WEST VIRGINIA CODE CHAPTER 17b

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§17B-1-1. Definitions.

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

Autocycle. — Every fully or partially enclosed motorcycle that is equipped with safety belts, rollover protection, a rearview mirror, automotive seating, a steering wheel, and equipment otherwise required on a motorcycle and which has no more than three wheels in contact with the roadway at any one time.

Cancellation. — Means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to that license, but the cancelation of a license is without prejudice and application for a new license may be made at any time after the cancelation.

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

Commissioner. — The Commissioner of the Division of Motor Vehicles of this state.

Division. — The Division of Motor Vehicles of this state acting directly or through its duly authorized officers or agents.

Driver. — Means any person who drives, operates, or is in physical control of a motor vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required to hold a driver's license.

Driver's license. — Means any permit or license issued by this state to a person which authorizes the person to drive a motor vehicle of a specific class or classes subject to any restriction or endorsement contained thereon.

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

Motorcycle. — Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor as defined in this section, a moped as defined in §17C-1-5a of this code, a snowmobile as defined in §17A-1-1(mm) of this code, an all-terrain vehicle as defined in §17A-1-1(ii) of this code, and an electric bicycle as defined in §17C-1-70 of this code.

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

9-1-1 system. — Means an emergency telephone system or enhanced emergency telephone system as defined in §24-6-2 of this code.

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Nonresident. — Every person who is not a resident of this state.

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

Owner. — A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor is the owner for the purpose of this chapter.

Person. — Every natural person, firm, copartnership, association, or corporation.

Revocation. — Means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted upon by the division after the expiration of at least one year after the date of revocation, except as otherwise provided in §17C-5A-2 of this code.

School bus. — Every motor vehicle owned by a public governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

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

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

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

Wireless communication device. — Means a handheld device used to access a wireless telephone service or a text messaging device.

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§17B-1A-1. Authorization.

Pursuant to authority granted by an act of the eighty-fifth Congress of the United States, being public law six hundred eighty-four, approved August 20, 1958, the Governor of this state shall execute a compact on behalf of the State of West Virginia with all other jurisdictions legally joining in the compact in the form substantially as follows:

ARTICLE I. FINDINGS AND DECLARATION OF POLICY.

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degrees of compliance with state laws and local ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.

(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

ARTICLE II. DEFINITIONS.

As used in this compact:

(a) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance, or administrative rule, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person

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charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

ARTICLE III. REPORTS OF CONVICTION.

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code, or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond, or other security; and shall include any special findings made in connection therewith.

ARTICLE IV. EFFECT OF CONVICTION.

(a) The licensing authority in the home state, for the purposes of suspension, revocation, or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to Article III of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for:

(1) Manslaughter, homicide, or any offense contained within §17C-5-1 of this code, resulting from the operation of a motor vehicle;

(2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle;

(3) Any felony in the commission of which a motor vehicle is used;

(4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury to another person.

(b) As to other convictions, reported pursuant to Article III, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state.

(c) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subsection (a) of this article, such party state shall construe the denominations and descriptions appearing in subsection (a) of this article as being applicable to and identifying those offenses or violations of a substantially similar nature and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this article.

ARTICLE V. APPLICATIONS FOR NEW LICENSES.

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other

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party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

(1) The applicant has held such a license, but the license has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.

(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrender such license.

ARTICLE VI. APPLICABILITY OF OTHER LAWS.

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

ARTICLE VII. COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION.

(a) The head of the licensing authority of each party state shall be the administrator of this compact for his or her state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

ARTICLE VIII. ENTRY INTO FORCE AND WITHDRAWAL.

(a) This compact shall enter into force and become effective as to any state when it has enacted the compact into law.

(b) Any party state may withdraw from this compact by enacting a statute repealing the compact, but no such withdrawal shall take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring

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prior to the withdrawal.

ARTICLE IX. CONSTRUCTION AND SEVERABILITY.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact are severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall is held contrary to the Constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

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§17B-1A-2. Definitions; implementation of compact.

(1) As used in the compact, the term "licensing authority," with reference to this state, shall mean the department of motor vehicles. Said department shall furnish to the appropriate authorities of any other party state any information or documents reasonably necessary to facilitate the administration of Articles III, IV and V of the compact.

(2) The compact administrator provided for in Article VII of the compact shall not be entitled to any additional compensation on account of his service as such administrator, but shall be entitled to be reimbursed for all reasonable and necessary expenses actually incurred in connection with his duties and responsibilities as such administrator, in the same manner as for other such expenses incurred in connection with any other duties or responsibilities of his office or employment.

(3) As used in the compact, with reference to this state, the term "executive head" shall mean the Governor.

(4) To aid in the implementation of the compact, records required to be forwarded to the department of motor vehicles by the provisions of section four, article three of this chapter shall be forwarded to such department within the time and as otherwise specified in said section four.

(5) The statutes which Article IV of the compact refers to are sections one, five and six, article three, chapter seventeen- b, section three, article three, chapter seventeen-d, and section five, article four, chapter seventeen-d of the Code of West Virginia.

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§17B-1B-1. Commissioner to adopt and implement program.

The commissioner is hereby directed to adopt and implement a program whereby anatomical organ donors and the anatomical organ or organs to be donated shall be so identified by an appropriate decal, sticker or other marking to be affixed to the drivers' or chauffeurs' license of such person.

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§17B-1B-2. License application to contain space for donor.

The commission shall provide space on every application for a driver's or chauffeur's license or renewal thereof in which the applicant may indicate his desire to have such marking on his driver's or chauffeur's license. In addition, any person whose license has not expired or who has already obtained a license may have such marking affixed by the commissioner upon request.

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§17B-1B-3. Commissioner to publish information and notify other states of program.

The commissioner shall publish the existence of such program along with information regarding the procedures for having such marking affixed to a license and shall notify his counterparts in each of the other states as to the existence of the program and the significance of the marking.

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§17B-1B-4. Anatomical gift act not affected.

No provision of this article shall be construed to modify or repeal any provisions of the anatomical gift act and the actual donation of such anatomical organ shall be in conformity with and subject to all provisions of the anatomical gift act.

WV Legislature

§17B-1C-1. Authorization for entry into nonresident violator compact.

The Governor of this state is hereby authorized and directed to execute a compact on behalf of the State of West Virginia with any state of the United States legally joining therein in form substantially as follows:

ARTICLE I. FINDINGS, DECLARATION OF POLICY AND PURPOSE.

A. The party jurisdictions find that:

(1) In most instances, a motorist who is cited for a traffic violation in a jurisdiction other than his home jurisdiction:

(a) Must post collateral or bond to secure appearance for trial at a later date; or

(b) If unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or

(c) Is taken directly to court for his trial to be held.

(2) In some instances, the motorist's driver's license is deposited as collateral to be returned after he has complied with the terms of the citation.

(3) The purpose of the practices described in paragraphs (1) and (2) above is to ensure compliance with the terms of a traffic citation by the motorist who, if permitted to continue on his way after receiving the traffic citation, could return to his home jurisdiction and disregard his duty under the terms of the traffic citation.

(4) A motorist receiving a traffic citation in his home jurisdiction is permitted, except for certain violations, to accept the citation from the officer at the scene of the violation and to immediately continue on his way after promising or being instructed to comply with the terms of the citation.

(5) The practice described in paragraph (1) above causes unnecessary inconvenience and, at times, a hardship for the motorist who is unable at the time to post collateral, furnish a bond, stand trial or pay the fine and thus is compelled to remain in custody until some arrangement can be made.

(6) The deposit of a driver's license as a bail bond, as described in paragraph (2) above, is viewed with disfavor.

(7) The practices described herein consume an undue amount of law-enforcement time.

B. It is the policy of the party jurisdictions to:

(1) Seek compliance with the laws, ordinances and administrative rules and regulations

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relating to the operation of motor vehicles in each of the jurisdictions.

(2) Allow motorists to accept a traffic citation for certain violations and proceed on their way without delay whether or not the motorist is a resident of the jurisdiction in which the citation was issued.

(3) Extend cooperation to its fullest extent among the jurisdictions, each as to the other, for obtaining compliance with the terms of a traffic citation issued in one jurisdiction to a resident of another jurisdiction.

(4) Maximize effective utilization of law-enforcement personnel and assist court systems in the efficient disposition of traffic violations.

C. The purpose of this compact is to:

(1) Provide a means through which jurisdictions may participate in a reciprocal program to effectuate the policies enumerated in paragraph B above, in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of traffic violators operating within party jurisdiction in recognition of the motorist's right of due process and the sovereign status of a party jurisdiction.

ARTICLE II. DEFINITIONS.

In the nonresident violator compact, the following words have the meaning indicated, unless the context requires otherwise.

(1) "Citation" means any summons, ticket or other official document issued by a police officer for a traffic violation containing an order which requires the motorist to respond.

(2) "Collateral" means any cash or other security deposited to secure an appearance for trial, following the issuance by a police officer of a citation for a traffic violation.

(3) "Court" means a court of law or traffic tribunal.

(4) "Driver's license" means any license or privilege to operate a motor vehicle issued under the laws of the home jurisdiction.

(5) "Home jurisdiction" means the jurisdiction that issued the driver's license of the traffic violator.

(6) "Issuing jurisdiction" means the jurisdiction in which the traffic citation was issued to the motorist.

(7) "Jurisdiction" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

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(8) "Motorist" means a driver of a motor vehicle operating in a party jurisdiction other than the home jurisdiction.

(9) "Personal recognizance" means an agreement by a motorist made at the time of issuance of the traffic citation that he will comply with the terms of that traffic citation.

(10) "Police officer" means any individual authorized by the party jurisdiction to issue a citation for a traffic violation.

(11) "Terms of the citation" means those options expressly stated upon the citation.

ARTICLE III. PROCEDURE FOR ISSUING JURISDICTION.

A. When issuing a citation for a traffic violation, a police officer shall issue the citation to a motorist who possesses a driver's license issued by a party jurisdiction and shall not, subject to the exceptions noted in paragraph B of this article, require the motorist to post collateral to secure appearance, if the officer receives the motorist's signed personal recognizance that he will comply with the terms of the citation.

B. Personal recognizance is acceptable only if not prohibited by law. If mandatory appearance is required, it must take place immediately following issuance of the citation.

C. Upon failure of a motorist to comply with the terms of a traffic citation, the appropriate official shall report the failure to comply to the licensing authority of the jurisdiction in which the traffic citation was issued. The report shall be made in accordance with procedures specified by the issuing jurisdiction and shall contain information as specified in the compact manual as minimum requirements for effective processing by the recipient jurisdiction.

D. Upon receipt of the report, the licensing authority of the issuing jurisdiction shall transmit to the licensing authority in the home jurisdiction of the motorist the information in a form and content as contained in the compact manual.

E. The licensing authority of the issuing jurisdiction may not suspend the privilege of a motorist for whom a report has been transmitted.

F. The licensing authority of the issuing jurisdiction shall not transmit a report on any violation if the date of transmission is more than six months after the date on which the traffic citation was issued.

G. The licensing authority of the issuing jurisdiction shall not transmit a report on any violation where the date of issuance of the citation predates the most recent of the effective dates of entry for the two jurisdictions affected.

ARTICLE IV. PROCEDURE FOR HOME JURISDICTION.

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A. Upon receipt of a report of a failure to comply from the licensing authority of the issuing jurisdiction, the licensing authority of the home jurisdiction shall notify the motorist and initiate a suspension action, in accordance with the home jurisdiction's procedures, to suspend the motorist's driver's license until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the home jurisdiction licensing authority. Due process safeguards will be afforded.

B. The licensing authority of the home jurisdiction shall maintain a record of actions taken and make reports to issuing jurisdictions as provided in the compact manual.

ARTICLE V. APPLICABILITY OF OTHER LAWS.

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party jurisdiction to apply any of its other laws relating to licenses to drive to any person or circumstance, or to invalidate or prevent any driver license agreement or other cooperative arrangement between a party jurisdiction and a nonparty jurisdiction.

ARTICLE VI. COMPACT ADMINISTRATOR PROCEDURES.

A. For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is created. The board shall be composed of one representative from each party jurisdiction to be known as the compact administrator. The compact administrator shall be appointed by the jurisdiction executive and will serve and be subject to removal in accordance with the laws of the jurisdiction he represents. A compact administrator may provide for the discharge of his duties and the performance of his functions as a board member by an alternate. An alternate may not be entitled to serve unless written notification of his identity has been given to the board.

B. Compact administrators shall be entitled to one vote each on the board of directors. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor. Action by the board shall be only at a meeting at which a majority of the party jurisdictions are represented.

C. The board shall elect annually, from its membership, a chairman and a vice chairman.

D. The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party jurisdiction, for the conduct of its business and shall have the power to amend and rescind its bylaws.

E. The board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any jurisdiction, the United States, or any other governmental agency and may receive, utilize and dispose of the same.

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F. The board may contract with, or accept services or personnel from, any government or intergovernmental agency, person, firm or corporation, or any private nonprofit organization or institution.

G. The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in the compact manual.

ARTICLE VII. ENTRY INTO COMPACT AND WITHDRAWAL.

A. This compact shall become effective when it has been adopted by at least two jurisdictions.

B. (1) Entry into the compact shall be made by a resolution of ratification executed by the authorized officials of the applying jurisdiction and submitted to the chairman of the board.

(2) The resolution shall be in a form and content as provided in the compact manual and shall include statements that in substance are as follows:

(a) A citation of the authority by which the jurisdiction is empowered to become a party to this compact.

(b) Agreement to comply with the terms and provisions of the compact.

(c) That compact entry is with all jurisdictions then party to the compact and with any jurisdiction that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying jurisdiction, but it shall not be less than sixty days after notice has been given by the chairman of the board of compact administrators or by the secretariat of the board to each party jurisdiction that the resolution from the applying jurisdiction has been received.

C. A party jurisdiction may withdraw from this compact by official written notice to the other party jurisdictions, but a withdrawal shall not take effect until ninety days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member jurisdiction. No withdrawal shall affect the validity of this compact as to the remaining party jurisdictions.

ARTICLE VIII. EXCEPTIONS.

The provisions of this compact shall not apply to parking or standing violations, highway weight limit violations and violations of law governing the transportation of hazardous materials.

ARTICLE IX. AMENDMENTS TO THE COMPACT.

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A. This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the board of compact administrators and may be initiated by one or more party jurisdictions.

B. Adoption of an amendment shall require endorsement of all party jurisdictions and shall become effective thirty days after the date of the last endorsement.

C. Failure of a party jurisdiction to respond to the compact chairman within one hundred and twenty days after receipt of the proposed amendment shall constitute endorsement.

ARTICLE X. CONSTRUCTION AND SEVERABILITY.

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any party jurisdiction or of the United States or the applicability thereof to any government, agency, person or circumstance, the compact shall not be affected thereby. If this compact shall be held contrary to the Constitution of any jurisdiction party thereto, the compact shall remain in full force and effect as to the remaining jurisdictions and in full force and effect as to the jurisdiction affected as to all severable matters.

ARTICLE XI.

This compact shall be known as the "Nonresident Violator Compact."

WV Legislature

§17B-1C-2. Definitions.

(1) As used in this article, the term "licensing authority," with reference to this state, means the department of motor vehicles. The department shall furnish to the licensing authorities of any other party state any information or documents reasonably necessary to facilitate the administration of Articles III and IV and shall maintain and periodically distribute to every court of record and magistrate, every sheriff and municipal chief of police and the department of public safety a current list of all states that have executed the compacts as provided in this article.

(2) As used in this article, the term "jurisdiction executive," with reference to this state, means the Governor of this state.

(3) As used in Section C, Article III of section one of this article, the term "appropriate official," with reference to this state, refers to a magistrate, his clerk, or a judge or clerk of a court of record.

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§17B-1C-3. Compact administrator.

The compact administrator, as provided for in Article VI, section one of this article, is the commissioner of the department of motor vehicles. The commissioner shall not be entitled to any additional compensation for service as administrator, but shall be entitled to reimbursement for all reasonable and necessary expenses actually incurred in discharging the duties and responsibilities as administrator in the same manner as for other such expenses incurred in discharging any other duties or responsibilities of the department of motor vehicles.

WV Legislature

§17B-1C-4. Entry into other nonresident violator compacts.

Inasmuch as other states and the District of Columbia have entered into nonresident violator compacts which are similar in purpose to the compact set forth in section one of this article, the Governor is authorized to execute a nonresident violator compact on behalf of this state with each of these jurisdictions.

WV Legislature

§17B-1D-1. Legislative findings.

The Legislature hereby finds and declares that:

(a) Motorcycles account for approximately three percent of the state's registered motor vehicles but are involved in over six percent of the state's motor vehicle fatalities.

(b) In terms of fatalities per vehicle mile traveled, the state's motorcyclists face about ten times the risk of passenger car occupants.

(c) Lack of proper riding skills have been shown to be largely responsible for the motorcycle fatality problem.

(d) It is therefore the purpose of this article to provide for a motorcycle safety education program in this state.

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§17B-1D-2. Program established.

(a) The West Virginia motorcycle safety education program is hereby established within the division to be administered by the commissioner. The program shall include rider training courses and instructor training courses. It may also include efforts to enhance public motorcycle safety awareness, alcohol and drug effects awareness for motorcyclists, driver improvement efforts, licensing improvement efforts, program promotion and other efforts to enhance motorcycle safety through education.

(b) The commissioner shall appoint a program coordinator who shall oversee and direct the program, and conduct an annual evaluation. Rider training courses shall be conducted annually in no fewer than four sites throughout the state, commencing no later than July 1, 1996.

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§17B-1D-3. Rider training.

(a) The division shall establish standards for the rider training course designed to develop and instill the knowledge, attitudes, habits and skills necessary for safe operation of a motorcycle.

(b) Rider training courses shall be open to all residents of the state who are eligible for a motorcycle learner's permit. An adequate number of rider training courses shall be provided to meet the reasonably anticipated needs of all persons in the state who are eligible and who desire to participate in the program. Program delivery may be phased in over a reasonable period of time.

(c) The division shall issue certificates of completion in the manner and form prescribed by the commissioner to persons who satisfactorily complete the requirements of the course.

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§17B-1D-4. Instructor training and qualification.

(a) The division shall establish standards for an approved motorcycle rider education instructor preparation course. Successful completion of the course shall require the participant to demonstrate knowledge of the course material, knowledge of safe motorcycle operating practices, and the necessary aptitude for instructing students.

(b) The division shall establish minimum requirements for the qualification of a rider education instructor.

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§17B-1D-5. Program implementation.

The division may enter into contracts with either public or private organizations for technical assistance in conducting rider and instructor training courses, if the courses are administered and taught according to standards established by the division. An organization conducting such courses may charge a reasonable tuition fee. The division shall determine the maximum tuition fee an organization may charge.

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§17B-1D-6. Exemption from motorcycle license examination.

The commissioner may exempt applicants for a motorcycle driver's license or endorsement from all or part of the special motorcycle license examination required by section seven-b, article two of this chapter if the applicant presents a certificate of completion of the rider training course specified in sections two and three, article one-d of this chapter.

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§17B-1D-7. Motorcycle safety account.

(a) There is hereby created a special fund in the State Treasury which shall be designated the "motorcycle safety fund". The fund shall consist of all moneys received from motorcycle driver licensing fees except instruction permit fees, $5.50 of the moneys received from the motorcycle safety fee assessed with each motorcycle registration under section three-b, article ten, chapter seventeen-a of this code and any other moneys specifically allocated to the fund. The fund shall not be treated by the Auditor and treasurer as part of the general revenue of the state. The fund shall be a special revolving fund to be used and paid out upon order of the Commissioner of Motor Vehicles, based upon the recommendations of the motorcycle safety awareness board created under section eight, article one-d, chapter seventeen-b of this code, solely for the purposes specified in this chapter.

(b) The fund shall be used by the Division of Motor Vehicles to defray the cost of implementing and administering the motorcycle safety education program established in section two of this article.

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§17B-1D-8. Motorcycle safety awareness board continued.

(a) There is continued an eight member motorcycle safety awareness board consisting of four ex-officio members and four nongovernmental members. The ex-officio members are the motorcycle safety program coordinator, as appointed under section two of this article, or a designee; the superintendent of the State Police or a designee; the commissioner of the bureau of public health or a designee; and the commissioner of the Division of Tourism or a designee. The four nongovernmental members are a licensed motorcycle operator; a member of American bikers aimed toward education (ABATE) or the West Virginia confederation of motorcycle clubs; a licensed insurance agent who has a valid motorcycle endorsement who will be appointed for an initial term of two years; and, an owner of a motorcycle dealership or supplier of aftermarket nonfranchised motorcycle supplies who will be appointed for an initial term of three years. The motorcycle safety program coordinator shall serve as chair of the board. The nongovernmental members shall be appointed by the Governor with the advice and consent of the Senate. The terms are for three years, except for the initial appointments which will be staggered according to the provisions of this article. Members may be reappointed to the board. Any nongovernmental member who is absent without good cause from three consecutive meetings of the board may be removed from the board and a new member appointed by the Governor.

(b) The board may recommend to the superintendent of the State Police types and makes of protective helmets, eye protection devices and equipment offered for sale, purchased or used by any person. The board may make recommendations to the Commissioner of Motor Vehicles regarding the use of the moneys in the motorcycle safety fund created under section seven of this article. The board shall report annually to the Legislature on or before the first day of each regular legislative session.

(c) The appointed members shall serve without compensation, however, members are entitled to reimbursement of travel and other necessary expenses actually incurred while engaged in legitimate board activities in accordance with the guidelines of the travel management office of the Department of Administration or successor agency.

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§17B-1D-9. Authority to promulgate rules.

The division shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, as are necessary to carry out the provisions of this article.

WV Legislature

§17B-1D-10.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

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§17B-2-1. Drivers must be licensed; types of licenses; licensees need not obtain local government license; motorcycle driver license; identification cards.

(a) (1) No person, except those hereinafter expressly exempted, may drive a motor vehicle upon a street or highway in this state or upon a subdivision street used by the public generally unless the person has a valid driver's license issued pursuant to this code for the type or class of vehicle being driven.

(2) Any person licensed to operate a motor vehicle pursuant to this code may exercise the privilege thereby granted in the manner provided in this code and, except as otherwise provided by law, is not required to obtain any other license to exercise the privilege by a county, municipality, or local board or body having authority to adopt local police regulations.

(b) The division, upon issuing a driver's license, shall indicate on the license the type or general class or classes of vehicles the licensee may operate in accordance with this code, federal law, or rule. Licenses shall be issued in different colors for those drivers under age 18, those drivers age 18 to 21, and adult drivers. The commissioner is authorized to select and assign colors to the licenses of the various age groups.

(c) The following drivers' licenses classifications are hereby established:

(1) A Class A, B, or C license shall be issued to those persons 18 years of age or older with two years of driving experience who have qualified for the commercial driver's license established by Chapter 17E of this code and the federal Motor Carrier Safety and Improvement Act of 1999 subsequent rules, and have paid the required fee.

(2) A Class D license shall be issued to those persons 18 years and older with one year of driving experience who operate motor vehicles other than those types of vehicles which require the operator to be licensed under the provisions of Chapter 17E of this code and federal law and rule and whose primary function or employment is the transportation of persons or property for compensation or wages and have paid the required fee. For the purpose of regulating the operation of motor vehicles, wherever the term "chauffeur's license" is used in this code, it means the Class A, B, C, or D license described in this section or Chapter 17E of this code or federal law or rule: Provided, That anyone not required to be licensed under the provisions of Chapter 17E of this code and federal law or rule and who operates a motor vehicle registered or required to be registered as a Class A motor vehicle, as that term is defined in §17A-10-1 of this code, with a gross vehicle weight rating of less than 8,001 pounds, is not required to obtain a Class D license.

(3) A Class E license shall be issued to persons who have qualified for a driver's license under the provisions of this chapter and who are not required to obtain a Class A, B, C, or D license and who have paid the required fee. The Class E license may be endorsed under §17B-2-7b of this code for motorcycle operation. The Class E or G license for a person under the age of 18 may also be endorsed with the appropriate graduated driver license level in

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accordance with §17B-2-3a of this code.

(4) A Class F license shall be issued to those persons who successfully complete the motorcycle examination procedure provided by this chapter and have paid the required fee but who do not possess a Class A, B, C, D, or E driver's license.

(5) A Class G driver's license or instruction permit shall be issued to a person using bioptic telescopic lenses who has successfully completed an approved driver training program and complied with all other requirements of §17B-2B-1 *et seq*. of this code.

(d) All licenses issued under this section may contain information designating the licensee as a diabetic, an organ donor, deaf or hard-of-hearing, as having any other handicap or disability, or that the licensee is an honorably discharged veteran of any branch of the Armed Forces of the United States, according to criteria established by the division, if the licensee requests this information on the license. An honorably discharged veteran may be issued a replacement license without charge if the request is made before the expiration date of the current license and the only purpose for receiving the replacement license is to get the veterans designation placed on the license.

(e) No person, except those hereinafter expressly exempted, may drive a motorcycle on a street or highway in this state or on a subdivision street used by the public generally unless the person has a valid motorcycle license, a valid license which has been endorsed under §17A-2-17b of this code for motorcycle operation, or a valid motorcycle instruction permit.

(f) (1) An identification card may be issued to a person who:

(A) Is a resident of this state in accordance with §17A-3-1a of this code;

(B) Has reached the age of two years or, for good cause shown, under the age of two;

(C) Has paid the required fee of $5 per year. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed 10 percent of the total fee amount in a single year: *Provided, however*, That no fees or charges, including renewal fees, are required if the applicant:

(i) Is 65 years or older;

(ii) Is legally blind; or

(iii) Will be at least 18 years of age at the next general, municipal, or special election and intends to use this identification card as a form of identification for voting; and

(D) Presents a birth certificate or other proof of age and identity acceptable to the division with a completed application on a form supplied by the division.

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(2) The identification card shall contain the same information as a driver's license except that the identification card shall be clearly marked as an identification card. The division may issue an identification card with less information to persons under the age of 16. The division may issue an identification card without a photograph pursuant to subdivision (4) of this subsection. An identification card may be renewed annually on application and payment of the fee required by this section.

(A) Every identification card issued to a person who has attained his or her 21st birthday expires on the licensee's birthday in those years in which the licensee's age is evenly divisible by five. Except as provided in paragraph (B) of this subdivision, no identification card may be issued for less than three years or for more than seven years and expires on the licensee's birthday in those years in which the licensee's age is evenly divisible by five.

(B) Every identification card issued to a person who has not attained his or her 21st birthday expires 30 days after the licensee's 21st birthday.

(C) Every identification card issued to persons under the age of 16 shall be issued for a period of two years and expire on the last day of the month in which the applicant's birthday occurs.

(3) The division may issue an identification card to an applicant whose privilege to operate a motor vehicle has been refused, canceled, suspended, or revoked under the provisions of this code.

(4) Notwithstanding the provisions of this article to the contrary, the division may issue an identification card without a photograph to an applicant who under oath or affirmation affirms, subject to the laws of perjury and on a form supplied by the division, that the applicant is a member of a recognized religious sect that has established tenets and teachings due to which the applicant is conscientiously opposed to posing for a photograph. The form supplied by the division pursuant to this subdivision shall advise the applicant that an identification card without a photograph may not be acceptable for all identification purposes.

(g) For any person over the age of 50 years who wishes to obtain a driver's license or identification card under the provisions of this section:

(1) A raised seal or stamp on the birth certificate or certified copy of the birth certificate is not required if the issuing jurisdiction does not require one; and

(2) If documents are lacking to prove all changes of name in the history of any such applicant, applicants renewing a driver's license or identification card under the provisions of this section may complete a Name Variance Approval Document as instituted by the division, so long as they can provide:

(A) Proof of identity;

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(B) Proof of residency; and

(C) A valid Social Security number.

(3) The division may waive any documents necessary to prove a match between names, so long as the division determines the person is not attempting to:

(A) Change his or her identity;

(B) Assume another person's identity; or

(C) Commit fraud.

(h) A person over the age of 70 years, or who is on Social Security Disability, who wishes to obtain or renew a driver's license or identification card under the provisions of this section, may not be required to supply a copy of a birth certificate if they can provide:

(1) Proof of identity;

(2) Proof of residency;

(3) A valid Social Security number; and

(4) One of the following identifying items:

(A) A form of military identification, including a DD214 or equivalent;

(B) A U.S. passport, whether valid or expired;

(C) School records, including a yearbook;

(D) A religious document, that in the judgment of the division is sufficient and authentic to reflect that the person was born in the United States; or

(E) An expired driver's license, employment identification card, or other reliable identification card with a recognizable photograph of the person.

(i) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $500 and, upon a second or subsequent conviction, shall be fined not more than $500 or confined in jail not more than six months, or both fined and confined.

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§17B-2-1a. Surrender of license from other state or jurisdiction prior to receipt of license from this state; examination; fees required.

(a) The Division of Motor Vehicles may not issue a driver>s license to a person who holds a valid license to operate a motor vehicle issued by another state or jurisdiction subject to a reciprocal agreement governing the licensing of drivers operating commercial motor vehicles or party to a reciprocal driver's license exchange agreement with this state unless or until the applicant surrenders to the division the foreign license, or the person has signed and submitted to the division an affidavit to the effect that the person has surrendered all valid licenses issued to him or her by other states or jurisdictions. Any surrendered license issued by any other state or jurisdiction shall be destroyed or at the discretion of the division retained by the division and the division shall notify the original state of licensure that the person who surrendered the license has been licensed in this state. It is unlawful for a person to possess more than one valid driver's license at any time.

(b) Every driver shall, within thirty days after taking up residence in this state, apply to the division for a driver's license as prescribed in this article. For the purposes of this chapter the presumption that a natural person is a resident of this state is based on the provisions of section one-a, article three, chapter seventeen-a of this code. The division may assign the driver's license class, type, endorsements or restrictions based on the applicant's prior licensing status, age and the type of licensing system used by the state of prior licensing.

(c) All other applicable provisions of this article relating to issuance, fees, expiration and renewal of licenses, and driver examination of applicants apply to this section.

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§17B-2-1b. Transfer of driver's licensing examination function.

(a) Effective July 1, 1999, the responsibility for driver's licensing examinations and civilian employees of the West Virginia state police whose primary governmental duties as of June 30, 1999, involve the examination of applicants for instruction permits and driver's licenses shall be transferred from the West Virginia state police to the Division of Motor Vehicles.

(b) Effective July 1, 1999, until December 31, 2000, the Commissioner of Motor Vehicles may delegate responsibility for the supervision of the civilian employees and the operation of the examination program to the superintendent of the West Virginia state police pending the orderly transfer and hiring of the necessary personnel, transfer and purchase of necessary equipment and supplies and the establishment of suitable examination locations. The commissioner may also reimburse the West Virginia state police for the services of personnel, equipment, supplies and office space at state police facilities necessary to maintain the examination program at its current level of service during the transfer period. The commissioner may also utilize existing state police locations as examination and licensing locations unless in his or her opinion, more suitable locations are available. The commissioner shall reimburse the West Virginia state police for that use.

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§17B-2-1c. Temporary identification card for released inmates.

(a) The West Virginia Division of Corrections and Rehabilitation is authorized to issue a temporary identification card to an eligible inmate at no cost, no earlier than seven days prior to the inmate's release from the division's custody. An identification card issued pursuant to this section shall be valid for 180 days after the date of issuance.

(b) A valid identification card issued pursuant to this section shall have the same force and effect as a standard identification card issued by the Division of Motor Vehicles pursuant to §17B-2-1(f) of this code.

(c)(1) Notwithstanding any other provision of this code, the Division of Motor Vehicles shall accept a valid identification card issued pursuant to this section as sufficient proof of identity, age, and residency of a person applying for an identification card or driver's license pursuant to §17B-2-1 of this code.

(2) If the Division of Motor Vehicles is unable to verify the person's Social Security number by another means, the Division of Motor Vehicles shall contact the Division of Corrections and Rehabilitation to verify the Social Security number provided by such person. The Division of Motor Vehicles shall accept verification by the Division of Corrections and Rehabilitation as sufficient documentation of the person's Social Security number for the purpose of issuing such person an identification card or driver's license pursuant to §17B-2-1 of this code.

(3) The Division of Corrections and Rehabilitation, in collaboration with the Division of Motor Vehicles, shall develop a policy to permit the sharing of released inmates' Social Security numbers for the limited purposes of this section, and shall obtain any necessary written authorization from an inmate prior to the inmate's release from the Division of Corrections and Rehabilitation's custody.

(d) An inmate is not eligible to receive an identification card pursuant to this section if the inmate is in possession of a valid West Virginia identification card or driver's license, which expires more than 30 days after the inmate's date of release from the Division of Corrections and Rehabilitation's custody, or if the inmate is not a citizen of the United States.

(e) Nothing in this section shall be construed to permit or require issuance of an identification card or driver's license for federal use, in violation of the standards promulgated pursuant to the REAL ID Act of 2005, 49 U.S.C. § 30301 *et seq*.

(f) During the six months preceding an inmate's release date from the Division of Corrections and Rehabilitation's custody, the division shall assist the inmate to obtain a certified copy of the inmate's birth certificate, a Social Security card, and a state-issued driver's license or identification card.

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§17B-2-2. Persons exempt from license.

The following persons are exempt from license hereunder:

(1) Any person while operating a motor vehicle in the armed services of the United States while in the performance of his official duties;

(2) A nonresident who is at least sixteen years of age and who has in his immediate possession a valid driver's license issued to the person in the person's home state or country unless the commissioner determines the person's home state or country does not extend the same privileges to a resident of this state, may operate a motor vehicle in this state only as a noncommercial driver for a period not to exceed ninety days in any one calendar year;

(3) A nonresident who is at least sixteen years of age, who has in the person's immediate possession a valid driver>s license issued to the person in the person's home state or country and who is employed in this state, or owns, maintains or operates a place or places of business in this state, or engages in any trade, profession or occupation in this state, in addition to the driving privileges extended under subdivision (2) of this section, unless the commissioner determines the person's home state or country does not extend the same privileges to a resident of this state, may operate a motor vehicle in this state only as a noncommercial driver in traveling to and from the person>s place or places of employment, place or places of business or place or places at which the person engages in the trade, profession or occupation and in the discharge of the duties of the person's employment, business, trade, profession or occupation if the duties are such that, if performed by a resident of the State of West Virginia over the age of eighteen years of age, the resident would not be required under the provisions of this chapter to obtain a Class A, B, C or D driver>s license. However, this subsection shall not exempt any person who is required to obtain a West Virginia driver's license in accordance with the provisions of section one-a of this article;

(4) A nonresident who is at least eighteen years of age and who has in his or her immediate possession a valid commercial driver>s license issued to the person in his or her home state or country and which meets the requirements of the federal commercial motor vehicle act of 1986, Title XI of public law 99-570 and unless the commissioner determines the person's home state or country does not extend the same privilege to a resident of this state may operate a motor vehicle in this state either as a commercial driver subject to the age limits applicable to commercial driver in this state, or as a noncommercial driver subject to the limitations imposed on nonresident drivers in subdivisions (2) and (3) of this section;

(5) Any person who is a student, properly enrolled and registered in an accredited school, college or university in this state, who is at least sixteen years of age and who has in his or her immediate possession a valid driver's license issued to the person in the person's home state, notwithstanding the limitations of subdivisions (2) and (3) of this section may operate a motor vehicle in this state only as noncommercial driver: Provided, That the state of which the person is a resident shall extend the same privileges to residents of this state. This

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exemption shall be canceled immediately when the student is graduated from school, college or university or is expelled or ceases to be a student.

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§17B-2-3. What persons may not be licensed; exceptions.

(a) The division may not issue any license hereunder:

(1) To any person who is under the age of eighteen years: Provided, That the division may issue a junior driver's license on or after January 1, 2001, a graduated driver's license, to a person under the age of eighteen years in accordance with the provisions of section three-a of this article;

(2) To any person, as a Class A, B, C or D driver, who is under the age of eighteen years;

(3) To any person, whose license has been suspended or revoked, during the suspension or revocation;

(4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;

(5) To any person, who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by judicial decree or released from a hospital for the mentally incompetent upon the certificate of the superintendent of the institution that the person is competent, and not then unless the commissioner is satisfied that the person is competent to operate a motor vehicle with a sufficient degree of care for the safety of persons or property;

(6) To any person who is required by this chapter to take an examination, unless the person has successfully passed the examination;

(7) To any person when the commissioner has good cause to believe that the operation of a motor vehicle on the highways by the person would be inimical to public safety or welfare.

(b) The division may not issue a license or nondriver identification card to any person required to register as a sexually violent predator pursuant to the provisions of article twelve, chapter fifteen, unless he or she obtains a driver's license or nondriver identification card coded by the commissioner to denote that he or she is a sexually violent predator as follows:

(1) If a person is judicially determined to be a sexually violent predator after the effective date of this section, the sentencing court shall order the person or the agency with custody of the person's driver's license or nondriver identification card to surrender said license or card to the court. The sentencing court shall forward to the division all driver's licenses or nondriver identification cards that it receives pursuant to this section, along with a copy of the sentencing order. If a person is registered as a sexually violent predator pursuant to section nine, article twelve, chapter fifteen of this code after the effective date of this section as amended and reenacted during the first extraordinary session of the 2006 Legislature, the person shall surrender their driver's license or nondriver identification card to the division within ten days of their registration with the State Police. Any replacement driver's license or nondriver identification card issued to the person under this section must be coded by the

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commissioner to denote the person is a sexually violent predator and shall be issued at no cost to the person.

(2) Within ten business days of the effective date of the amendments to this section made during the first extraordinary session of the 2006 Legislature, the State Police shall provide the division with the name, address and motor vehicle information of every person registered as a sexually violent predator in the state at that time and also provide notice to said registrants of the requirements set forth in said amendments. If a person is registered as a sexually violent predator prior to the effective date of this section, as amended and reenacted during the first extraordinary session of the 2006 Legislature, he or she shall surrender his or her driver's license or nondriver identification card to the division within ten business days of his or her receipt of the notice from the State Police required by said amendments. Any replacement driver's license or nondriver identification card issued to the person under this section must be coded by the commissioner to denote the person is a sexually violent predator and shall be issued at no cost to the person.

(c) Upon receipt of a driver's license or nondriver identification card from a sentencing court or individual pursuant to subsection (b) of this section, the division shall cancel said license or card and note the cancellation in its records system so as to prevent the issuance of a replacement or duplicate license or card lacking the coded notation required by subsection (b) of this section.

(d) Upon showing proof that a person is no longer required to register as a sexually violent predator, the division shall, at no charge, issue a driver's license or nondriver identification card without the coded notation printed upon the license. No person issued a driver's license or nondriver identification card pursuant to the amendments to this section made during the first extraordinary session of the 2006 Legislature, may alter or deface the license or card to obscure the special marking identifying the holder as a sexually violent predator.

(e) Any person failing to comply with the provisions of subsections (b), (c) or (d) is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $50 nor more than $500 or confined in jail not more than one year, or both fined and imprisoned.

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§17B-2-3a. Graduated driver's license.

(a) A person under the age of 18 may not operate a motor vehicle unless he or she has obtained a graduated driver's license in accordance with the three-level graduated driver's license system described in the following provisions.

(b) Any person under the age of 21, regardless of class or level of licensure, who operates a motor vehicle with any measurable alcohol in his or her system is subject to §17C-5-2 and §17C-5A-2 of this code. Any person under the age of 17, regardless of class or licensure level, is subject to the mandatory school attendance and satisfactory academic progress provisions of §18-8-11 of this code: *Provided*, That a person may otherwise be eligible for a restricted license or instruction permit pursuant to §18-8-11.

(c) Level one instruction permit. — An applicant who is 15 years or older meeting all other requirements prescribed in this code may be issued a level one instruction permit.

(1) Eligibility. — The division may not issue a level one instruction permit unless the applicant:

(A) Presents a completed application, as prescribed by §17B-2-6 of this code, which is accompanied by a writing, duly acknowledged, consenting to the issuance of the graduated driver's license, and executed by a parent or guardian entitled to custody of the applicant;

(B) Presents a certified copy of a birth certificate issued by a state or other governmental entity responsible for vital records unexpired, or a valid passport issued by the United States government evidencing that the applicant meets the minimum age requirement and is of verifiable identity;

(C) Passes the vision and written knowledge examination and completes the driving under the influence awareness program, as prescribed in §17B-2-7 of this code; and

(D) Pays a fee of $7.50, which permits the applicant one attempt at the written knowledge test. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not exceed 10 percent of the total fee amount in a single year.

(2) Terms and conditions of instruction permit. — A level one instruction permit issued under this section is valid until 30 days after the date the applicant attains the age of 18 and is not renewable: *Provided*, That for an applicant who is an active member of any branch of the United States military, a level one instruction permit issued under the provisions of this section is valid until 180 days after the date the applicant attains the age of 18. However, any permit holder who allows his or her permit to expire prior to successfully passing the road skills portion of the driver examination, and who has not committed any offense which requires the suspension, revocation, or cancellation of the instruction permit, may reapply

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for a new instruction permit under §17B-2-6 of this code. The division shall immediately revoke the permit upon receipt of a second conviction for a moving violation of traffic regulations and laws of the road or violation of the terms and conditions of a level one instruction permit, which convictions have become final unless a greater penalty is required by this section or any other provision of this code. Any person whose instruction permit has been revoked is disqualified from retesting for a period of 90 days. However, after the expiration of 90 days, the person may retest if otherwise eligible. A holder of a level one instruction permit who is under the age of 18 years may not use a wireless communication device while operating a motor vehicle unless the use of the wireless communication device is for contacting a 9-1-1 system. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked, or canceled, the holder of a level one instruction permit may only operate a motor vehicle under the following conditions:

(A) The permit holder is under the direct supervision of a licensed driver, 21 years of age or older, or a driver's education or driving school instructor who is acting in an official capacity as an instructor, who is fully alert and unimpaired, and the only other occupant of the front seat. The vehicle may be operated with no more than two additional passengers, unless the passengers are family members;

(B) The permit holder is operating the vehicle between the hours of 5 a.m. and 10 p.m.;

(C) All occupants use safety belts in accordance with §17C-15-49 of this code;

(D) The permit holder is operating the vehicle without any measurable blood alcohol content, in accordance with §17C-5-2(h) of this code; and

(E) The permit holder maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with §18-8-11 of this code: *Provided*, That a person may otherwise be eligible for a restricted license or instruction permit pursuant to §18-8-11.

(d) Level two intermediate driver's license. — An applicant 16 years of age or older, meeting all other requirements of this code, may be issued a level two intermediate driver's license.

(1) Eligibility. — The division may not issue a level two intermediate driver's license unless the applicant:

(A) Presents a completed application as prescribed in §17B-2-6 of this code;

(B) Has held the level one instruction permit conviction-free for the 180 days immediately preceding the date of application for a level two intermediate license;

(C) Has completed either a driver's education course approved by the State Department of Education or 50 hours of behind-the-wheel driving experience, including a minimum of 10 hours of night time driving, certified by a parent or legal guardian or other responsible adult over the age of 21 as indicated on the form prescribed by the division: *Provided*, That

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nothing in this paragraph may be construed to require any school or any county board of education to provide any particular number of driver's education courses or to provide driver's education training to any student;

(D) Passes the road skills examination as prescribed by §17B-2-7 of this code; and

(F) Pays a fee of $7.50 for one attempt. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not exceed 10 percent of the total fee amount in a single year.

(2) Terms and conditions of a level two intermediate driver's license. — A level two intermediate driver's license issued under the provisions of this section expires 30 days after the applicant attains the age of 18, or until the licensee qualifies for a level three full Class E license, whichever comes first. A holder of a level two intermediate driver's license who is under the age of 18 years shall not use a wireless communication device while operating a motor vehicle unless the use of the wireless communication device is for contacting a 9-1-1 system. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked, or canceled, the holder of a level two intermediate driver's license may only operate a motor vehicle under the following conditions:

(A) The licensee operates a vehicle unsupervised between the hours of 5 a.m. and 10 p.m.;

(B) The licensee operates a vehicle only under the direct supervision of a licensed driver, age 21 years or older, between the hours of 10 p.m. and 5 a.m. except when the licensee is going to or returning from:

(i) Lawful employment;

(ii) A school-sanctioned activity;

(iii) A religious event; or

(iv) An emergency situation that requires the licensee to operate a motor vehicle to prevent bodily injury or death of another;

(C) All occupants of the vehicle use safety belts in accordance with §17C-15-49 of this code;

(D) For the first six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying any passengers less than 20 years old, unless these passengers are family members of the licensee; for the second six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying more than one passenger less than 20 years old, unless these passengers are family members of the licensee;

(E) The licensee operates a vehicle without any measurable blood alcohol content in

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accordance with §17C-5-2(h) of this code;

(F) The licensee maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with §18-8-11 of this code: *Provided*, That a person may otherwise be eligible for a restricted license or instruction permit pursuant to §18-8-11.

(G) Upon the first conviction for a moving traffic violation or a violation of §17B-2-3a(d)(2) of this code of the terms and conditions of a level two intermediate driver's license, the licensee shall enroll in an approved driver improvement program unless a greater penalty is required by this section or by any other provision of this code; and

At the discretion of the commissioner, completion of an approved driver improvement program may be used to negate the effect of a minor traffic violation as defined by the commissioner against the one year conviction-free driving criteria for early eligibility for a level three driver's license and may also negate the effect of one minor traffic violation for purposes of avoiding a second conviction under §17B-2-3a(d)(2)(G) of this code; and

(H) Upon the second conviction for a moving traffic violation or a violation of the terms and conditions of the level two intermediate driver's license, the Division of Motor Vehicles shall revoke or suspend the licensee's privilege to operate a motor vehicle for the applicable statutory period or until the licensee's 18th birthday, whichever is longer, unless a greater penalty is required by this section or any other provision of this code. Any person whose driver's license has been revoked as a level two intermediate driver, upon reaching the age of 18 years and if otherwise eligible, may reapply for an instruction permit, then a driver's license in accordance with §17B-2-5, §17B-2-6 and §17B-2-7 of this code.

(e) Level three, full Class E license. — The level three license is valid until 30 days after the date the licensee attains his or her 21st birthday. A holder of a level three driver's license who is under the age of 18 years shall not use a wireless communication device while operating a motor vehicle unless the use of the wireless communication device is for contacting a 9-1-1 system. Unless otherwise provided in this section or any other section of this code, the holder of a level three full Class E license is subject to the same terms and conditions as the holder of a regular Class E driver's license.

A level two intermediate licensee whose privilege to operate a motor vehicle has not been suspended, revoked, or otherwise canceled and who meets all other requirements of the code may be issued a level three full Class E license without further examination or road skills testing if the licensee:

(1) Has reached the age of 17 years;

(2) Presents a completed application as prescribed by §17B-2-6 of this code;

(3) Has held the level two intermediate license conviction free for the 12-month period immediately preceding the date of the application;

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(4) Has completed any driver improvement program required under §17B-2-3a(d)(2)(G) of this code; and

(5) Pays a fee of $2.50 for each year the license is valid. An additional fee of 50 cents shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in §3-2-12 of this code.

(f) A person violating the provisions of the terms and conditions of a level one instruction permit, level two intermediate driver's license, or level three license is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined $25; for a second offense, be fined $50; and for a third or subsequent offense be fined $75.

(g) All adjudications of delinquency or convictions of any type in a juvenile proceeding which involve a traffic offense, a violation of any provision of this section, or an order in furtherance of §49-4-713 or §49-4-715 of this code shall be forwarded to the Commissioner of the Division of Motor Vehicles notwithstanding §49-5-101 of this code.

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§17B-2-4. Persons prohibited from driving school buses or transporting persons or property for compensation.

No person may drive any school bus transporting school children or any motor vehicle when in use for the transportation of persons or property for compensation nor in either event until the person has been licensed as a Class A, B, C or D driver for either purpose and the license so indicates and until he or she is in compliance with the provisions of chapter seventeen-e of this code and rules promulgated by the State Board of Education, if applicable.

WV Legislature

§17B-2-5. Qualifications, issuance and fee for instruction permits.

(a) Any person who is at least 15 years of age may apply to the division for an instruction permit. However, any person who has not attained the age of 18 shall comply with the provisions of §17B-2-3a of this code. The division may, in its discretion, after the applicant has successfully passed all parts of the examination other than the road skills test, issue to the applicant an instruction permit which entitles the applicant while having the permit in his or her immediate possession to drive a motor vehicle upon the public highways when accompanied by a licensed driver of at least 21 years of age, a driver's education or driving school instructor that is acting in an official capacity as an instructor, who is alert and unimpaired or a certified division license examiner acting in an official capacity as an examiner, who is occupying a seat beside the driver.

(1) Any instruction permit issued to a person under the age of 18 years shall be issued in accordance with the provisions of §17B-2-3a of this code.

(2) Any permit issued to a person who has reached the age of 18 years is valid for a period of six months. The fee for the instruction permit is $7.50 for one attempt. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed 10 percent of the total fee amount in a single year.

(b) Any person 16 years of age or older may apply to the division for a motorcycle instruction permit. Any person under the age of 18 must have first completed the requirements for a level two intermediate driver's license or a Class E driver's license before being eligible for a motorcycle instruction permit.

The division may, in its discretion, after the applicant has successfully passed all parts of the motorcycle examination other than the driving test, and presented documentation of compliance with the provisions of §18-8-11 of this code, if applicable, issue to the applicant an instruction permit which entitles the applicant while having the permit in his or her immediate possession to drive a motorcycle upon the public streets or highways for a period of six months, during the daylight hours between sunrise and sunset only. A holder of a motorcycle instruction permit may not operate a motorcycle while carrying any passenger on the vehicle.

A motorcycle instruction permit is not renewable, but a qualified applicant may apply for a new permit. The fee for a motorcycle instruction permit is $5, which shall be paid into a special fund in the State Treasury known as the Motor Vehicle Fees Fund.

WV Legislature

§17B-2-5a. Training, certification and monitoring of license examiners.

(a) The commissioner shall train, certify and monitor those employees of the Division of Motor Vehicles designated by the commissioner as license examiners regarding the administration of licensing application and testing procedures for the purpose of ensuring compliance with statutory and regulatory requirements.

(b) In order to determine an applicant's suitability for employment, the commissioner shall require every applicant or employee who is or may be in a position involved in the examination, processing or issuance of a driver's license or identification card, or who would have access to affect any document or record related to an applicant or holder of a driver's license or identification to furnish a full set of fingerprints to facilitate a criminal background check of the applicant. The commissioner shall submit the fingerprints to the state Criminal Identification Bureau along with the applicant's identifying information. Prior to hiring a prospective applicant the commissioner shall request that the State Police submit the fingerprints and identifying information to the Federal Bureau of Investigation for a national criminal history record check and that the commissioner may not hire the prospective applicant until the results of the national background check are available for evaluation.

WV Legislature

§17B-2-6. Application for license or instruction permit; fee to accompany application.

(a) Every application for an instruction permit or for a driver's license shall be made upon a form furnished by the division. Every application shall be accompanied by the proper fee and payment of the fee entitles an applicant under the age of eighteen to not more than two attempts at the written test or not more than one attempt to pass the road skills test. An applicant age eighteen years or older is entitled to not more than two attempts at the written test or not more than three attempts to pass the road skills test within a period of ninety days from the date of issuance of the instruction permit. An applicant who fails either the written test or the road skills test may not be tested twice within a period of one week.

(b) Any applicant who has not been previously licensed must hold an instruction permit for a minimum of thirty days. For the purposes of this section, the term "previously licensed" means an applicant who has obtained at least a level two graduated license or junior driver's license issued under the provisions of this article or has obtained an equal or greater level of licensure if previously licensed in another state.

(c) Every application for an instruction permit shall state the full legal name, date of birth, sex, and residence address of the applicant and briefly describe the applicant. the application shall state whether the applicant has theretofore been a licensed driver and, if so, when, and by what state or country and whether his or her license has ever been suspended or revoked within five years of the date of application, or whether an application has ever been refused and, if so, the date of and reason for the suspension, revocation or refusal. The application will indicate whether the applicant desires a notation on the driver's license indicating that the applicant is an organ donor, in accordance with article one-b of this chapter, is diabetic, deaf, or hard of hearing, has any other handicap or disability, or is an honorably discharged veteran of any branch of the Armed Forces of the United States, and such other pertinent information as the commissioner may require.

WV Legislature

§17B-2-6a. Voluntary contribution to State Police Forensic Laboratory Fund.

(a) Each person applying for the issuance or renewal of a driver's license under this article, when paying the fee therefor may voluntarily contribute an additional amount to the State Police Forensic Laboratory Fund established in §15-2-24d of this code by designating the additional amount on the form provided by the Division of Motor Vehicles.

(b) The Division of Motor Vehicles shall prepare and provide to each applicant for the issuance or renewal of a driver's license under this article, a form through which the applicant may voluntarily contribute an additional amount to the State Police Forensic Laboratory Fund. The applicant may include an additional amount as part of the payment made for the fee or may make a separate payment.

(c) The Division of Motor Vehicles shall remit voluntary contributions made under this section on a monthly basis to the State Treasurer for deposit into the State Police Forensic Laboratory Fund.

WV Legislature

§17B-2-7. Examination of applicants.

(a) Upon the presentment of the applicant's certified copy of the birth certificate issued by a state or other governmental entity responsible for vital records or a valid and unexpired passport issued by the United States government, as evidence that the applicant is of lawful age and verifiable identity, the Division of Motor Vehicles shall examine every applicant for a license to operate a motor vehicle in this state, except as otherwise provided in this section. The examination shall include a test of the applicant's eyesight, the applicant's ability to read and understand highway signs regulating, warning, and directing traffic, the applicant's knowledge of the traffic laws of this state, and the applicant's knowledge of the effects of alcohol upon persons and the dangers of driving a motor vehicle under the influence of alcohol. The examination shall also include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle, and any further physical and mental examination as the Division of Motor Vehicles considers necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways.

(b) The commissioner shall propose legislative rules for promulgation pursuant to §29A-3-1 *et seq*. of this code concerning the examination of applicants for licenses and the qualifications required of applicants, and the examination of applicants by the division shall be in accordance with the rules. The rules shall provide for the viewing of educational material or films on the medical, biological, and psychological effects of alcohol upon persons, the dangers of driving a motor vehicle while under the influence of alcohol, and the criminal penalties and administrative sanctions for alcohol and drug related motor vehicle violations. By September 1, 2021, the commissioner shall propose rules for legislative approval and emergency rules pursuant to §29A-3-1 *et seq*. of this code allowing driver education instructors providing instruction pursuant to §18-6-1 *et seq*. of this code, to administer a knowledge test developed by the division. Notwithstanding §18-8-11 of this code, any person successfully completing a test administered by a driver's education instructor pursuant to the rule is exempt from the proof of school enrollment requirements in that code section.

(c) After successful completion of the examination required by this section, §17B-2-3 or §17B-2-7b of this code, and prior to the issuance of a license pursuant to §17B-2-8 of this code, every applicant for a driver's license, graduated driver's license, or motorcycle-only license shall attend a mandatory education class on the dangers and social consequences of driving a motor vehicle while under the influence of alcohol. To the extent practicable, the commissioner shall use as lecturers at those classes persons who can relate first-hand experiences as victims or family members of victims of alcohol-related accidents or drivers who have been involved in alcohol-related accidents which caused serious bodily injury or death.

WV Legislature

§17B-2-7a. Driver's Licensing Advisory Board.

(a) The Driver's Licensing Advisory Board is hereby continued. The board shall consist of five members to be appointed by the Governor, by and with the advice and consent of the Senate, for terms of three years, commencing July 1, 2018: Provided, That as to the members first appointed, two shall be appointed for a term of three years, two shall be appointed for a term of two years and one shall be appointed for a term of one year: Provided, however, That members who last served as members of the board prior to the reenactment of this section by the Legislature in the 2018 Regular Session shall continue to serve until their successors have been appointed. A member shall continue to serve until his or her successor has been appointed. All vacancies occurring on the board shall be filled by the Governor, by and with the advice and consent of the Senate. One member of the board shall be an optometrist duly registered to practice optometry in this state, one member shall be a board certified neurologist who is licensed to practice medicine in this state, and the other three members of the board shall be physicians or surgeons duly licensed to practice medicine or surgery in this state. The Governor shall appoint persons qualified to serve on the board who, in his or her opinion, will best serve the work and function of the board.

(b) The board shall advise the Commissioner of Motor Vehicles as to vision standards and all other medical criteria of whatever kind or nature relevant to the licensing of persons to operate motor vehicles under the provisions of this chapter. The commissioner may, in her or his discretion, request the opinion of the board. The board shall, upon request, advise the Commissioner of Motor Vehicles as to the mental or physical fitness of an applicant for, or the holder of, a license to operate a motor vehicle. The board shall furnish the commissioner with all such medical standards, statistics, data, professional information and advice as he or she may reasonably request.

(c) The members of the board shall receive the same compensation as is paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law, for each day or substantial portion thereof engaged in the performance of official duties. Each member of the board shall be reimbursed for his or her actual and necessary expenses for each day or portion thereof engaged in the discharge of official duties in a manner consistent with guidelines of the Travel Management Office of the Department of Administration.

WV Legislature

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

(a) The State Police shall administer a separate motorcycle examination for applicants for a license valid for operation of a motorcycle. On and after July 1, 2000, the Division of Motor Vehicles shall administer the examination provided for in this section. Any applicant for a license valid for operation of a motorcycle shall be required to successfully complete the motorcycle examination, which is in addition to the examination administered pursuant to section seven of this article and, if under the age of eighteen, shall be required to complete the requirements for a level two intermediate driver's license set forth in paragraphs (B), (C) and (D), subdivision (1), subsection (j), section three-a of this article: Provided, That the commissioner may exempt an applicant for a motorcycle driver's license or endorsement from all or part of the motorcycle license examination as provided in section six, article one-d of this chapter. The motorcycle examination shall test the applicant's knowledge of the operation of a motorcycle and of any traffic laws specifically relating to the operation of a motorcycle and shall include an actual demonstration of the ability to exercise ordinary and reasonable control in the operation of a motorcycle. An applicant for a license valid for the operation of only a motorcycle shall be tested as provided in this section and in section seven of this article, but need not demonstrate actual driving ability in any vehicle other than a motorcycle. The examination provided in this section may not be made a condition upon the renewal of the license of any person under this section. For an applicant who successfully completes the motorcycle examination, upon payment of the required fee, the division shall issue a motorcycle endorsement on the driver's license of the applicant, or shall issue a special motorcycle-only license if the applicant does not possess a driver's license: Provided, however, That any holder of a motorcycle-only license under the age of eighteen is subject to the provisions of paragraphs (A), (B), (E), (F), (G) and (H), subdivision (2), subsection (j), section three-a of this article.

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

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

WV Legislature

§17B-2-7c. Motorcycle license examination fund.

On and after July 1, 2007, any unexpended balance remaining in the Motorcycle License Examination Fund heretofore created shall be transferred to the Motor Vehicle Fees Fund created under the provisions of section twenty-one, article two, chapter seventeen-a of this code. The fund shall include all moneys received from fees collected for motorcycle instruction permits under this article and any other moneys specifically allocated to the fund.

If any person willfully fails or refuses to return to the division the evidences of the registration, title, permit or license that have been canceled, suspended or revoked, or any dealer special plates, when obligated so to do as provided in this section, the commissioner shall immediately notify the superintendent of the State Police who shall, as soon as possible, secure possession of the evidences of registration, title, permit or license or any special dealer plates and return it to the division. The Superintendent of the State Police shall make a report in writing to the commissioner, within two weeks after being notified by the commissioner, as to the result of his or her efforts to secure the possession and return of the evidences of registration, title, permit or license, or any dealer special plates.

For each registration, certificate of title, registration card, registration plate or plates, temporary registration plate or marker, permit, license certificate or dealer special plate, which the owner, holder or other person in possession of the registration, title, permit or license or any special dealer plates shall have willfully failed or refused, as provided in this section, to return to the division within ten days from the time that the cancellation, suspension or revocation becomes effective, and which has been certified to the superintendent of the State Police as specified in this section, the owner or holder shall, before the registration, title, permit or license or any special dealer plates may be reinstated, if reinstatement is permitted, in addition to all other fees and charges, pay a fee of $15, which shall be collected by the Division of Motor Vehicles, paid into the State Treasury and credited to the General Fund to be appropriated to the State Police for application in the enforcement of the road laws.

A total of $25 may be collected on each reinstatement for each vehicle to which any cancellation, suspension or revocation relates: Provided, That when any motor vehicle registration is suspended for failure to maintain motor vehicle liability insurance the reinstatement fee is $100 and if the vehicle owner fails to surrender the vehicle registration and the orders go to the State Police, an additional fee of $50 shall be required before the motor vehicle registration may be reinstated. A total of $150 may be collected on each reinstatement of any motor vehicle registration canceled, suspended or revoked for failure to maintain motor vehicle liability insurance.

WV Legislature

§17B-2-8. Issuance and contents of licenses; fees.

(a) The division shall, upon payment of the required fee, issue to every applicant qualifying therefor a driver's license, which shall indicate the type or general class or classes of vehicle or vehicles the licensee may operate in accordance with this chapter or Chapter 17E of this code, or motorcycle-only license. Each license shall contain a coded number assigned to the licensee, the full legal name, to be displayed in a manner selected by the applicant when supported by appropriate documentation and consistent with federal law, this code, and existing system capabilities of the division, date of birth, residence address, a brief description and a color photograph of the licensee, and either a facsimile of the signature of the licensee or a space upon which the signature of the licensee is written with pen and ink immediately upon receipt of the license. No license is valid until it has been so signed by the licensee.

(b) A driver's license which is valid for operation of a motorcycle shall contain a motorcycle endorsement. A driver's license which is valid for the operation of a commercial motor vehicle shall be issued in accordance with Chapter 17E of this code.

(c) The division shall use such process or processes in the issuance of licenses that will, insofar as possible, prevent any identity theft, alteration, counterfeiting, duplication, reproduction, forging or modification of, or the superimposition of a photograph on, the license.

(d) The fee for the issuance of a Class E driver's license is $5 per year for each year the license is valid. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed 10 percent of the total fee amount in a single year. The fee for issuance of a Class D driver's license is $6.25 per year for each year the license is valid. The additional fee for adding a motorcycle endorsement to a driver's license is $1 per year for each year the license is issued.

(e) The fee for issuance of a motorcycle-only license is $2.50 for each year for which the motorcycle license is valid. The fees for the motorcycle endorsement or motorcycle-only license shall be paid into a special fund in the State Treasury known as the Motorcycle Safety Fund as established in §17B-1D-7 of this code.

(f) The fee for the issuance of either the level one or level two graduated driver's license as prescribed in §17B-2-3a of this code is $5.

(g) The fee for issuance of a federally compliant driver's license or identification card for federal use is $10 in addition to any other fee required by this chapter. Any fees collected under the provisions of this subsection shall be deposited into the Motor Vehicle Fees Fund established in accordance with §17A-2-21 of this code.

WV Legislature

(h) The division may use an address on the face of the license other than the applicant's address of residence if:

(1) The applicant has a physical address or location that is not recognized by the post office for the purpose of receiving mail;

(2) The applicant is enrolled in a state address confidentiality program or the alcohol test and lock program;

(3) The applicant's address is entitled to be suppressed under a state or federal law or suppressed by a court order; or

(4) At the discretion of the commissioner, the applicant's address may be suppressed to provide security for classes of applicants such as law-enforcement officials, protected witnesses, and members of the state and federal judicial systems.

(i) Notwithstanding any provision in this article to the contrary, a valid military identification card with an expiration date issued by the United States Department of Defense for active duty, reserve, or retired military personnel containing a digitized photo and the holder's full legal name may be used to establish current full legal name and legal presence. The commissioner may at his or her discretion expand the use of military identification cards for other uses as permitted under this code or federal rule.

(j) The division may accept any document as proof of identity, residency, and lawful presence that is acceptable under the Real ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 302 (May 11, 2005), 49 U.S.C. § 30301 *et seq*.

WV Legislature

§17B-2-9. License to be carried and exhibited on demand; penalty.

(a) Every licensee shall have his or her driver's license in such person's immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of a magistrate, municipal judge, circuit court judge, peace officer, or an employee of the division.

(b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $500: Provided, That no person charged with violating this section shall be convicted if such person produces in court or at the office of the arresting officer a driver's license issued to such person and valid at the time of such person's arrest.

WV Legislature

§17B-2-9a. Exemptions of certain railroad workers.

Notwithstanding any provision of this code to the contrary, in any circumstance involving an accident or alleged violation of law in which the engineer or any other crew member of any train is detained by any law-enforcement officer, the engineer and all crew members shall not be required to furnish a driver's license issued by the Division of Motor Vehicles: Provided, That the engineer and all crew members shall be required to produce photo identification issued by the railroad employer or any other state or federal authority other than the Division of Motor Vehicles upon request of any law-enforcement officer during the course of investigating an accident or alleged violation of law involving the operation of a train.

WV Legislature

§17B-2-10. Restricted licenses.

(a) The division upon issuing a driver's license shall have authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the division may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) The division shall issue a restricted license to a person who has failed to pay overdue child support or comply with subpoenas or warrants relating to paternity or child support proceedings if a court orders restrictions of the person's license as provided in article fifteen, chapter forty-eight of this code.

(c) The division may either issue a special restricted license or may set forth such restrictions upon the usual license form.

(d) The division may upon receiving satisfactory evidence of any violation of the restrictions of such license suspend or revoke the same but the licensee shall be entitled to a hearing as upon a suspension or revocation under this chapter.

(e) It is a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to such person.

WV Legislature

§17B-2-11. Duplicate permits and licenses.

In the event that an instruction permit or driver's license issued under the provisions of this chapter is lost or destroyed, or if the information contained on the license has changed, the person to whom the permit or license was issued may upon making proper application and upon payment of a fee of $7.50 obtain a duplicate thereof upon furnishing proof satisfactory to the division that the permit or license has been lost or destroyed. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

The provisions of this article enacted in 2017 take effect on July 1, 2017.

WV Legislature

§17B-2-12. Expiration of licenses.

(a) Except as provided in subsection (c) of this section, every driver's license expires eight years from the date of its issuance.

(b)(1) Every driver's license issued to a person who has attained his or her twenty-first birthday expires on the licensee's birthday. The commissioner may modify the expiration date of any license as necessary to effectuate the transition from the five-year renewal cycle to an eight-year renewal cycle as he or she considers necessary.

(2) Every driver's license issued to a person who has not attained his or her twenty-first birthday expires thirty days after the licensee's twenty-first birthday, except as provided in section three-a of this article.

(3) The driver's license of any person in the armed forces expires six months after the date on which the person is separated from active duty in the armed forces under honorable circumstances.

(c) A license issued to a person who is not a citizen of the United States may only be issued for the time the person is legally authorized to be in the United States, not to exceed eight years. If the time the person is authorized to be in the United States is extended, the commissioner may renew the license in accordance with section twelve-a of this article for the time extended, not to exceed eight years.

WV Legislature

§17B-2-12a. Renewal of driver's license upon expiration; vision screening; renewal fees.

(a) The commissioner shall notify each person who holds a valid driver's license of the expiration date of the license by first class mail or by electronic means to the last address known to the division. The notice shall be mailed at least ninety days prior to the expiration date of the license and shall include a renewal application form and instructions for renewal.

(b) The commissioner, at his or her discretion, may provide a program of electronic renewal notices to licensees and an electronic web-based renewal process. This process may include an electronic vision screening verification or waiver subject to processes and restrictions the commissioner considers necessary for highway safety, secure processing and identity verification. The online program shall require the applicant to have his or her digital photo updated at least once every sixteen years.

(c) The holder of a valid driver's license may apply to the division for renewal of the license on the form provided by the division. To be eligible for license renewal the applicant must:

(1) Pay the fee required by section eight of this article;

(2) Obtain a new color photograph from the division, except as provided in subsection (b) of this section; and

(3) Pass a vision screening conducted in the manner prescribed by the division.

(d) The commissioner shall assess an additional fee of $5 for every application for renewal submitted after the expiration of the applicant's license.

(e) The commissioner shall determine whether an applicant qualifies for a renewed license.

(f) The commissioner shall provide by rule a procedure by which an applicant who does not meet the minimum vision standards for licensure may present evidence to show that his or her vision has been corrected to meet the minimum visual standards and that he or she is capable of safely operating a motor vehicle.

(g) The commissioner may not renew the driver's license of an applicant whose eyesight cannot be corrected to conform to the minimum vision standards established by this code and by the rules of the commissioner.

(h) Vision screening conducted pursuant to this section may not be used to collect any type of personal biometric identifying information including, but not limited to, a retinal scan.

(i) The commissioner shall propose legislative rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this section.

WV Legislature

§17B-2-13. Notice of change of address or name.

(a) Whenever any person after applying for or receiving a driver's license moves from the address named in the application or in the license issued to the person, or when the name of a licensee is changed by marriage or otherwise, the person shall within 20 days thereafter notify the division in writing of the old and new addresses or of the former and new names and of the number of any license then held by the person on the forms prescribed by the division. Notwithstanding the provisions of legislative rule 91 CSR 4, the division may renew or reissue a driver's license or identification card online in accordance with §17B-2-1 or §17B-2-12a of this code at the request of a person due to a change in the person's postal address.

(b) Whenever any person, after applying for or receiving a driver's license, is assigned a new address by the United States postal service or other legally constituted authority, the person shall notify the division in writing of the old and new address and of the number of any license held by the person. The notification of change of address shall be made at least 20 days prior to the final date on which mail with the old address is deliverable by the United States postal service.

(c) The provisions of §17B-5-1 of this code relating to imprisonment do not apply to persons who violate the provisions of this section.

WV Legislature

§17B-2-14. Records and indices to be kept by the division.

The division shall file every application for a license received by it and shall maintain suitable indices containing, in alphabetical order:

(1) All applications denied and on each a notation of the reasons for such denial;

(2) All applications granted; and

(3) The name of every licensee whose license has been suspended or revoked by the division and after each name a notation of the reasons for the action: Provided, That upon application for a license by an individual eighteen years of age or older, any record of a previous license denial, suspension or revocation related solely to the school attendance of the applicant may not be released to any third party.

The division shall also file all abstracts of court records of convictions received by it under the laws of this state and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee shall be readily ascertainable and available for the consideration of the division upon any application for renewal of license and at other suitable times.

WV Legislature

§17B-2-15. Authority for rules.

The commissioner may propose legislative rules for promulgation that are necessary to carry out the examination, license and endorsement provisions of this chapter and the provisions regarding motor vehicle registration in accordance with the provisions of article three, chapter twenty-nine-a of this code.

WV Legislature

§17B-2A-1. Legislative intent.

It is the intent of the Legislature in enacting this article to protect state residents from the penalties associated with failing to register with the United States selective service system and to help ensure that any future draft is fair and equitable to all potential draftees.

The Legislature finds and declares that the penalties associated with noncompliance are severe, including, but not limited to, a felony conviction and forfeiture of the ability to seek state employment from certain state agencies and departments. In addition, failure to register may permanently preclude the violator from acquiring many federal benefits, such as federal employment, including employment with the United States postal service, federal and state student financial assistance, participation in federally funded job training programs and eligibility for United States citizenship for immigrants seeking citizenship.

Therefore, in recognition of the severe consequences of noncompliance and the importance of helping ensure that any future draft is fair and equitable, it is the intent of the Legislature to notify state residents of their responsibility to register with selective service and to provide them the opportunity to register concurrent with applying for a driver's license or identification card.

WV Legislature

§17B-2A-2. Compliance with registration requirements of Military Selective Service Act.

For each application for the issuance, renewal or duplicate of an instruction permit, a driver's license, a professional driver's license, a commercial driver's license or an identification card by which those persons required to register in compliance with the requirements of section three of the Military Selective Service Act, 50 U. S. C. App. 451, et seq., the division shall automatically enroll persons required to register who have not previously registered and shall forward required information to the selective service system. The signature on the application may serve as his or her consent to registration with the selective service system.

WV Legislature

§17B-2B-1. Definitions.

For purposes of this article, the following terms have the meaning indicated:

(1) “Applicant” means any person applying for a Class G instruction permit or license to operate a motor vehicle in this state who must use a bioptic telescopic device to meet the commissioner’s minimum visual acuity and visual field standards for licensure.

(2) “Approved driver training program” means a program that:

(A) Provides and coordinates comprehensive assessment and training of driving skills and responses;

(B) Emphasizes clinical and functional vision skills, predriver readiness skills and the physical, mental and social driving skills of an applicant; and

(C) Is approved by the Division of Rehabilitation Services, after consultation with the division.

(3) “Bioptic telescopic device” means a two focus optical system used to magnify distant objects by including a small telescope that is mounted in a spectacle lens so as to allow an unobstructed view of the horizontal visual field through normal distance corrective lenses.

(4) “Corrective lenses” means eyeglasses, contact lenses, and intraocular lenses, but does not mean a bioptic telescopic device.

(5) “Daytime driving restriction” means a limitation on the operation of a motor vehicle to:

(A) The period of time between 30 minutes after sunrise and 30 minutes before sunset; and

(B) Weather conditions that do not significantly reduce the visibility of the roadway, other traffic, and traffic control devices.

(6) “Field expander” means a device used to compensate for peripheral visual field loss.

(7) “Restricted out-of-state driver” means a person who has been issued, by another state, a valid driver’s license with a restriction requiring the driver to use a bioptic telescopic device.

(8) “Vision specialist” means a licensed ophthalmologist or optometrist.

(9) “Visual acuity” means the measure of a person’s clarity of vision based on the Snellen visual acuity scale.

(10) “Visual field” means the area of physical space visible to the eye in a given fixed position.

WV Legislature

§17B-2B-2. Class G instruction permit or driver's license; participation in approved driver training program; eligibility criteria; required curriculum.

(a) A person who does not meet the visual acuity and visual field standards established by the commissioner for licensure to operate a motor vehicle in this state, but who is able to satisfy the minimum vision requirements using a bioptic telescopic device is eligible for a Class G instruction permit or driver's license pursuant to this article if he or she is participating in or has successfully completed an approved driver training program.

(b) An applicant is eligible to participate in an approved driver training program if he or she:

(1) Submits to the commissioner and to the Division of Rehabilitation Services a report of examination by a vision specialist, on a form prescribed by the Division of Rehabilitation Services, which certifies that:

(A) In the opinion of the vision specialist, the applicant's vision can be corrected with the use of a bioptic telescopic device and without field expanders to satisfy the minimum visual acuity and visual field standards established by the commissioner;

(B) No ocular diagnosis or prognosis currently exists or is likely to occur during the period of licensure which would cause deterioration of the applicant's visual acuity or visual field to levels below the commissioner's minimum visual acuity and visual field standards for licensure; and

(C) The applicant is a likely candidate for acceptance into an approved driver training program; and

(2) Satisfies any other criteria for participation established by the Division of Rehabilitation Services.

(c) An approved driver training program shall include, at a minimum:

(1) Predriving instruction with regard to highway signs and the rules of the road;

(2) Predriving instruction in proper use of bioptic telescopic devices; and

(3) At least 30 hours of behind-the-wheel instruction in driving with bioptic telescopic devices.

(d) The Division of Rehabilitation Services, or its approved driver training program, may waive predriving instruction with regard to highway signs and the rules of the road pursuant to subdivision (1), subsection (c) of this section if the applicant:

(1) Has at least three years of experience driving with an unrestricted license; and

(2) Passes the written examination provided in §17B-2B-3(a)(2) of this code.

WV Legislature

§17B-2B-3. Class G instruction permit; eligibility criteria; restrictions; duration of permit.

(a) An applicant is eligible for a Class G instruction permit if he or she has:

(1) Been accepted into and enrolled in an approved driver training program;

(2) Passed a written examination, in the manner prescribed by the commissioner, testing the applicant's:

(A) Ability to read and understand highway signs regulating, warning and directing traffic; and

(B) Knowledge of the traffic laws of this state; and

(3) Satisfied, at each stage of the licensing process, any additional requirements for an instruction permit required by article two of this chapter that are not addressed in this article.

(b) The commissioner may not issue a Class G instruction permit until the applicant has surrendered any license he or she currently holds to operate a motor vehicle.

(c) A Class G instruction permit authorizes the permittee to operate a Class A passenger motor vehicle, weighing eight thousand (8000) pounds or less, subject to the following restrictions:

(1) The applicant may drive only while using a bioptic telescopic device;

(2) The applicant is subject to a daytime driving restriction;

(3) The applicant may drive only when accompanied by a certified driver rehabilitation specialist or driver rehabilitation educator; and

(4) Any other conditions or restrictions the commissioner considers necessary to insure the safe operation of the motor vehicle.

(d) A Class G instruction permit is valid for up to one year. Upon expiration of the instruction permit, the applicant may reapply for a new instruction permit, provided that he or she is eligible pursuant to subsection (a) of this section.

WVLegislature

§17B-2B-4. Class G driver's license; eligibility criteria; duration of license; surrender of current license; provisions not applicable to persons already licensed to drive with bioptic device.

(a) A person who has obtained a Class G instruction permit may obtain a Class G driver's license to operate a motor vehicle if he or she has:

(1) Been certified by the Division of Rehabilitation Services, or its approved driver training program, as having successfully completed an approved driver training program, along with any recommendations regarding license restrictions or modifications, including, but not limited to:

(A) Special adaptive equipment;

(B) Hours of permitted operation;

(C) Types of roads on which the applicant may operate a vehicle; and

(D) How far from home the applicant may operate a vehicle;

(2) Submitted to the commissioner and to the Director of the Division of Rehabilitation Services, on a form prescribed by the Division of Rehabilitation Services, a report of examination by a vision specialist, conducted after the applicant completes the approved driver training program, certifying that the applicant continues to meet the minimum visual acuity and visual field standards established by the commissioner for licensure to operate a motor vehicle;

(3) Successfully completed a comprehensive road skills examination, conducted at a location determined by the commissioner, with a certified driver rehabilitation specialist or driver rehabilitation educator in the test vehicle along with the driving examiner. The comprehensive road skills examination shall include, at a minimum:

(A) A "passenger in car" test with bioptic telescopic device in place designed to test competency in using the bioptic telescopic device under stationary and dynamic conditions;

(B) A maneuverability skills test; and

(C) A standardized on-road test designed to test driving competency of the applicant; and

(4) Satisfied, at each stage of the licensing process, any additional requirements for licensure required by article two of this chapter that are not addressed in this article;

(b) If an applicant fails the comprehensive road skills examination three times, he or she is not eligible to retake the examination until he or she has successfully completed additional training in an approved driver training program and been recommended for retesting by the director of the program.

WV Legislature

(c) An applicant who has a current license to operate a motor vehicle other than a Class G driver's license must surrender his or her current driver's license before the commissioner will issue a Class G driver's license or instruction permit.

(d) Every Class G licensee must provide the commissioner with a report of examination by a vision specialist, conducted no more than three months prior to the annual anniversary of the issuance of the license, certifying that the applicant continues to meet the minimum visual acuity and visual field standards established by the commissioner for licensure to operate a motor vehicle. The report shall be submitted on a form prescribed by the commissioner.

WV Legislature

§17B-2B-5. Restrictions on Class G driver's license; removal of daytime driving restriction.

(a) A Class G driver's license authorizes the licensee to operate a Class A passenger motor vehicle, weighing eight thousand pounds or less, subject to the following restrictions:

(1) The applicant may drive only while using a bioptic telescopic device;

(2) Daytime driving restriction; and

(3) Any other conditions or restrictions the commissioner considers necessary to insure the safe operation of the motor vehicle.

(b) An applicant to whom a Class G driver's license has been issued may apply to the commissioner for removal of the daytime driving restriction if the applicant has:

(1) Operated a motor vehicle for thirty-six months without an at-fault accident, moving violation or license suspension;

(2) Submitted a report of a vision examination, conducted not more than six months prior to the application, by a vision specialist showing that the licensee's visual impairment is stable and that he or she can see well enough to operate a vehicle at night;

(3) Successfully completed additional evaluation and training, in an approved driver training program, specifically designed for night driving;

(4) Passed a comprehensive night driving examination.

WV Legislature

§17B-2B-6. Restricted out-of-state drivers; required to obtain Class G driver's license; surrender of current license; waiver of requirement to participate in an approved driver training program.

(a) A restricted out-of-state driver establishing residence in West Virginia must apply for a Class G driver's license in this state.

(b) To obtain a Class G driver's license, the restricted out-of-state driver must:

(1) Satisfy all the requirements of licensure contained in sections three and four of this article;

(2) Surrender his or her out-of-state driver's license to the commissioner; and

(3) Provide the commissioner with a report of examination by a vision specialist, conducted no more than 90-days prior to the application, showing that the applicant meets the minimum vision standards.

(c) If, based upon an evaluation of the out-of-state driver's abilities, along with any recommendations, the Division of Rehabilitation Services, or its approved driver training program, certifies to the commissioner that the restricted out-of-state driver was required, as a condition of licensure in the other state, to complete training substantially equivalent to the approved driver training program required by this article, the commissioner may waive the requirement that the restricted out-of-state driver complete an approved driver training program in this state prior to licensure.

WV Legislature

§17B-2B-7. Renewal of license.

(a) A Class G driver's license is valid for no more than two years.

(b) To renew a Class G driver's license, the licensee must submit a report of a comprehensive vision examination by a vision specialist at least ninety-days prior to expiration of the license.

(c) If the vision specialist certifies that the conditions causing the licensee's visual impairment are stable, and the licensee continues to satisfy the commissioner's minimum visual acuity and visual field standards for licensure, the division shall renew the license for a period of one year.

(d) If the vision specialist certifies that the conditions causing the licensee's visual impairment are unstable or deteriorating, the commissioner may require the licensee to undergo additional testing or training before deciding whether to renew the license.

(e) If any comprehensive vision examination by a vision specialist determines that the licensee no longer satisfies the minimum visual acuity or visual field standards for licensure, the division shall not renew the license.

WV Legislature

§17B-2B-8. Suspension, revocation and reinstatement of license.

(a) The commissioner may immediately suspend the Class G driver's license of any driver who is involved in an accident resulting in bodily injury or death, violates the restrictions placed on his or her license or is convicted of more than one moving violation within a twelve-month period, if the commissioner makes a finding that allowing the licensee to continue to drive pending resolution of the suspension would present a danger to the public.

(b) The commissioner shall suspend the driver's license of any licensee who fails to meet visual acuity or visual field minimum standards.

(c) The commissioner shall suspend the driver's license of any licensee who fails an evaluation of his or her ability to safely operate a motor vehicle by the division of rehabilitation's driving training program.

(d) A licensee whose license is suspended pursuant to this section may request a hearing within ten days of receiving the commissioner's notice of immediate suspension. No stay of the license suspension may be granted pending the hearing, but the commissioner must conduct a requested hearing on the suspension of the license within seventy days of receiving the request for a hearing. Only the licensee may request a continuance, but no stay of the suspension may be granted pending the delayed hearing.

WV Legislature

§17B-2B-9. Commissioner and director to collect information regarding Class G licensees; report to Legislature.

(a) The commissioner shall collect and monitor information regarding accidents, license suspensions and revocations and convictions of Class G licensees.

(b) On or before February 1, of each year after the first Class G driver's license is issued:

(1) The commissioner shall provide to the Joint Committee on Government and Finance a written report detailing:

(A) The number of Class G driver's licenses issued in the previous calendar year; and

(B) Whether and to what extent holders of Class G driver's licenses were, during the previous calendar year:

(i) Involved in vehicular crashes; or

(ii) The subject of proceedings to suspend or revoke their licenses or were convicted of offenses involving moving violations, the rules of the road, illegal substance use or legal substance abuse.

(2) The Director of the Division of Rehabilitation Services shall provide to the Joint Committee on Government and Finance a written report detailing, for the previous calendar year:

(A) The number of applicants for the approved driver training program;

(B) The number of persons who successfully completed the program;

(C) The number of persons who failed to complete the program and the reason for each failure; and

(D) The status of the approved driver training program's funding and the extent to which persons who applied for the program were able to pay the costs associated with it.

WV Legislature

§17B-2B-10. Rules.

(a) The Director of the Division of Rehabilitation Services, after consultation with the commissioner, shall propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code establishing:

(1) Additional criteria, including minimum visual acuity and visual field standards, for acceptance into an approved driver training program;

(2) Additional curriculum requirements for an approved driver training program;

(3) Standards for successful completion of an approved driver training program;

(4) Standards for the comprehensive road skills test;

(5) Criteria for certifying whether an out-of-state driver training program is substantially equivalent to an approved driver training program in this state;

(6) Minimum requirements for additional driver training, if required, including criteria for night time driving;

(7) Any other standards or criteria necessary to implement this article.

(b) The commissioner, in collaboration with the Director of the Division of Rehabilitation Services, shall propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code establishing:

(1) Criteria for issuance of a Class G instruction permit or driver's license, including minimum visual acuity and visual field standards;

(2) Standards for imposing and removing additional restrictions on an individual applicant's Class G instruction permit or driver's license;

(3) Standards for suspension, revocation and reinstatement of a Class G instruction permit or driver's license; and

(4) Any other standards or criteria necessary to implement this article.

WV Legislature

§17B-2B-11. Applicability.

Except for the provisions of subsection (d), section four of this article requiring an annual report of vision examination to be submitted to the commissioner, the provisions of this article are not applicable to any person licensed by the commissioner to operate a motor vehicle with a bioptic telescopic device prior to the effective date of this article.

WV Legislature

§17B-3-1. Authority of division to cancel license.

The division is hereby authorized to cancel any operator's or chauffeur's license in any of the following events:

(1) When the division determines that the licensee was not entitled to the issuance thereof hereunder; or

(2) When said licensee failed to give the required or correct information in his application; or

(3) When said licensee committed any fraud in making such application; or

(4) When the division determines that the required fee has not been paid and the same is not paid upon reasonable notice or demand.

WV Legislature

§17B-3-2. Suspending privileges of nonresidents and reporting convictions.

The privilege of driving a motor vehicle on the highways of this state given to a nonresident hereunder shall be subject to suspension or revocation by the department in like manner and for like cause as an operator's or chauffeur's license issued hereunder may be suspended or revoked.

The department shall, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

WV Legislature

§17B-3-3. Suspending resident's license upon conviction in another state.

The department is authorized to suspend or revoke the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice of the conviction of such person in another state of an offense therein which, if committed in this state, would be a ground for the suspension or revocation of the license of an operator or chauffeur.

WV Legislature

§17B-3-3a. Suspending license for failure to respond or appear in court.

(a) The division shall suspend the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice from a magistrate court or municipal court of this state that such person has failed to respond or appear in court when charged with a motor vehicle violation.

(b) For the purposes of this section, §50-3-2a of this code and §8-10-2b of this code, "motor vehicle violation" is as any violation designated in chapters 17A, 17B, 17C, 17D, or 17E of this code, or the violation of any municipal ordinance relating to the operation of a motor vehicle for which the violation thereof would result in a fine or penalty: *Provided,* That any parking violation or other violation for which a citation may be issued to an unattended vehicle shall not be considered a motor vehicle violation for the purposes of this section, §50-3-2a of this code, or §8-10-2b of this code.

WV Legislature

§17B-3-3c. Suspending license for failure to appear in court.

(a) The division shall suspend the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice from a circuit court, magistrate court, or municipal court of this state, pursuant to §8-10-2b or §62-4-17 of this code, that the person has failed to appear in court when charged with a criminal offense. For the purposes of this section, §8-10-2b or §62-4-17 of this code, "criminal offense" shall be defined as any violation of the provisions of this code, or the violation of any municipal ordinance, for which the violation of the offense may result in a fine, confinement in jail, or imprisonment in a correctional facility of this state: *Provided*, That any parking violation or other violation for which a citation may be issued to an unattended vehicle shall not be considered a criminal offense for the purposes of this section, §8-10-2b or §62-4-17 of this code.

(b) A copy of the order of suspension shall be forwarded to the person by certified mail, return receipt requested. No order of suspension becomes effective until 10 days after receipt of a copy of the order. The order of suspension shall advise the person that because of the receipt of notice of the failure to appear, a presumption exists that the person named in the order of suspension is the same person named in the notice. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing shall be for the person requesting the hearing to present evidence that he or she is not the person named in the notice. In the event the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(c) A suspension under this section and §17B-3-3a of this code will continue until the person provides proof of compliance from the municipal, magistrate, or circuit court and pays the reinstatement fee as provided in §17B-3-9 of this code. The reinstatement fee is assessed upon issuance of the order of suspension regardless of the effective date of suspension.

(d) Upon notice from an appropriate state official that the person is successfully participating in an approved treatment and job program as prescribed in §61-11-26a of this code, and that the person is believed to be safe to drive, the Division of Motor Vehicles shall stay or supersede the imposition of any suspension under this section or §17B-3-3a of this code. The Division of Motor Vehicles shall waive the reinstatement fee established by the provisions §17B-3-9 upon receipt of proper documentation of the person's successful completion of a program under §61-11-26a of this code and proof of compliance from the municipal, magistrate, or circuit court. The stay or supersedeas shall be removed by the Division of Motor Vehicles upon receipt of notice from an appropriate state official of a participant's failure to complete or comply with the approved treatment and job program as established under §61-11-26a of this code.

WV Legislature

§17B-3-4. Abstract of judgment of conviction for violation of motor vehicle laws to be sent to division.

Whenever a conviction is had in any court of record, or in a justice's court, or in the police court or mayor's court of any incorporated municipality, for the violation of any law of this state governing or regulating the licensing or operation of any motor vehicle, or for the violation of any provision of a charter, or bylaw, or ordinance of such incorporated municipality governing or regulating the operation of motor vehicles, except regulations governing standing or parking, the clerk of every such court, or the justice, or the clerk or recorder of such municipality, as the case may be, shall in each case transmit to the division within seventy-two hours after such conviction is had a certified abstract of the judgment on such conviction.

For the purposes of this chapter, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

Wilful failure, refusal or neglect to comply with the provisions of this section shall subject the person who is guilty thereof to a fine of not less than $10 nor more than $50 and may be the grounds for removal from office.

WV Legislature

§17B-3-5. Grounds for mandatory revocation of license by department.

The division shall immediately revoke the license of any operator or chauffeur upon receiving a record of such operator's or chauffeur's conviction of any of the following offenses, when such conviction has become final: *Provided*, That if the convicted driver had not reached his or her 19th birthday at the time of the conduct for which the license is revoked under this section, the license shall be revoked until the driver's 19th birthday, or the applicable statutory period of revocation, whichever is longer:

(1) Manslaughter, homicide, or any offense contained within §17C-5-1 of this code, resulting from the operation of a motor vehicle;

(2) Any felony in the commission of which a motor vehicle is used;

(3) Failure to stop and render aid as required under the laws of this state in the event of involvement in a motor vehicle accident resulting in the death or personal injury of another person;

(4) Perjury or the making of a false affidavit or statement under oath to the division under this chapter or under any other law relating to the ownership or operation of motor vehicles;

(5) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 24 months;

(6) Driving under the influence of alcohol, controlled substances or other drugs outside the State of West Virginia which conviction is under a municipal ordinance or statute of the United States or any other state of an offense which has the same elements as an offense described in §17C-5-2 of this code; and

(7) Nothing herein shall prohibit the division from exercising its authority to revoke or suspend a person's license to drive a motor vehicle in this state, as provided in Chapter 17C of this code.

WV Legislature

§17B-3-6. Authority of division to suspend, restrict, or revoke license; hearing.

(a) The division is hereby authorized to suspend, restrict, or revoke the driver's license of any person without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

(1) Has committed an offense for which mandatory revocation of a driver's license is required upon conviction;

(2) Has by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in the death or personal injury of another or property damage;

(3) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(4) Is an habitually reckless or negligent driver of a motor vehicle;

(5) Is incompetent to drive a motor vehicle;

(6) Has committed an offense in another state which if committed in this state would be a ground for suspension or revocation;

(7) Has failed to pay or has defaulted on a plan for the payment of all costs, fines, forfeitures, or penalties imposed by a magistrate court or municipal court within 90 days, as required by §50-3-2a of this code or §8-10-2a of this code;

(8) Has failed to appear or otherwise respond before a magistrate court or municipal court when charged with a motor vehicle violation as defined in section three-a of this article;

(9) Is under the age of 17 and has withdrawn either voluntarily or involuntarily due to misconduct from a secondary school or has failed to maintain satisfactory academic progress, as provided in §18-8-11 of this code; or

(10) Has failed to pay overdue child support or comply with subpoenas or warrants relating to paternity or child support proceedings, if a circuit court has ordered the suspension of the license as provided in §48A-5A-1 *et seq*. of this code and the Child Support Enforcement Division has forwarded to the division a copy of the court order suspending the license, or has forwarded its certification that the licensee has failed to comply with a new or modified order that stayed the suspension and provided for the payment of current support and any arrearage due.

(b) The driver's license of any person having his or her license suspended shall be reinstated if:

(1) The license was suspended under the provisions of subdivision (7), subsection (a) of this

WV Legislature

section and the payment of costs, fines, forfeitures, or penalties imposed by the applicable court has been made;

(2) The license was suspended under the provisions of subdivision (8), subsection (a) of this section and the person having his or her license suspended has appeared in court and has prevailed against the motor vehicle violations charged; or

(3) The license was suspended under the provisions of subdivision (10), subsection (a) of this section and the division has received a court order restoring the license or a certification by the Child Support Enforcement Division that the licensee is complying with the original support order or a new or modified order that provides for the payment of current support and any arrearage due.

(c) Any reinstatement of a license under subdivision (1), (2) or (3), subsection (b) of this section shall be subject to a reinstatement fee designated in section nine of this article.

(d) Upon suspending, or restricting the driver's license of any person as hereinbefore in this section authorized, the division shall immediately notify the licensee in writing, sent by certified mail, return receipt requested, to the address given by the licensee in applying for license, and upon his or her request shall afford him or her an opportunity for a hearing as early as practical within not to exceed 20 days after receipt of such request in the county wherein the licensee resides unless the division and the licensee agree that such hearing may be held in some other county. Upon such hearing the commissioner or his or her duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the division shall either rescind its order of suspension, or restriction or, good cause appearing therefor, may extend the suspension, or restriction of such license or revoke such license. The provisions of this subsection providing for notice and hearing are not applicable to a suspension under subdivision (10), subsection (a) of this section. Any person whose driver's license is suspended, restricted, or revoked after hearing with the commissioner may seek judicial review of the final order or decision in accordance with §29A-5-4 of this code.

(e) Notwithstanding the provisions of legislative rule 91 CSR 5, the division may, upon completion of an approved defensive driving course, deduct three points from a licensee's point accumulation provided the licensee has not reached 14points. If a licensee has been notified of a pending 30-day driver's license suspension based on the accumulation of 12 or 13 points, the licensee may submit proof of completion of an approved defensive driving course to deduct three points and rescind the pending license suspension: *Provided*, That the licensee submits proof of prior completion of the course and payment of the reinstatement fee in accordance with section nine, article three of this chapter to the division prior to the effective date of the suspension.

WV Legislature

§17B-3-7. Department may require reexamination.

The department, having good cause to believe that a licensed operator or chauffeur is incompetent or otherwise not qualified to be licensed, may upon written notice of at least five days to the licensee require him to submit to an examination. Upon the conclusion of such examination the department shall take such action as may be appropriate and may suspend or revoke the license of such person or permit him to retain such license, or may issue a license subject to restrictions as permitted under section ten, article two of this chapter. Refusal or neglect of the licensee to submit to such examination shall be ground for suspension or revocation of his license.

WV Legislature

§17B-3-8. Suspension for more than one year.

The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than one year, except as provided in chapter seventeen-c of this code.

WV Legislature

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

The Division, upon disqualifying, downgrading, suspending or revoking a license, may not require that the license be surrendered to and be retained by the Division. The surrender of a license may not be a precondition to the commencement and tolling of any applicable period of suspension or revocation: *Provided*, That before the license may be reinstated, the licensee shall pay a fee of $50, in addition to all other fees and charges, which shall be collected by the Division and deposited in a special revolving fund to be appropriated to the Division for use in the enforcement of the provisions of this section.

WV Legislature

§17B-3-10. No operation under foreign license during suspension or revocation in this state.

Any resident or nonresident whose operator's or chauffeur's license or right or privilege to operate a motor vehicle in this state has been suspended or revoked as provided in this chapter shall not operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this chapter.

WV Legislature

§17B-3-11. Mandatory revocation of license of certain blind persons.

The department shall forthwith revoke the license of any operator or chauffeur upon receipt of certification by the commissioner of welfare that he is a blind person receiving public assistance or that his application for public assistance because of blindness has been approved by the state department of welfare.

WV Legislature

§17B-3-12. Mandatory suspension for fraudulent use of driver's license.

(a) The commissioner shall suspend for a period of ninety days the driver's license of any person upon receipt of a sworn affidavit from any law-enforcement officer, employee of the Alcohol Beverage Control Commission or employee of the Division of Motor Vehicles stating that the person committed any one of the following acts:

(1) Displayed or caused or permitted to be displayed to any law-enforcement officer or employee of the Division of Motor Vehicles or have in his or her possession any fictitious or fraudulently altered driver's license;

(2) Loaned or gave his or her driver's license to any other person or knowingly permitted the use thereof by another for an unlawful or fraudulent purpose;

(3) Displayed or represented as one's own any driver's license not issued to him or her; or

(4) Used a false or fictitious name or birth date on any application for a driver's license or knowingly made a false statement, knowingly concealed a material fact or otherwise committed a fraud in making application for a driver's license.

(b) For the purposes of this section, "driver's license" means any permit, camera card, identification card or driver's license issued by this state or any other state to a person which authorizes the person to drive a motor vehicle of a specific class or classes subject to any restriction or endorsement contained thereon.

(c) No person shall have his or her driver's license suspended under any provision of this section unless he or she shall first be given written notice of such suspension sent by certified mail, return receipt requested, at least twenty days prior to the effective date of the suspension. Within ten days of the receipt of the notice of suspension, the person may submit a written request by certified mail for a hearing and request a stay of the suspension pending the results of the hearing. Upon receipt of the request for a hearing and request for a stay of the suspension, the commissioner shall grant a stay of the suspension pending the results of the hearing. If the commissioner shall after hearing make and enter an order affirming the earlier order of suspension, the person affected shall be entitled to judicial review as set forth in chapter twenty-nine-a of this code and, pending the appeal, the court may grant a stay or supersedeas of such order. If the person does not appeal the suspension or if the suspension is affirmed by the court, the order of suspension shall be effective and the period of suspension shall commence to run.

(d) The suspended driver's license shall be reinstated following the period of suspension and upon compliance with the conditions set forth in this chapter.

WV Legislature

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

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

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

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

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

(b) Reports, recommendations or opinions, findings or advice received or made by the division for the purpose of determining whether a person is qualified to be licensed to drive are for the confidential use of the division and exempt from provisions of article one, chapter twenty-nine-b of this code and may only be admitted in proceedings to either suspend, revoke or impose limitations on the use of a driver's license pursuant to section six, subsection (a)(5), article three, chapter seventeen-b of this code or section seven, article three, chapter seventeen-b of this code, or to reinstate the driver's license.

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

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

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

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

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

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

WV Legislature

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

WV Legislature

§17B-4-1. Unlawful use of license or nonoperator's identification; license and nonoperator's identification violations generally.

It is a misdemeanor for any person to commit any one of the following acts:

(1) To display or cause or permit to be displayed or have in his possession any fictitious or fraudulently altered operator's or chauffeur's license or nonoperator's identification;

(2) To lend his operator's or chauffeur's license or nonoperator's identification to any other person or knowingly permit the use thereof by another;

(3) To display or represent as one's own any operator's or chauffeur's license or nonoperator's identification not issued to him

(4) To use a false or fictitious name in any application for an operator's or chauffeur's license or nonoperator's identification or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application;

(5) To permit any unlawful use of an operator's or chauffeur's license or nonoperator's identification issued to him or

(6) To do any act forbidden or fail to perform any act required by this chapter.

WV Legislature

§17B-4-2. False affidavits.

Any person who makes any false affidavit, or knowingly swears or affirms falsely to any matter or thing required by the terms of this chapter to be sworn to or affirmed, is guilty of perjury and upon conviction shall be punished by fine or imprisonment as other persons committing perjury are punishable.

WV Legislature

§17B-4-3. Driving while license suspended or revoked; driving while license revoked for driving under the influence of alcohol, controlled substances or drugs, or while having alcoholic concentration in the blood of eight hundredths of one percent or more, by weight, or for refusing to take secondary chemical test of blood alcohol contents.

(a) Except as otherwise provided in subsection (b) or (d) of this section, any person who drives a motor vehicle on any public highway of this state at a time when his or her privilege to do so has been lawfully suspended or revoked by this state or any other jurisdiction is, for the first offense, guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $500; for the second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $500; for the third or any subsequent offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than thirty days nor more than ninety days and shall be fined not less than $150 nor more than $500.

(b) Any person who drives a motor vehicle on any public highway of this state at a time when his or her privilege to do so has been lawfully revoked for driving under the influence of alcohol, controlled substances or other drugs, or any combination thereof, or for driving while having an alcoholic concentration in his or her blood of eight hundredths of one percent or more, by weight, or for refusing to take a secondary chemical test of blood alcohol content, is, for the first offense, guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than thirty days nor more than six months and shall be fined not less than $100 nor more than $500; for the second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than six months nor more than one year and shall be fined not less than $1,000 nor more than $3,000; for the third or any subsequent offense, the person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than three years and, in addition to the mandatory prison sentence, shall be fined not less than $3,000 nor more than $5,000.

(c) Upon receiving a record of the first or subsequent conviction of any person under subsection (b) of this section upon a charge of driving a vehicle while the license of that person was lawfully suspended or revoked, the division shall extend the period of the suspension or revocation for an additional period of six months which may be served concurrently with any other suspension or revocation. Upon receiving a record of the second or subsequent conviction of any person under subsection (a) of this section upon a charge of driving a vehicle while the license of that person was lawfully suspended or revoked, the division shall extend the period of the suspension or revocation for an additional period of ninety days which may be served concurrently with any other suspension or revocation.

(d) Any person who drives a motor vehicle on any public highway of this state at a time when his or her privilege to do so has been lawfully suspended for driving while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, is

WV Legislature

guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for twenty-four hours or shall be fined not less than $50 nor more than $500, or both; for the second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than thirty days nor more than six months and shall be fined not less than $100 nor more than $500; for the third or any subsequent offense, the person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than three years and fined not less than $1,000 nor more than $5,000.

Upon receiving a record of a first or subsequent conviction under this subsection for a charge of driving a vehicle while the license of that person was lawfully suspended or revoked, the division shall extend the period of the suspension or revocation for an additional period of six months which may be served concurrently with any other suspension or revocation.

(e) An order for home detention by the court pursuant to the provisions of article eleven-b, chapter sixty-two of this code may be used as an alternative sentence to any period of incarceration required by this section.

WV Legislature

§17B-4-4. Permitting unauthorized person to drive.

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized hereunder or in violation of any of the provisions of this chapter.

WV Legislature

§17B-4-5. Employing unlicensed chauffeur.

No person shall employ as a chauffeur of a motor vehicle any person not then licensed as provided in this chapter.

WV Legislature

§17B-4-6. Renting motor vehicle to another.

No person shall rent a motor vehicle to any other person unless the latter person is then duly licensed hereunder or, in the case of a nonresident, then duly licensed under the laws of the state or country of his residence.

No person shall rent a motor vehicle to another until he has inspected the operator's or chauffeur's license of the person to whom the vehicle is to be rented and compared and verified the signature thereon with the signature of such person written in his presence.

Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of said latter person and the date and place when and where said license was issued. Such record shall be open to inspection by any police officer or officer or employee of the department.

WV Legislature

§17B-5-1. Violations of chapter; penalty for misdemeanor.

It is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this chapter or other law of this state declared to be a felony.

Unless another penalty is in this chapter or by the laws of this state provided, every person convicted of a misdemeanor for the violation of any provisions of this chapter shall be punished by a fine of not more than $500 or by imprisonment for not more than six months, or by both such fine and imprisonment.

WV Legislature

§17B-5-2. Jurisdiction of crimes by justices.

Justices of the peace shall have concurrent jurisdiction with the circuit, criminal and intermediate courts to enforce the misdemeanor penalties prescribed by this chapter.

WV Legislature

§17B-6-1. Constitutionality.

If any part or parts of this chapter shall be held to be unconstitutional such unconstitutionality shall not affect the validity of the remaining parts of this chapter. The Legislature hereby declares that it would have passed the remaining parts of this chapter if it had known that such part or parts thereof would be declared unconstitutional.

WV Legislature

§17B-6-2. Repeal of inconsistent provisions.

The provisions of all acts or parts of acts, or of this code, which are inconsistent with the provisions of this chapter are hereby repealed to the extent of such inconsistency.

WV Legislature

§17B-7-1. Short Title.

This article is known as and may be cited as the William R. Laird IV Second Chance Driver's License Act.

WV Legislature

§17B-7-2. Legislative findings and purpose.

(a) The Legislature finds that allowing individuals who have been unable to obtain a driver's license or to have their driver's licenses reinstated due to unpaid court costs to obtain a stay of the driver's license suspension or revocation will better enable these individuals to return to the workforce and repay unpaid court costs in a timely manner.

(b) The purpose of this article is to create a program that allows the commissioner to temporarily stay a driver's license suspension or revocation for individuals who are accepted into the second chance driver's license program if the individual thereafter remains current in the repayment of unpaid court costs as required by the program.

WV Legislature

§17B-7-3. Definitions.

For the purposes of this article:

(1) “Commissioner” means the Commissioner of the Division of Motor Vehicles, or his or her designee;

(2) “Consolidated repayment schedule” means the schedule by which a participant is expected to make monthly payments for unpaid court costs consistent with the requirements of the program as established by the director;

(3) “Court” means a municipal court, magistrate court, circuit court, family court or drug court in the State of West Virginia and the Supreme Court of Appeals of West Virginia;

(4) “Director” means Director of the Division of Justice and Community Services, or his or her designee;

(5) “Good standing” means compliance by a participant with the requirements of the program, as set forth in this article and legislative rules promulgated hereunder;

(6) “Monthly payment” means the amount that a participant is scheduled to remit to the director each month pursuant to the consolidated repayment schedule;

(7) “Participant” means a person who applies for, and is accepted into, the second chance driver’s license program by the director;

(8) “Second chance driver’s license program” or “program” means the program created under this article that establishes a payment structure for a participant to consolidate unpaid court costs into monthly payments over a defined period of time, coordinates the acceptance and distribution of monthly payments from a participant and certifies that a participant in good standing is eligible for a temporary stay of a driver’s license suspension or revocation due to certain unpaid court costs; and

(9) “Unpaid court costs” means any fee, fine, expense, cost or other moneys that are required to be paid by a person to a court, pursuant to one or more valid court orders, and have not been paid in full.

WV Legislature

§17B-7-4. Second chance driver's license program established; creation and administration by director; program eligibility.

(a) There is hereby established the second chance driver's license program which shall be administered by the director pursuant to the requirements of this article.

(b) To be eligible to participate in the program, a person must:

(1) Have his or her driver's license suspended or revoked for failure to remit unpaid court costs pursuant to section three-a or section three-c, article three, chapter seventeen-b of this code;

(2) Be at least twelve months delinquent in payment of unpaid court costs to a court or courts;

(3) Not have any unpaid court costs incurred from charges that involve driving a commercial motor vehicle or which otherwise violate the commercial driver's license requirements in chapter seventeen-e of this code; and

(4) Meet other eligibility requirements established pursuant to the rules developed under section nine of this article.

WV Legislature

§17B-7-5. Program acceptance; development of consolidated repayment schedule; no other court fee payments required.

(a) A person wishing to participate in the Second Chance Driver's License Program shall complete an application form prepared by the director.

(b) Upon receipt of a person's application, the director shall coordinate with the courts and the commissioner to verify the total amount of the applicant's unpaid court costs in the state of West Virginia at the time of the application.

(c) All courts shall provide a full accounting of all unpaid court costs assignable to the applicant within 30 days of the request of the director. The accounting shall separately identify the portion of the court costs that constitute a fine, forfeiture, penalty, or the amount due as restitution to a crime victim or costs to be credited to the Crime Victims Compensation Fund pursuant to §62-5-10 of this code remaining unpaid by the applicant for each order of the court for which unpaid balances remain.

(d) Any unpaid court costs not reported to the director by a court as provided by subsection (c) of this section may not be collected separately by the court during the time in which the applicant is a participant in the program.

(e) If a participant completes the program, any unpaid court costs, except for unpaid fines, and unpaid amounts due as restitution to a crime victim or costs to be credited to the Crime Victims Compensation Fund pursuant to §62-5-10 of this code, not submitted to the director pursuant to subsection (c) of this section shall be considered waived unless the unpaid court costs were part of an order entered after the date upon which the director requested information for a participant. The driver's license suspension or revocation with respect to any unpaid fine not reported by a court shall be released upon completion of the program by the participant.

(f) Within 30 days after receipt of information concerning unpaid court costs, the director shall determine if the applicant is eligible to participate in the program. Upon determination, the director shall promptly notify the applicant of his or her acceptance into the program.

(g) Upon acceptance of the applicant as a participant in the program, the director shall develop a consolidated repayment schedule for the participant, which will require the participant to remit payments on a monthly basis to the director according to guidelines established by the director in legislative rules, subject to the following conditions:

(1) The monthly payment shall be determined based on the participant's monthly income and expenditures, but may not be less than $50 per month; and

(2) The consolidated repayment schedule shall require full payment of the unpaid court costs within one year.

(h) The consolidated repayment schedule may be amended to reflect changes in a

WV Legislature

participant's circumstances.

(i) The director may permit a hardship waiver of the requirements of subsection (g) of this section, upon a determination that the applicant's circumstances may have changed, and that the objectives of this article are best accomplished if the consolidated repayment schedule requires a lesser monthly payment or a longer period of time to remit the unpaid court costs: *Provided*, That the director may not waive the total amount of unpaid court costs submitted by the courts according to subsection (a) of this section.

(j) Upon acceptance into the program, a participant in good standing with the program is under no obligation to make separate or additional payments of unpaid court costs directly to a court if those unpaid court costs are included in the consolidated repayment schedule.

WV Legislature

§17B-7-6. Payments to be made to director; certificate of compliance; failure to comply with consolidated repayment schedule.

(a) Upon acceptance into the program and establishment of a consolidated repayment schedule, the participant shall remit monthly payments to the director in the manner prescribed by the director and in compliance with the consolidated repayment schedule.

(b) Upon receipt of the first monthly payment required by the participant's consolidated repayment schedule, the director shall issue to the commissioner, in writing or electronically, a certificate of compliance verifying the participant's good standing in the program.

(c) If a participant fails to make a monthly payment within thirty days of a deadline set by the consolidated repayment schedule, the director shall immediately issue, in writing or electronically, a certificate of noncompliance to the commissioner stating that the participant is not in good standing in the program.

(1) If a participant, after failing to make one or more timely monthly payments, remits the total amount due at that time according to the consolidated repayment schedule, the director shall issue a certificate of compliance to the commissioner stating that the participant is once again in good standing in the program.

(2) If a participant fails to make timely monthly payments in accordance with the consolidated repayment schedule on three occasions, the director shall remove the participant from the program and shall issue a program removal notice to the commissioner and applicable courts receiving payments under the program stating that the participant is no longer a participant in the program.

(d) If a participant is convicted of a subsequent criminal offense after acceptance into the program, the director shall remove the participant from the program and, upon removal, the director shall issue a program removal notice to the commissioner and applicable courts receiving payments under the program stating that the participant is no longer a participant in the program.

(e) Upon completion of all monthly payments in the consolidated repayment schedule by the participant, the director shall issue a program completion certificate to the commissioner and the court or courts to whom the participant owed unpaid court costs under the program, stating that the participant completed the program in good standing.

(f) Upon receipt of a program completion certificate by the director stating that the participant has completed the program in good standing, the court or courts whose unpaid court costs were paid according to the consolidated repayment schedule shall enter an order acknowledging payment in full of the unpaid court costs.

WV Legislature

§17B-7-7. Stay of driver's license suspension or revocation.

(a) Upon receipt of a certificate of compliance prepared by the director, the Division of Motor Vehicles shall stay the participant's driver's license suspension or revocation for unpaid court costs: Provided, That the participant's driver's license shall be subject to restrictions upon where and when the participant may operate a motor vehicle during this stay of the suspension or revocation, as determined by the commissioner.

(b) The Division of Motor Vehicles may require retesting for a driver's license for any participant who has not had a valid driver's license within the six months prior to the date of receipt of the certificate of compliance. Notwithstanding any other provision of the code to the contrary, a participant shall not be required to pay any fees to the Division of Motor Vehicles for retesting.

(c) Upon receipt of a certificate of noncompliance prepared by the director, the commissioner shall remove the stay of the participant's driver's license suspension or revocation until further notice from the director regarding the participant's status in the program.

(d) Upon receipt of a program removal notice issued by the director, the commissioner shall remove the stay of the participant's driver's license suspension or revocation.

(e) Notwithstanding any other provision of code to the contrary, no participant in the program shall be required to pay any reinstatement fees for unpaid court costs within the scope of the consolidated repayment schedule.

WV Legislature

§17B-7-8. Second Chance Driver's License Program Account created.

There is hereby created in the State Treasury an account to be known as the Second Chance Driver's License Program Account. The account shall consist of all moneys received from individuals participating in the program. The fund shall be administered by the Division of Justice and Community Services solely for the purposes of this article. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. Funds in the account shall not be invested, used, withdrawn or transferred out of the account except for the purposes allowed in the provisions of this article.

WV Legislature

§17B-7-9. Deposit of funds into account; disbursement of funds from account.

(a) The director shall deposit all money received from participants pursuant to a consolidated repayment schedule into the Second Chance Driver's License Program Account. The director shall prorate, separate, and identify the portion of each payment that constitutes payment of a fine, forfeiture, penalty, or an amount due as restitution to a crime victim or costs to be credited to the Crime Victims Compensation Fund pursuant to §62-5-10 of this code in accordance with the information provided to the director pursuant to §17B-7-5(c) of this code.

(b) After deposit of a participant's monthly payment into this account, the director shall make disbursements from this account as follows:

(1) Portions of payments identified as payment of a fine, forfeiture, penalty, or an amount due as restitution to a crime victim or costs to be credited to the Crime Victims Compensation Fund pursuant to §62-5-10 of this code shall be disbursed to the courts identified in the repayment schedule or as applicable to the Crime Victims Compensation Fund pursuant to §62-5-10 of this code;

(2) The director shall disburse 95 percent of the portions of the payments remaining after payment as required in subdivision (1) of this subsection to the courts identified in the participant's consolidated repayment schedule. Courts shall accept and document these payments of 95 percent of the total unpaid court costs, not including court costs received pursuant to subdivision (1) of this subsection, as payment in full of the amount owed by the participant to the court for this portion of court costs owed; and

(3) The portion of the payments remaining in the account after payment of the court costs in subdivisions (1) and (2) of this subsection may be appropriated by the Legislature to be expended for costs incurred by the director in the administration of this article.

(c) Courts that receive disbursements pursuant to subsection (b) of this section are responsible for making statutory disbursements of amounts received in satisfaction of unpaid court costs according to the requirements of the code.

WV Legislature

§17B-7-10. Rule-making authority.

(a) To implement the provisions of this article, the director, in consultation with the commissioner, shall promulgate emergency and legislative rules pursuant to the provisions of article three, chapter twenty-nine-a of this code, which shall include, but not be limited to, the following:

(1) The form, content and information required to be furnished in the application forms;

(2) The procedure and requirements of the eligibility review process;

(3) Guidelines for creation of a consolidated repayment schedule of unpaid court costs;

(4) Terms and conditions for acceptance into the program, maintenance of good standing, and completion of the program;

(5) Forms for certificates of compliance, certificates of noncompliance, program removal notice and program completion certificate; and

(6) The procedures for removal or suspension from the program.

(b) To implement the provisions of this article, the commissioner shall promulgate emergency and legislative rules pursuant to the provisions of article three, chapter twenty-nine-a of this code, which may include, but are not limited to, the following:

(1) Establishing the procedures for issuing a stay of a participant's driver's license suspension or revocation; and

(2) Establishing the restrictions upon where and when a participant may utilize his or her driver's license to operate a motor vehicle during the stay of the suspension or revocation authorized by this article.

WV Legislature

§17B-7-11. Sunset provision.

The Second Chance Driver's License Program established under §17B-7-1, *et seq.*, of this code shall cease to have effect on June 30, 2022, unless reauthorized by the West Virginia Legislature.

WV Legislature