

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 679

FISCAL
NOTE

BY SENATORS WOODRUM, GRADY, PHILLIPS, ROBERTS,

STOVER, AND SYPOLT

[Introduced February 18, 2022; referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend and reenact §17B-3-13 of the Code of West Virginia, 1931, as amended; and to
2 amend said code by adding a new section, designated §17B-3-14, all relating to requiring
3 notice to be given to the Commissioner of the Division of Motor Vehicles by health care
4 providers or law-enforcement officers when there is reasonable cause to believe that a
5 licensee may be incapable of operating a motor vehicle safely and initiating an
6 investigation of the licensee's condition; mandating reports by health care providers;
7 requiring sworn statement to be filed by a law-enforcement officer upon probable cause;
8 requesting the licensee to submit to a physician's examination; providing for closure if no
9 probable cause is found; mandating a suspension of the license in certain circumstances;
10 requiring for notice to the licensee; providing for a hearing to be conducted; and mandating
11 confidentiality of all statements, reports, recommendations, opinions, or findings.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.

§17B-3-13. Reports by health care providers.

1 (a) Health care providers licensed and authorized pursuant to Chapter 30 of this code to
2 diagnose or treat diseases, disorders, disabilities or conditions, ~~may~~ shall notify the division in
3 writing of the full name, date of birth, and address of every person 15 years of age or older who
4 suffers from a physical or mental disease, disorder, disability, condition, or symptoms that
5 prevents the person from safely operating motor vehicle, and which is either:

6 (1) Uncontrollable (either through medication, therapy, or surgery; or by driving device or
7 technique);

8 (2) Controllable, but the patient does not comply with the recommendations of the health
9 care provider for treatment or restricted driving; or

10 (3) Undiagnosed but the extent of driver impairment is potentially significant based on the
11 patient's symptoms.

12 (b) Reports, recommendations or opinions, findings, or advice received or made by the

13 division for the purpose of determining whether a person is qualified to be licensed to drive are
14 for the confidential use of the division and exempt from provisions §29B-1-1 *et seq.* of this code
15 and may only be admitted in proceedings to either suspend, revoke or impose limitations on the
16 use of a driver's license pursuant to §17B-3-6(a)(5) of this code or §17B-3-7 of this code, or to
17 reinstate the driver's license.

18 (c) Reports, recommendations, opinions, findings, or advice received or made by the
19 division for the purpose of determining whether a person is qualified to be licensed to drive may
20 not be used in any proceedings to establish or prove competencies other than qualifications to
21 operate a vehicle.

22 (d) A health care provider who makes a notification pursuant to subsection (a) shall be
23 immune from any civil, administrative, or criminal liability that otherwise might be incurred or
24 imposed because of such notification if the health care provider has:

25 (1) Documented in the patient's record the disease, disorder, disability, condition, or
26 symptoms which may impair the patient's ability to drive a motor vehicle to a degree that precludes
27 the safe operation of a motor vehicle;

28 (2) Informed the patient that their disease, disorder, disability, condition or symptoms may
29 impair the patient's ability to drive a motor vehicle to a degree that precludes the safe operation
30 of a motor vehicle;

31 (3) Advised the patient that he or she should not operate a motor vehicle; and

32 (4) Disclosed to the patient that the health care provider may notify the Commissioner of
33 the patient's condition and of the patient's inability to safely operate a motor vehicle.

34 (e) Compliance with or failure to comply with the requirements of this section does not
35 constitute negligence, nor may compliance or noncompliance with the requirements of this section
36 be admissible as evidence of negligence in any civil or criminal action.

37 (f) If the health care provider's report indicates that the licensee suffers from a physical or
38 mental disease, disorder, disability, condition, or symptoms that prevent the person from safely

39 operating a motor vehicle, then the Commissioner shall proceed pursuant to the provisions of
40 §17B-3-6 of this code.

§17B-3-14. Law-enforcement officer's report of driver's mental or physical impairment.

1 (a) Any law-enforcement officer who stops a vehicle, investigates a motor vehicle accident,
2 or otherwise has an encounter with the driver of a motor vehicle operated on a public highway in
3 this state and, as a result thereof, finds probable cause to believe that the driver may suffer from
4 a physical or mental disease, disorder, disability, condition, or symptoms that prevents the person
5 from safely operating a motor vehicle, shall report to the Commissioner of the Division of Motor
6 Vehicles by written statement within 48 hours of the encounter with the driver, and shall state the
7 basis upon which the officer believes the driver to be unable to safely drive a motor vehicle. The
8 statement shall contain the name, address, and license number (if available) of the driver in
9 question and a short statement of the basis that the officer has to believe that the driver is unable
10 to safely operate a motor vehicle.

11 (b) The Commissioner of the Division of Motor Vehicles may design and specify a form for
12 the submission of the statement required by this section. The signing of the statement required
13 by this subsection constitutes an oath or affirmation by the person signing the statement that the
14 facts contained in the statement are true and that any copy filed is a true copy. The statement
15 shall contain upon its face a warning to the officer signing that to willfully sign a statement
16 containing false information concerning any matter or thing, material or not material, is false
17 swearing and is a misdemeanor.

18 (c) Upon receipt of a statement submitted by a law-enforcement officer pursuant to this
19 section, the Commissioner of the Division of Motor Vehicles shall examine the statement and
20 make a determination whether the facts and circumstances set out in the statement give probable
21 cause for a reasonable person to believe that the identified licensee may suffer from a physical
22 or mental disease, disorder, disability, condition, or symptoms that prevents the person from
23 safely operating motor vehicle, the Commissioner shall notify the licensee that he or she shall

24 submit to an examination by a physician of the licensee's choice to evaluate whether the licensee
25 is competent to drive a motor vehicle. The licensee shall have 30 days to provide a report of the
26 examination to the Commissioner of the Division of Motor Vehicles, but the Commissioner may
27 grant an extension of another 30 days upon request and for good cause shown.

28 (d) If the licensee fails to submit a report of a physician's examination within the time
29 allowed or otherwise fails to comply with the notice from the Commissioner, the Commissioner
30 shall suspend the license of the person until such time as a hearing may be conducted upon the
31 licensee's competency to drive a motor vehicle.

32 (e) If the physician's report provides a reasonable basis to believe the licensee is
33 competent to drive a motor vehicle, then the Commissioner shall close the matter for that driver
34 and there shall be no further action required.

35 (f) If the physician's report indicates that the licensee suffers from a physical or mental
36 disease, disorder, disability, condition, or symptoms that prevent the person from safely operating
37 a motor vehicle, then the Commissioner shall proceed pursuant to the provisions of §17B-3-6 of
38 this code.

39 (g) Reports, recommendations or opinions, findings, or advice received or made by the
40 division for the purpose of determining whether a person is qualified to be licensed to drive are
41 for the confidential use of the division and exempt from provisions §29B-1-1 et seq. of this code
42 and may only be admitted in proceedings to either suspend, revoke or impose limitations on the
43 use of a driver's license pursuant to §17B-3-6(a)(5) of this code or §17B-3-7 of this code, or to
44 reinstate the driver's license.

45 (h) Reports, recommendations, opinions, findings, or advice received or made by the
46 division for the purpose of determining whether a person is qualified to be licensed to drive may
47 not be used in any proceedings to establish or prove competencies other than qualifications to
48 operate a vehicle.

NOTE: The purpose of this bill is to require reports to be given to the Commissioner of the Division of Motor Vehicles when a health care provider or law-enforcement officer has reason to believe that a motor vehicle driver may suffer from a condition which renders the driver incapable of operating a motor vehicle safely.

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