

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935



ENROLLED

HOUSE BILL No. 423

(By Mr. La Tou)



PASSED March 5 1935

In Effect from Passage

423

**ENROLLED**  
**House Bill No. 423**  
(BY MR. LAFON)

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[Passed March 8, 1935; in effect from passage.]

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AN ACT to amend and reenact section twenty-five, article eight, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the operation of vehicles on public roads or streets while under the influence of intoxicants, drugs or narcotics, providing penalties for violations.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-five, article eight, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 25. No person shall drive or operate any vehicle, 2 motor driven or otherwise, upon any public road or street in 3 this state, while intoxicated or under the influence of intoxi- 4 cating liquor, drugs or narcotics; nor shall the owner of such

5 vehicle, knowingly permit the same to be so operated by one  
6 intoxicated, or under the influence of intoxicating liquor, drugs  
7 or narcotics.

8 A person violating any of the provisions of this section shall,  
9 for the first offense, be guilty of a misdemeanor and upon con-  
10 viction thereof the vehicle owned and/or operated by him shall  
11 be impounded by the state and placed under lock and key for a  
12 period of six months at some place, other than his home, to be  
13 designated by the court, and shall pay the costs of the trial and  
14 that incurred by the state in carrying out this provision before  
15 said vehicle shall be released, except as otherwise provided  
16 herein; and his operator's or chauffeur's license shall be can-  
17 celled and revoked for a period of six months by the court or  
18 justice trying the case; and he may be punished by a fine of not  
19 less than twenty-five nor more than one hundred dollars, or by  
20 confinement in jail not less than five days nor more than six  
21 months, or by both such fine and imprisonment. If either such  
22 fine, or the costs of the trial incurred by the state and the costs  
23 incurred by the impounding of the car shall not be paid, then  
24 after ten days notice, posted publicly, said vehicle shall be sold  
25 at public auction by the officer impounding the same, unless re-

26 possessed as hereinafter provided, and the proceeds of such sale,  
27 after deducting the costs of sale, shall be credited on said fine  
28 and costs. If the proceeds of such sale exceed said fine and all  
29 costs as hereinbefore set out, the remainder shall be paid to the  
30 defendant in said action, unless a bona fide lien holder inter-  
31 venes as hereinafter provided, or to the actual owner of said  
32 vehicle, as the case may be.

33 The seller of such vehicle so impounded may repossess the  
34 same as provided by article three, chapter forty of the code, as  
35 well also the actual owner if other than offending person, by suit  
36 or otherwise in the court having jurisdiction of said vehicle,  
37 and in addition to other evidence of right of possession, by  
38 showing to the satisfaction of the court that the unlawful use of  
39 the vehicle was not with the knowledge and/or consent of such  
40 seller or actual owner, the cost of such proceeding, including  
41 the cost of impounding, to be paid by the seller or owner.  
42 And if repossession is had by the seller under the pro-  
43 visions hereof, and the court directs sale of such vehicle,  
44 the excess, if any, of the sale price, above the debt in pursuance  
45 of which the repossession is had, by order of the court shall be  
46 paid into the hands of the officer impounding said vehicle to be

47 held by him in its place and stead for disposition thereof as  
48 provided by law: *Provided*, That in any event the holder of a  
49 bona fide lien against said vehicle may appear by petition in the  
50 court having jurisdiction of said vehicle and have his claim  
51 therein adjudicated, and in addition to other evidence of lien,  
52 by showing to the satisfaction of the court that the unlawful use  
53 of the vehicle was not with the knowledge and/or consent of  
54 such lien holder, and if the lien be allowed, and sale be made by  
55 the impounding officer, the proceeds of such sale after paying  
56 the cost and expenses of impounding and sale, shall be applied  
57 as a credit or in satisfaction of such lien, and the excess, if any,  
58 shall be paid to the defendant in said action or to the actual  
59 owner of said vehicle as the case may be.

60 For a second and subsequent offense he shall be guilty of a  
61 felony and upon conviction thereof shall be confined in the peni-  
62 tentiary not less than one nor more than three years and his  
63 operator's or chauffeur's license shall be cancelled and revoked  
64 never to be reissued.

65 All convictions under this section wherein the penalty in-  
66 cludes the revocation of an operator's or chauffeur's license

67 shall be immediately reported to the state road commission in  
68 the manner provided in section twenty-six, article eight, chapter  
69 seventeen of the code of West Virginia, one thousand nine  
70 hundred thirty-one.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Clinton M. Howard*  
.....  
Chairman Senate Committee

*Conrad R. Dickason*  
.....  
Chairman House Committee

Originated in the *House of Delegates*

Takes effect *from* ..... passage.

*Ameyohmity*  
.....  
Clerk of the Senate

*Geo. S. Hall*  
.....  
Clerk of the House of Delegates

*Chas. E. Hoody*  
.....  
President of the Senate

*John S. Bell*  
.....  
Speaker House of Delegates.

The within *is approved* this the *12<sup>th</sup>*

day of *March*, 1935.

*H. B. Kemp*  
.....  
Governor.

Filed in the office of the Secretary of State  
of West Virginia. **MAR 13 1935**  
Wm. S. O'BRIEN,  
Secretary of State