

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

Senate Bill 267

By Senator Rucker

[Originating in the Committee on the Judiciary;

reported January 18, 2024]

1 A BILL to amend and reenact §17C-5A-3 and §17C-5A-3a of the Code of West Virginia, 1931, as
2 amended, all relating generally to the Division of Motor Vehicles' Safety and Treatment
3 Program and Alcohol and Drug Test and Lock Program, adding grievance and appellate
4 procedures, and judicial review for individuals participating in, or who have participated in,
5 the program; authorizing the Commissioner to promulgate an emergency rule; prohibiting
6 minimum driving time, minimum mileage, and driving frequency requirements of Motor
7 Vehicles' Alcohol and Drug Test and Lock Program system, and further prohibiting removal
8 of program participant for failure to meet such requirements; and directing the
9 Commissioner to reinstate former program participants for failing to meet such
10 requirements, at no cost to the program participant, upon participant's meeting specified
11 criteria.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 5A. ADMINISTRATIVE PROCEDURES FOR SUSPENSION AND
REVOCATION OF LICENSES FOR DRIVING UNDER THE INFLUENCE OF
ALCOHOL, CONTROLLED SUBSTANCES, OR DRUGS.**

§17C-5A-3. Safety and Treatment Program; reissuance of license.

1 (a) The Division of Motor Vehicles shall administer a comprehensive safety and treatment
2 program for persons whose licenses have been suspended or revoked under the provisions of
3 §17B-3-5(6), §17C-5-2, §17C-5-2a, or §17C-5-7a of this code and shall also establish the
4 minimum qualifications for mental health facilities, day report centers, community corrections
5 centers, or other public agencies or private entities conducting the safety and treatment program:
6 *Provided*, That the Division of Motor Vehicles may establish standards whereby the division will
7 accept or approve participation by violators in another treatment program which provides the same
8 or substantially similar benefits as the safety and treatment program established pursuant to this
9 section.

10 (b) The program shall include, but not be limited to, treatment of alcoholism, treatment of
11 alcohol and drug abuse, psychological counseling, educational courses on the dangers of alcohol
12 and drugs as they relate to driving, defensive driving, or other safety driving instruction, and other
13 programs designed to properly educate, train, and rehabilitate the offender: *Provided*, That
14 successful compliance with the substance abuse and counseling program prescribed in
15 §61-11-26a of this code is sufficient to meet the requirements of this section.

16 (c) The Division of Motor Vehicles shall provide for the preparation of an educational and
17 treatment program for each person whose license has been revoked under the provisions of
18 §17B-3-5(6), §17C-5-2, §17C-5-2a, or §17C-5-7a of this code, which shall contain the following:
19 (1) A listing and evaluation of the offender's prior traffic record; (2) the characteristics and history of
20 alcohol or drug use, if any; (3) his or her amenability to rehabilitation through the alcohol safety
21 program; and (4) a recommendation as to treatment or rehabilitation and the terms and conditions
22 of the treatment or rehabilitation. The program shall be prepared by persons knowledgeable in the
23 diagnosis of alcohol or drug abuse and treatment.

24 (d) ~~A special revenue account is created~~ There is hereby created a special revenue
25 account within the State Treasury known as the Division of Motor Vehicles Safety and Treatment
26 Fund. ~~The Commissioner of the Division of Motor Vehicles shall manage and expend moneys from~~
27 ~~the account~~ The account shall be administered by the Commissioner of the Division of Motor
28 Vehicles for the purpose of administering the comprehensive Safety and Treatment Program
29 established by subsection (a) of this section. ~~The moneys in the~~ The account may be invested and
30 all earnings and interest accruing shall be retained in the account. The Auditor shall conduct an
31 audit of the fund at least every three fiscal years.

32 (e) (1) The program provider shall collect the established fee from each participant upon
33 enrollment unless the division has determined that the participant is an indigent based upon
34 criteria established pursuant to legislative rule authorized in this section.

35 (2) If the division determined that a participant is an indigent based upon criteria

36 established pursuant to the legislative rule authorized by this section, the department shall provide
37 the participant with proof of its determination regarding indigency, which proof the participant shall
38 present to the interlock provider as part of the application process provided in §17C-5A-3a of this
39 code and the rules promulgated pursuant thereto.

40 (3) Program providers shall remit to the Division of Motor Vehicles a portion of the fee
41 collected, which shall be deposited by the Commissioner of the Division of Motor Vehicles into the
42 Division of Motor Vehicles Safety and Treatment Fund. The Division of Motor Vehicles shall
43 reimburse enrollment fees to program providers for each eligible indigent offender.

44 (f) On or before January 15 of each year, the Commissioner of the Division of Motor
45 Vehicles shall report to the Legislature on:

46 (1) The total number of offenders participating in the safety and treatment program during
47 the prior year;

48 (2) The total number of indigent offenders participating in the safety and treatment program
49 during the prior year;

50 (3) The total number of program providers during the prior year; and

51 (4) The total amount of reimbursements paid to program providers during the prior year.

52 (g) The Commissioner of the Division of Motor Vehicles, after giving due consideration to
53 the program developed for the offender, shall prescribe the necessary terms and conditions for the
54 reissuance of the license to operate a motor vehicle in this state revoked under §17B-3-5(6),
55 §17C-5-2, §17C-5-2a, or §17C-5-7a of this code which shall include successful completion of the
56 educational, treatment, or rehabilitation program, subject to the following:

57 (1) When the period of revocation is six months, the license to operate a motor vehicle in
58 this state may not be reissued until: (A) At least 90 days have elapsed from the date of the initial
59 revocation, during which time the revocation was actually in effect; (B) the offender has
60 successfully completed the program; (C) all costs of the program and administration have been
61 paid; and (D) all court costs assessed as a result of criminal proceedings have been paid.

62 (2) When the period of revocation is for a period of one year or for more than a year, the
63 license to operate a motor vehicle in this state may not be reissued until: (A) At least one half of the
64 time period has elapsed from the date of the initial revocation, during which time the revocation
65 was actually in effect; (B) the offender has successfully completed the program; (C) all costs of the
66 program and administration have been paid; and (D) all court costs assessed as a result of
67 criminal proceedings have been paid. Notwithstanding any provision in this code, a person whose
68 license is revoked for refusing to take a chemical test as required by §17C-5-4 of this code for a
69 first offense is not eligible to reduce the revocation period by completing the safety and treatment
70 program.

71 (3) When the period of revocation is for life, the license to operate a motor vehicle in this
72 state may not be reissued until: (A) At least 10 years have elapsed from the date of the initial
73 revocation, during which time the revocation was actually in effect; (B) the offender has
74 successfully completed the program; (C) all costs of the program and administration have been
75 paid; and (D) all court costs assessed as a result of a criminal proceeding have been paid.

76 (4) Notwithstanding any provision of this code or any rule, any mental health facilities or
77 other public agencies or private entities conducting the safety and treatment program, when
78 certifying that a person has successfully completed a safety and treatment program, shall only
79 have to certify that the person has successfully completed the program.

80 (h) (1) The Division of Motor Vehicles shall provide for the preparation of an educational
81 program for each person whose license has been suspended for 60 days pursuant to §17C-5-2(j)
82 of this code. The educational program shall consist of not less than 12 nor more than 18 hours of
83 actual classroom time.

84 (2) When a 60-day period of suspension has been ordered, the license to operate a motor
85 vehicle may not be reinstated until: (A) At least 60 days have elapsed from the date of the initial
86 suspension, during which time the suspension was in effect; (B) the offender has successfully
87 completed the educational program; (C) all costs of the program and administration have been

88 paid; and (D) all costs assessed as a result of a suspension hearing have been paid.

89 (i) As a component of the programs required by subsections (b) and (c) of this section, the
90 offender shall attend a victim impact panel program. The victim impact panel program must
91 provide a forum for victims of alcohol and drug-related offenses and offenders to share first-hand
92 experiences on the impact of alcohol and drug-related offenses in their lives. The Division of Motor
93 Vehicles shall propose and implement a plan for victim impact panels where appropriate numbers
94 of victims are available and willing to participate and shall establish guidelines for other innovative
95 programs which may be substituted where the victims are not available to participate in an impact
96 panel. The plan shall require, at a minimum, discussion and consideration of the following:

97 (1) Economic losses suffered by victims and offenders;

98 (2) Death or physical injuries suffered by victims and offenders;

99 (3) Psychological injuries suffered by victims and offenders;

100 (4) Changes in the personal welfare or familial relationships of victims and offenders; and

101 (5) Other information relating to the impact of alcohol and drug-related offenses upon
102 victims and offenders.

103 The Division of Motor Vehicles shall ensure that any meetings between victims and
104 offenders shall be nonconfrontational and ensure the physical safety of the persons involved.

105 (j)(1) The Commissioner of the Division of Motor Vehicles shall propose a rule for
106 legislative approval in accordance with §29A-3-1 *et seq.* of this code to administer the provisions
107 of this section and establish a fee to be collected from each offender enrolled in the safety and
108 treatment program. The rule shall include: (A) A reimbursement mechanism to program providers
109 of required fees for the safety and treatment program for indigent offenders, criteria for
110 determining eligibility of indigent offenders, and any necessary application forms; and (B) program
111 standards that encompass provider criteria including minimum professional training requirements
112 for providers, curriculum approval, minimum course length requirements, and other items that may
113 be necessary to properly implement the provisions of this section.

114 (2) The Legislature finds that an emergency exists and, therefore, the commissioner shall
115 file by July 1, 2024, an emergency rule to implement this section pursuant to the provisions of
116 §29A-3-15 of this code.

117 (k) A day report or community corrections program, authorized pursuant to §62-11C-1 *et*
118 *seq.* of this code, may provide the comprehensive safety and treatment program pursuant to this
119 section.

120 (l) The Division of Motor Vehicles shall provide a fair, impartial, and expeditious grievance
121 procedure for participants in the Safety and Treatment Program who wish to challenge a decision
122 by the provider conducting the program that precludes license reinstatement or which negatively
123 affects, or unnecessarily delays, the participants' outcome in that program. After all administrative
124 remedies authorized by this subsection have been exhausted, participants who have been
125 determined unsuccessful in the program, rendering them ineligible for license reinstatement, or
126 whose outcomes in the program have been unnecessarily delayed, are entitled to judicial review of
127 the adverse decision, pursuant to §29A-5-4 of this code. The Commissioner of the Division of
128 Motor Vehicles shall propose rules for legislative approval in accordance with the provisions of
129 §29A-3-1 *et seq.* of this code and may promulgate emergency rules pursuant to the provisions of
130 §29A-3-15 *et seq.* of this code.

**§17C-5A-3a. Establishment of and participation in the Motor Vehicle Alcohol and Drug Test
and Lock Program.**

1 (a) (1) The Division of Motor Vehicles shall control and regulate a the Motor Vehicle Alcohol
2 and Drug Test and Lock Program for persons whose licenses have been revoked pursuant to this
3 article or the provisions of §17C-5-1 *et seq.* of this code or have been convicted under §17C-5-2 of
4 this code, or who are serving a term of a conditional probation pursuant to §17C-5-2b of this code.

5 (2) The program shall include the establishment of a user's fee for persons participating in
6 the program which shall be paid in advance and deposited into the Motor Vehicle Fees Fund
7 created under the provisions of §17A-2-21 of this code.

8 (3) (A) Except where specified otherwise, the use of the term “program” in this section
9 refers to the Motor Vehicle Alcohol and Drug Test and Lock Program.

10 (B) The Commissioner of the Division of Motor Vehicles shall propose legislative rules for
11 promulgation in accordance with the provisions of §29A-3-1 *et seq.* of this code for the purpose of
12 implementing the provisions of this section. The rules shall also prescribe those requirements
13 which, in addition to the requirements specified by this section for eligibility to participate in the
14 program, the commissioner determines must be met to obtain the commissioner’s approval to
15 operate a motor vehicle equipped with a motor vehicle alcohol and drug test and lock system.

16 (C) Nothing in this section may be construed to prohibit day report or community
17 corrections programs authorized pursuant to §62-11C-1 *et seq.* of this code, or a home
18 confinement program authorized pursuant to §62-11B-1 *et seq.* of this code, from being a provider
19 of motor vehicle alcohol and drug test and lock systems for eligible participants as authorized by
20 this section.

21 (4) For purposes of this section, a "motor vehicle alcohol and drug test and lock system"
22 means a mechanical or computerized system which, in the opinion of the commissioner, prevents
23 the operation of a motor vehicle when, through the system’s assessment of the blood alcohol or
24 drug content of the person operating or attempting to operate the vehicle, the person is determined
25 to be under the influence of alcohol or drugs. A motor vehicle alcohol and drug test and lock
26 system may not have as a component of it any minimum driving time requirement, any minimum
27 mileage requirement, or daily, or other, driving frequency requirement, and a participant in the
28 Motor Vehicle Alcohol and Drug Test and Lock Program may not be removed from the program or
29 penalized as a result of failing to meet any minimum driving time requirement, any minimum
30 mileage requirement, or any daily, or other, driving frequency requirement.

31 (5) The fee for installation and removal of ignition interlock devices shall be waived for
32 persons determined to be indigent by the Division of Motor Vehicles pursuant to §17C-5A-3 of this
33 code. The commissioner shall establish by legislative rule, proposed pursuant to §29A-3-1 *et seq.*

34 of this code, procedures to be followed with regard to persons determined by the Division of Motor
35 Vehicles to be indigent. The rule shall include, but is not limited to, promulgation of application
36 forms, establishment of procedures for the review of applications, and the establishment of a
37 mechanism for the payment of installations for eligible offenders.

38 (6) On or before January 15 of each year, the Commissioner of the Division of Motor
39 Vehicles shall report to the Legislature on:

40 (A) The total number of offenders participating in the program during the prior year;

41 (B) The total number of indigent offenders participating in the program during the prior
42 year;

43 (C) The terms of any contracts with the providers of ignition interlock devices; and

44 (D) The total cost of the program to the state during the prior year.

45 (7) A person participating in the Motor Vehicle Alcohol and Drug Test and Lock Program
46 shall submit to drug testing in a manner and at intervals prescribed by the commissioner. The
47 commissioner shall give due consideration to a lawfully prescribed medication taken in
48 accordance with a valid prescription or order of a licensed medical practitioner who acted in the
49 course of the practitioner's professional practice and does not create an impairment to driving
50 safely when considering a positive drug test result.

51 (b) (1) Any person whose license is revoked for the first time pursuant to this article or the
52 provisions of §17C-5-1 *et seq.* of this code is eligible to participate in the program when the
53 person's minimum revocation period, as specified by subsection (c) of this section, has expired
54 and the person is enrolled in or has successfully completed the safety and treatment program or
55 presents proof to the commissioner within 60 days of receiving approval to participate by the
56 commissioner that he or she is enrolled in a safety and treatment program: *Provided*, That anyone
57 whose license is revoked for the first time for driving with a blood alcohol concentration of 0.15
58 percent or more, by weight, must participate in the program when the person's minimum
59 revocation period, as specified by subsection (c) of this section, has expired and the person is

60 enrolled in or has successfully completed the safety and treatment program or presents proof to
61 the commissioner within 60 days of receiving approval to participate by the commissioner that he
62 or she is enrolled in a safety and treatment program.

63 (2) Any person whose license has been suspended for driving a motor vehicle while under
64 the age of 21 years with an alcohol concentration in his or her blood of 0.02 percent or more, by
65 weight, but less than 0.08 percent, by weight, is eligible to participate in the program after 30 days
66 have elapsed from the date of the initial suspension, during which time the suspension was
67 actually in effect: *Provided*, That in the case of a person under the age of 18, the person is eligible
68 to participate in the program after 30 days have elapsed from the date of the initial suspension,
69 during which time the suspension was actually in effect or after the person's 18th birthday,
70 whichever is later. Before the commissioner approves a person to operate a motor vehicle
71 equipped with a motor vehicle alcohol and drug test and lock system, the person must agree to
72 comply with the following conditions:

73 (A) If not already enrolled, the person shall enroll in and complete the educational program
74 provided in §17C-5A-3(d) of this code at the earliest time that placement in the educational
75 program is available, unless good cause is demonstrated to the commissioner as to why
76 placement should be postponed;

77 (B) The person shall pay all costs of the educational program, any administrative costs,
78 and all costs assessed for any suspension hearing; and

79 (3) Notwithstanding the provisions of this section to the contrary, a person eligible to
80 participate in the program under this subsection may not operate a motor vehicle unless approved
81 to do so by the commissioner.

82 (c) A person who participates in the program under subdivision (1), subsection (b) of this
83 section is subject to a minimum revocation period and minimum period for the use of the ignition
84 interlock device as follows:

85 (1) For a person whose license has been revoked for a first offense for six months for

86 driving under the influence of alcohol, or a combination of alcohol and any controlled substance or
87 other drug, or with a blood alcohol concentration of 0.08 percent, by weight, but less 0.15 percent,
88 by weight, the minimum period of revocation for participation in the test and lock program is 15
89 days and the minimum period for the use of the ignition interlock device is 125 days;

90 (2) For a person whose license has been revoked for a first offense for refusing a
91 secondary chemical test, the minimum period of revocation for participation in the test and lock
92 program is 45 days and the minimum period for the use of the ignition interlock device is one year;

93 (3) For a person whose license has been revoked for a first offense for driving with a blood
94 alcohol concentration of 0.15 percent or more, by weight, the minimum period of revocation for
95 participation in the test and lock program is 45 days and the minimum period for the use of the
96 ignition interlock device is 270 days;

97 (4) For a person whose license has been revoked for a first offense for driving under the
98 influence of alcohol, or a combination of alcohol and any controlled substance or other drug, or
99 with a blood alcohol concentration of 0.08 percent or more, by weight, or did drive a motor vehicle
100 while under the age of 21 years with an alcohol concentration in his or her blood of 0.02 percent or
101 more, by weight, but less than 0.08 percent, by weight, and while driving does any act forbidden by
102 law or fails to perform any duty imposed by law, which act or failure proximately causes the death
103 of any person within one year next following the act or failure, and commits the act or failure in
104 reckless disregard of the safety of others and when the influence of alcohol, controlled substances
105 or drugs is shown to be a contributing cause to the death, the minimum period of revocation before
106 the person is eligible for participation in the test and lock program is 12 months and the minimum
107 period for the use of the ignition interlock device is two years;

108 (5) For a person whose license has been revoked for a first offense for driving under the
109 influence of alcohol, or a combination of alcohol and any controlled substance or other drug, or
110 with a blood alcohol concentration of 0.08 percent or more, by weight, and while driving does any
111 act forbidden by law or fails to perform any duty imposed by law in the driving of the vehicle, which

112 act or failure proximately causes the death of any person within one year next following the act or
113 failure, the minimum period of revocation is six months and the minimum period for the use of the
114 ignition interlock device is two years;

115 (6) For a person whose license has been revoked for a first offense for driving under the
116 influence of alcohol, or a combination of alcohol and any controlled substance or other drug, or
117 with a blood alcohol concentration of 0.08 percent or more, by weight, and while driving does any
118 act forbidden by law or fails to perform any duty imposed by law in the driving of the vehicle, which
119 act or failure proximately causes bodily injury to any person other than himself or herself, the
120 minimum period of revocation for participation in the program is two months and the minimum
121 period for the use of the ignition interlock device is one year;

122 (7) For a person whose license has been revoked for a first offense for driving under the
123 influence of alcohol, or a combination of alcohol and any controlled substance or other drug, or
124 with a blood alcohol concentration of 0.08 percent or more, by weight, and while driving has on or
125 within the motor vehicle one or more other persons who are unemancipated minors who have not
126 reached their 16th birthday, the minimum period of revocation for participation in the program is
127 two months and the minimum period for the use of the ignition interlock device is 10 months.

128 (d) Notwithstanding any provision of the code to the contrary, a person shall participate in
129 the program if the person is convicted under §17C-5-2 of this code or the person's license is
130 revoked under §17C-5A-2 or §17C-5-7 of this code and the person was previously either convicted
131 or his or her license was revoked under any provision cited in this subsection within the past 10
132 years. The minimum revocation period for a person required to participate in the program under
133 this subsection is one year and the minimum period for the use of the ignition interlock device is
134 two years, except that the minimum revocation period for a person required to participate because
135 of a violation for driving while under the age of 21 with a blood alcohol concentration of 0.02
136 percent, or more, by weight, but less than 0.08 percent, or more, by weight, is two months and the
137 minimum period of participation is one year. The division shall add an additional two months to the

138 minimum period for the use of the ignition interlock device if the offense was committed while a
139 minor was in the vehicle. The division shall add an additional six months to the minimum period for
140 the use of the ignition interlock device if a person other than the driver received injuries. The
141 division shall add an additional two years to the minimum period for the use of the ignition interlock
142 device if a person other than the driver is injured and the injuries result in that person's death. The
143 division shall add one year to the minimum period for the use of the ignition interlock device for
144 each additional previous conviction or revocation within the past 10 years. Any person required to
145 participate under this subsection must have an ignition interlock device installed on every vehicle
146 he or she owns or operates.

147 (e)(1) If a person applies for and is accepted into the Motor Vehicle Alcohol and Drug Test
148 and Lock Program prior to the effective date of the revocation for an offense involving alcohol, the
149 commissioner shall defer the revocation period of such person under the provisions of this section.
150 Such deferral shall continue throughout the applicable minimum period for the use of the ignition
151 interlock device plus an additional period equal to the applicable minimum revocation period. If a
152 person successfully completes all terms of the Motor Vehicle Alcohol and Drug Test and Lock
153 Program for a period equal to the minimum period for the use of the ignition interlock device
154 pursuant to subsection (c) of this section, plus any applicable minimum revocation period, the
155 commissioner shall waive the revocation period.

156 (2) If a person applies for and is accepted into the Motor Vehicle Alcohol and Drug Test and
157 Lock Program prior to the effective date of the revocation for an offense solely involving drugs, the
158 commissioner may defer the revocation period of such person under the provisions of this section.
159 Such deferral shall continue throughout the applicable minimum period for the use of the ignition
160 interlock device plus an additional period equal to the applicable minimum revocation period. If a
161 person successfully completes all terms of the Motor Vehicle Alcohol and Drug Test and Lock
162 Program for a period equal to the minimum period for the use of the ignition interlock device
163 pursuant to subsection (c) of this section, plus any applicable minimum revocation period, the

164 commissioner shall waive the revocation period.

165 (f) The Division of Motor Vehicles may reduce any revocation period required of a person
166 with a second or subsequent offense for driving under the influence of drugs to a minimum of one
167 year and thereafter issue a restricted license on the conditions that the person is in the treatment
168 and job program prescribed in §61-11-26a of this code, has satisfactorily performed in the
169 treatment component of the program and that the person submits to two years of monthly drug
170 testing. If the person is otherwise required to participate in the Alcohol and Drug Test and Lock
171 Program for another offense, he or she may do so while meeting the conditions described in this
172 subsection. If the person fails to submit to a drug test or submits to a test that reveals the presence
173 of controlled substances or drugs, then the full revocation period is reinstated, and the person is
174 only credited with revocation time actually served prior to receiving restricted privileges. The
175 Commissioner of the Division of Motor Vehicles is hereby authorized to promulgate emergency
176 rules to implement the provisions of this article.

177 (g) An applicant for the ~~test and lock program~~Motor Vehicle Alcohol and Drug Test and
178 Lock Program convicted of any violation of §17B-4-3 of this code for driving while the applicant's
179 driver's license was suspended or revoked within the six-month period preceding the date of
180 application for admission to the ~~test and lock program~~Motor Vehicle Alcohol and Drug Test and
181 Lock Program may still participate in the program by serving the revocation or suspension required
182 by §17B-4-3 of this code as additional participation time in the program.

183 (h) Upon permitting an eligible person to participate in the program, the commissioner shall
184 issue to the person, and the person is required to exhibit on demand, a driver's license which shall
185 reflect that the person is restricted to the operation of a motor vehicle which is equipped with an
186 approved motor vehicle alcohol and drug test and lock system.

187 (i) The commissioner may extend the minimum period of revocation and the minimum
188 period of participation in the program for a person who violates the terms and conditions of
189 participation in the program as found in this section, or legislative rule, or any agreement or

190 contract between the participant and the division or program service provider. If the commissioner
191 finds that any person participating in the program pursuant to §17C-5-2b of this code must be
192 removed therefrom for violation(s) of the terms and conditions thereof, he or she shall notify the
193 person, the court that imposed the term of participation in the program, and the prosecuting
194 attorney in the county wherein the order imposing participation in the program was entered.

195 (j) A person whose license has been suspended for a first offense of driving while under the
196 age of 21 with a blood alcohol concentration of 0.02 percent, or more, by weight, but less than 0.08
197 percent, or more, by weight, who has completed the educational program and who has not
198 violated the terms required by the commissioner of the person's participation in the program is
199 entitled to the reinstatement of his or her driver's license six months from the date the person is
200 permitted to operate a motor vehicle by the commissioner. When a license has been reinstated
201 pursuant to this subsection, the records ordering the suspension, records of any administrative
202 hearing, records of any blood alcohol test results, and all other records pertaining to the
203 suspension shall be expunged by operation of law: *Provided*, That a person is entitled to
204 expungement under the provisions of this subsection only once. The expungement shall be
205 accomplished by physically marking the records to show that the records have been expunged
206 and by securely sealing and filing the records. Expungement has the legal effect as if the
207 suspension never occurred. The records may not be disclosed or made available for inspection
208 and in response to a request for record information, the commissioner shall reply that no
209 information is available. Information from the file may be used by the commissioner for research
210 and statistical purposes so long as the use of the information does not divulge the identity of the
211 person.

212 (k) In addition to any other penalty imposed by this code, any person who operates a motor
213 vehicle not equipped with an approved motor vehicle alcohol and drug test and lock system during
214 that person's participation in the Motor Vehicle Alcohol and Drug Test and Lock Program is guilty of
215 a misdemeanor and, upon conviction thereof, shall be confined in jail for a period not less than one

216 month nor more than six months and fined not less than \$100 nor more than \$500. Any person
217 who attempts to bypass the alcohol and drug test and lock system is guilty of a misdemeanor and,
218 upon conviction thereof, shall be confined in jail not more than six months and fined not less than
219 \$100 nor more than \$1,000: *Provided*, That notwithstanding any provision of this code to the
220 contrary, a person enrolled and participating in ~~the test and lock program~~Motor Vehicle Alcohol
221 and Drug Test and Lock Program may operate a motor vehicle solely at his or her job site if the
222 operation is a condition of his or her employment. For the purpose of this section, "job site" does
223 not include any street or highway open to the use of the public for purposes of vehicular traffic.

224 (l) Upon the effective date of the reenactment of this section in the year 2024, the
225 commissioner shall reinstate to the Motor Vehicle Alcohol and Drug Test and Lock Program any
226 former participant in the Motor Vehicle Alcohol and Drug Test and Lock Program who requests in
227 writing to the commissioner to be reinstated, where the former participant was removed from the
228 program solely as a result of failing to meet a minimum driving time requirement, a minimum
229 mileage requirement, or a daily, or other, driving frequency requirement when participating in the
230 program. Reinstatement under these circumstances shall be without cost to the participant, and
231 the participant shall be provided retroactive credit by the commissioner for participation in the
232 program during the time period that: (1) the participant was participating in the program but was
233 denied credit because the participant failed to meet a minimum driving time requirement, a
234 minimum mileage requirement, or a daily, or other, driving frequency requirement; and (2) the
235 participant was removed from the program for failure to meet a minimum driving time requirement,
236 a minimum mileage requirement, or a daily, or other, driving frequency requirement.

NOTE: The purpose of this bill is to add grievance and appellate procedures and judicial review for participants in the Division of Motor Vehicles' Safety and Treatment Program. The bill also authorizes the Commissioner of the Division of Motor Vehicles to promulgate rules to add such procedures and review for participants of the safety and treatment program.

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