

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 363**

BY SENATOR WALTERS

[Introduced January 21, 2016;

Referred to the Committee on Transportation and

Infrastructure; and then to the Committee on the

Judiciary.]

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 valid  
 6 driver's license to operate an autocycle; creating autocycle exemption from helmet and  
 7 certain other motorcycle or motor-driven cycle safety requirements; and deleting obsolete  
 8 language regarding the motorcycle safety and education committee.

*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 publicly  
40 maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

41 (n) *Commissioner.* -- The Commissioner of Motor Vehicles of this state;

42 (o) *Division.* -- The Division of Motor Vehicles of this state acting directly or through its  
43 duly authorized officers or agents;

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45 motor vehicle on the public highways are temporarily withdrawn but only during the period of such  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

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

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

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

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

61 (u) Autocycle. -- "Autocycle" means an enclosed motorcycle that is equipped with safety

62 belts, airbags, a roll bar, a windshield, wipers, a steering wheel and equipment otherwise required  
63 on a motorcycle, and which has no more than three wheels in contact with the roadway at any  
64 one time.

## **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,~~ exception for autocycles.**

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 or face shield that complies with the performance specifications established by the  
11 American National Standards Institute for Head, Eye and Respiratory Protection, Z 2.1. In  
12 addition, if any motorcycle, motor-driven cycle or moped is equipped with a windshield or  
13 windscreen, the windshield or windscreen shall be constructed of safety, shatter-resistant material  
14 that complies with the performance specifications established by Department of Transportation  
15 Federal Motor Vehicle Safety Standard No. 205 and American National Standards Institute,  
16 Safety Glazing Materials for Glazing Motor Vehicles Operated on Land Highways, Standard Z  
17 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 auticycle, as defined in section sixty-nine, article one of this chapter, is exempt from the~~  
55 ~~provisions of this section.~~

NOTE: The purpose of this bill is to create an exemption for autocycles, which are enclosed three-wheel motorcycles that are equipped with safety belts, airbags, a roll bar, a windshield, wipers and a steering wheel. A person may operate an autocycle with a valid driver's license and is exempt from the motorcycle examination, licensing and endorsement requirements set forth in article two, chapter seventeen-b of this code. The bill would also exempt autocycles from helmet and certain other safety requirements set forth in §17C-15-44. The bill also removes obsolete language.

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