary;

reported on February 27, 2016]

1 A BILL to amend and reenact §17B-1-1 of the Code of West Virginia, 1931, as amended; to amend
2 and reenact §17B-2-7b of said code; to amend said code by adding thereto a new section,
3 designated §17C-1-69; and to amend and reenact §17C-15-44 of said code, all relating to
4 autocycles; defining “autocycle”; creating an autocycle exemption from motorcycle
5 examination, licensing and endorsement requirements; allowing a person with a valid
6 driver’s license to operate an autocycle; creating an autocycle exemption from helmet and
7 certain other motorcycle or motor-driven cycle safety requirements; deleting obsolete
8 language regarding the motorcycle safety and education committee; and making technical
9 corrections.

Be it enacted by the Legislature of West Virginia:

1 That §17B-1-1 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted; that §17B-2-7b of said code be amended and reenacted; that said code be amended
3 by adding thereto a new section, designated §17C-1-69; and that §17C-15-44 of said code be
4 amended and reenacted, all to read as follows:

CHAPTER 17B. MOTOR VEHICLE DRIVER’S LICENSES.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17B-1-1. Definitions.

1 ~~The following words and phrases when used in this chapter shall, for the purpose of this~~
2 ~~chapter, have the meanings respectively ascribed to them in this article:~~

3 ~~(a) *Vehicle*. — Every device in, upon, or by which any person or property is or may be~~
4 ~~transported or drawn upon a public highway, excepting devices moved by human power or used~~
5 ~~exclusively upon stationary rails or tracks;~~

6 ~~(b) *Motor vehicle*. — Every vehicle which is self-propelled and every vehicle which is~~
7 ~~propelled by electric power obtained from overhead trolley wires, but not operated upon rails;~~

8 ~~(c) *Motorcycle*. — Every motor vehicle having a seat or saddle for the use of the rider and~~
9 ~~designed to travel on not more than three wheels in contact with the ground, but excluding a farm~~

10 ~~tractor as defined herein, a moped as defined in section five-a, article one, chapter seventeen-c~~
11 ~~of this code, a snowmobile as defined in section one-mm, article one, chapter seventeen-a of this~~
12 ~~code and an all-terrain vehicle as defined in section one-ii, article one, chapter seventeen-a of~~
13 ~~this code;~~

14 ~~(d) *Farm tractor.* — Every motor vehicle designed and used primarily as a farm implement~~
15 ~~for drawing plows, mowing machines, and other implements of husbandry;~~

16 ~~(e) *School bus.* — Every motor vehicle owned by a public governmental agency and~~
17 ~~operated for the transportation of children to or from school or privately owned and operated for~~
18 ~~compensation for the transportation of children to or from school;~~

19 ~~(f) *Person.* — Every natural person, firm, copartnership, association or corporation;~~

20 ~~(g) *Operator.* — Every person, other than a chauffeur, who drives or is in actual physical~~
21 ~~control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle~~
22 ~~being towed by a motor vehicle;~~

23 ~~(h) *Chauffeur.* — Every person who is employed by another for the principal purpose of~~
24 ~~driving a motor vehicle and every person who drives a school bus transporting school children or~~
25 ~~any motor vehicle when in use for the transportation of persons or property for compensation;~~

26 ~~(i) *Driver.* — Means any person who drives, operates or is in physical control of a motor~~
27 ~~vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required~~
28 ~~to hold a driver's license;~~

29 ~~(j) *Driver's License.* — Means any permit or license issued by this state to a person which~~
30 ~~authorizes the person to drive a motor vehicle of a specific class or classes subject to any~~
31 ~~restriction or endorsement contained thereon;~~

32 ~~(k) *Owner.* — A person who holds the legal title of a vehicle or in the event a vehicle is the~~
33 ~~subject of an agreement for the conditional sale or lease thereof with the right of purchase upon~~
34 ~~performance of the conditions stated in the agreement and with an immediate right of possession~~
35 ~~vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to~~

36 possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for
37 the purpose of this chapter;

38 (l) ~~Nonresident.~~ — Every person who is not a resident of this state;

39 (m) ~~Street or highway.~~ — The entire width between the boundary lines of every way
40 publicly maintained when any part thereof is open to the use of the public for purposes of vehicular
41 travel;

42 (n) ~~Commissioner.~~ — The Commissioner of Motor Vehicles of this state;

43 (o) ~~Division.~~ — The Division of Motor Vehicles of this state acting directly or through its
44 duly authorized officers or agents;

45 (p) ~~Suspension.~~ — Suspension means that the driver's license and privilege to drive a
46 motor vehicle on the public highways are temporarily withdrawn but only during the period of such
47 suspension;

48 (q) ~~Revocation.~~ — Revocation means that the driver's license and privilege to drive a
49 motor vehicle on the public highways are terminated and shall not be renewed or restored, except
50 that an application for a new license may be presented and acted upon by the division after the
51 expiration of at least one year after the date of revocation, except as otherwise provided in section
52 two, article five-a, chapter seventeen-c of this code;

53 (r) ~~Cancellation.~~ — Cancellation means that a driver's license is annulled and terminated
54 because of some error or defect or because the licensee is no longer entitled to such license, but
55 the cancellation of a license is without prejudice and application for a new license may be made
56 at any time after such cancellation;

57 (s) ~~9-1-1 system~~ means an emergency telephone system or enhanced emergency
58 telephone system as defined in section two, article six, chapter twenty-four of this code;

59 (t) ~~Wireless communication device~~ means a handheld device used to access a wireless
60 telephone service or a text messaging device.

61 The following words and phrases when used in this chapter shall, for the purpose of this
62 chapter, have the meanings respectively ascribed to them in this article:

63 (a) 9-1-1 system. — 9-1-1 system means an emergency telephone system or enhanced
64 emergency telephone system as defined in section two, article six, chapter twenty-four of this
65 code;

66 (b) Cancellation. — Cancellation means that a driver’s license is annulled and terminated
67 because of some error or defect or because the licensee is no longer entitled to such license, but
68 the cancellation of a license is without prejudice and application for a new license may be made
69 at any time after such cancellation;

70 (c) Autocycle. — “Autocycle” means an enclosed motorcycle that is equipped with safety
71 belts, airbags, a roll bar, a windshield, wipers, a steering wheel and equipment otherwise required
72 on a motorcycle and which has no more than three wheels in contact with the roadway at any one
73 time.

74 (d) Chauffeur. — Every person who is employed by another for the principal purpose of
75 driving a motor vehicle and every person who drives a school bus transporting school children or
76 any motor vehicle when in use for the transportation of persons or property for compensation;

77 (e) Commissioner. — The Commissioner of Motor Vehicles of this state;

78 (f) Division. — The Division of Motor Vehicles of this state acting directly or through its
79 duly authorized officers or agents;

80 (g) Driver. — Means any person who drives, operates or is in physical control of a motor
81 vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required
82 to hold a driver’s license;

83 (h) Driver’s License. — Means any permit or license issued by this state to a person which
84 authorizes the person to drive a motor vehicle of a specific class or classes subject to any
85 restriction or endorsement contained thereon;

86 (i) Farm tractor. — Every motor vehicle designed and used primarily as a farm implement
87 for drawing plows, mowing machines and other implements of husbandry;

88 (j) Motorcycle. — Every motor vehicle having a seat or saddle for the use of the rider and
89 designed to travel on not more than three wheels in contact with the ground, but excluding a farm
90 tractor as defined herein, a moped as defined in section five-a, article one, chapter seventeen-c
91 of this code, a snowmobile as defined in subsection (mm), section one, article one, chapter
92 seventeen-a of this code and an all-terrain vehicle as defined in subsection (ii), section one of
93 said article;

94 (k) Motor vehicle. — Every vehicle which is self-propelled and every vehicle which is
95 propelled by electric power obtained from overhead trolley wires, but not operated upon rails;

96 (l) Nonresident. — Every person who is not a resident of this state;

97 (m) Operator. — Every person, other than a chauffeur, who drives or is in actual physical
98 control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle
99 being towed by a motor vehicle;

100 (n) Owner. — A person who holds the legal title of a vehicle or in the event a vehicle is the
101 subject of an agreement for the conditional sale or lease thereof with the right of purchase upon
102 performance of the conditions stated in the agreement and with an immediate right of possession
103 vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to
104 possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for
105 the purpose of this chapter;

106 (o) Person. — Every natural person, firm, copartnership, association or corporation;

107 (p) Revocation. — Revocation means that the driver's license and privilege to drive a
108 motor vehicle on the public highways are terminated and shall not be renewed or restored, except
109 that an application for a new license may be presented and acted upon by the division after the
110 expiration of at least one year after the date of revocation, except as otherwise provided in section
111 two, article five-a, chapter seventeen-c of this code;

112 (q) School bus. — Every motor vehicle owned by a public governmental agency and
113 operated for the transportation of children to or from school or privately owned and operated for
114 compensation for the transportation of children to or from school;

115 (r) Street or highway. — The entire width between the boundary lines of every way publicly
116 maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

117 (s) Suspension. — Suspension means that the driver's license and privilege to drive a
118 motor vehicle on the public highways are temporarily withdrawn but only during the period of such
119 suspension;

120 (t) Vehicle. — Every device in, upon, or by which any person or property is or may be
121 transported or drawn upon a public highway, excepting devices moved by human power or used
122 exclusively upon stationary rails or tracks;

123 (u) Wireless communication device. — Wireless communication device means a handheld
124 device used to access a wireless telephone service or a text messaging device.

ARTICLE 2. ISSUANCE OF LICENSE; EXPIRATION AND RENEWAL.

§17B-2-7b. Separate examination and endorsement for a license valid for operation of motorcycle.

1 (a) The State Police shall administer a separate motorcycle examination for applicants for
2 a license valid for operation of a motorcycle. On and after July 1, 2000, the Division of Motor
3 Vehicles shall administer the examination provided for in this section. Any applicant for a license
4 valid for operation of a motorcycle shall be required to successfully complete the motorcycle
5 examination, which is in addition to the examination administered pursuant to section seven of
6 this article and, if under the age of eighteen, shall be required to complete the requirements for a
7 level two intermediate driver's license set forth in paragraphs (B), (C) and (D), subdivision (1),
8 subsection (j), section three-a of this article: *Provided*, That the commissioner may exempt an
9 applicant for a motorcycle driver license or endorsement from all or part of the motorcycle license
10 examination as provided in section six, article one-d of this chapter. The motorcycle examination
11 shall test the applicant's knowledge of the operation of a motorcycle and of any traffic laws
12 specifically relating to the operation of a motorcycle and shall include an actual demonstration of
13 the ability to exercise ordinary and reasonable control in the operation of a motorcycle. An

14 applicant for a license valid for the operation of only a motorcycle shall be tested as provided in
15 this section and in section seven of this article, but need not demonstrate actual driving ability in
16 any vehicle other than a motorcycle. The examination provided in this section shall not be made
17 a condition upon the renewal of the license of any person under this section. For an applicant who
18 successfully completes the motorcycle examination, upon payment of the required fee, the
19 division shall issue a motorcycle endorsement on the driver's license of the applicant, or shall
20 issue a special motorcycle-only license if the applicant does not possess a driver's license:
21 *Provided, however,* That any holder of a motorcycle-only license under the age of eighteen shall
22 be subject to the provisions of paragraphs (A), (B), (E), (F), (G) and (H), subdivision (2),
23 subsection (j), section three-a of this article.

24 Every person, including those holding a valid driver's license, is required to take the
25 examination specified in this section to obtain a motorcycle license or endorsement, unless
26 exempted under the provisions of subsection (b) of this section.

27 (b) Notwithstanding any provision of this code to the contrary, a person with a valid driver's
28 license who is operating an autocycle is exempt from the motorcycle examination, licensing and
29 endorsement requirements set forth in this article.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17C-1-69. Autocycle.

1 "Autocycle" means an enclosed motorcycle that is equipped with safety belts, airbags, a
2 roll bar, a windshield, wipers, a steering wheel and equipment otherwise required on a motorcycle,
3 and which has no more than three wheels in contact with the roadway at any one time.

ARTICLE 15. EQUIPMENT.

**§17C-15-44. Safety equipment and requirements for motorcyclists, motorcycles, motor-
driven cycles and mopeds; motorcycle safety standards and education
committee.**

1 (a) No person shall operate or be a passenger on any motorcycle or motor-driven cycle
2 unless the person is wearing securely fastened on his or her head by either a neck or chin strap
3 a protective helmet designed to deflect blows, resist penetration and spread impact forces. Any
4 helmet worn by an operator or passenger shall meet the current performance specifications
5 established by the American National Standards Institute Standard, Z 90.1, the United States
6 Department of Transportation Federal Motor Vehicle Safety Standard No. 218 or Snell Safety
7 Standards for Protective Headgear for Vehicle Users.

8 (b) No person shall operate or be a passenger on any motorcycle or motor-driven cycle
9 unless the person is wearing safety, shatter-resistant eyeglasses (excluding contact lenses), or
10 ~~eyegoggles~~ eye goggles or face shield that complies with the performance specifications
11 established by the American National Standards Institute for Head, Eye and Respiratory
12 Protection, Z 2.1. In addition, if any motorcycle, motor-driven cycle or moped is equipped with a
13 windshield or windscreen, the windshield or windscreen shall be constructed of safety, shatter-
14 resistant material that complies with the performance specifications established by Department
15 of Transportation Federal Motor Vehicle Safety Standard No. 205 and American National
16 Standards Institute, Safety Glazing Materials for Glazing Motor Vehicles Operated on Land
17 Highways, Standard Z 26.1.

18 (c) No person shall operate a motorcycle, motor-driven cycle or moped on which the
19 handlebars or grips are more than fifteen inches higher than the uppermost part of the operator's
20 seat when the seat is not depressed in any manner.

21 (d) A person operating a motorcycle, motor-driven cycle or moped shall ride in a seated
22 position facing forward and only upon a permanent operator's seat attached to the vehicle. No
23 operator shall carry any other person nor shall any other person ride on the vehicle unless the
24 vehicle is designed to carry more than one person, in which event a passenger may ride behind
25 the operator upon the permanent operator's seat if it is designed for two persons, or upon another
26 seat firmly attached to the vehicle to the rear of the operator's seat and equipped with footrests

27 designed and located for use by the passenger or in a sidecar firmly attached to the vehicle. No
28 person shall ride side saddle on a seat. An operator may carry as many passengers as there are
29 seats and footrests to accommodate those passengers. Additional passengers may be carried in
30 a factory produced sidecar provided that there is one passenger per seat. Passengers riding in a
31 sidecar shall be restrained by safety belts.

32 (e) Every motorcycle, motor-driven cycle and moped shall be equipped with a rearview
33 mirror affixed to the handlebars or fairings and adjusted so that the operator shall have a clear
34 view of the road and condition of traffic behind him or her for a distance of at least two hundred
35 feet.

36 ~~(f) There is hereby created a six member motorcycle safety and education committee~~
37 ~~consisting of: The superintendent of the State Police or a designee; the Commissioner of Motor~~
38 ~~Vehicles or a designee; the director of the West Virginia safety council or a designee; a licensed~~
39 ~~motorcycle operator; an owner of a motorcycle dealership; and a supplier of aftermarket~~
40 ~~nonfranchised motorcycle supplies. The nongovernmental representatives shall be appointed by~~
41 ~~the Governor with the advice and consent of the Senate, shall serve without compensation, and~~
42 ~~the terms shall be for three years, except that as to the members first appointed, one shall be~~
43 ~~appointed for a term of one year, one shall be appointed for a term of two years and one shall be~~
44 ~~appointed for a term of three years. Members may be reappointed to the committee.~~

45 ~~The committee shall continue to exist pursuant to the provisions of article ten, chapter four~~
46 ~~of this code until July 1, 1999, to allow for the completion of a preliminary performance review by~~
47 ~~the joint committee on government operations.~~

48 ~~The committee is hereby authorized to recommend to the superintendent of public safety~~
49 ~~types and makes of protective helmets, eye protection devices and equipment offered for sale,~~
50 ~~purchased or used by any person. The committee is authorized to make recommendations to the~~
51 ~~Commissioner of Motor Vehicles regarding the use of the moneys in the motorcycle safety fund~~
52 ~~created under section seven, article one d, chapter seventeen b of this code. Notwithstanding~~

- 53 ~~any provision of this code to the contrary, a person with a valid driver's license who is operating~~
54 ~~an autocyce, as defined in section sixty-nine, article one of this chapter, is exempt from the~~
55 ~~provisions of this section.~~

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