

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1955

ENROLLED

SENATE BILL NO. 71

(By Mr. *Amos*.....)

PASSED..... *Feb 25* ..... 1955

In Effect..... *June* ..... Passage



Filed in the Office of the Secretary of State  
of West Virginia..... **MAR 3 1955**.....

D. PITT O'BRIEN  
SECRETARY OF STATE

**ENROLLED**

**Senate Bill No. 71**

(By MR. AMOS)

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(By request of the Department of Motor Vehicles)

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[Passed February 25, 1955; in effect from passage.]

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AN ACT to amend and reenact section two, article five, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the offense of driving while under the influence of intoxicating liquor or drugs and to the penalties therefor.

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

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

Section 2. *Persons under the Influence of Intoxicating Liquor or of Drugs.*—(a) It is unlawful and punishable

3 as provided in paragraph (c) of this section for any per-  
4 son who is under the influence of intoxicating liquor to  
5 drive any vehicle on any highway of this state or for  
6 any owner of such vehicle to knowingly permit the  
7 same to be so operated by one under influence of intoxi-  
8 cating liquor.

9 (b) It is unlawful and punishable as provided in para-  
10 graph (c) of this section for any person who is an ha-  
11 bitual user of or under the influence of any narcotic drug  
12 or who is under the influence of any other drug to a de-  
13 gree which renders him incapable of safely driving a  
14 vehicle to drive a vehicle within this state. The fact that  
15 any person charged with a violation of this paragraph is  
16 or has been entitled to use such drug under the laws of  
17 this state shall not constitute a defense against any  
18 charges of violating this paragraph.

19 (c) A person violating any provision of this section  
20 shall for the first offense, occurring within a five-year  
21 period, be guilty of a misdemeanor, and upon conviction  
22 thereof shall be punished by a fine of not less than fifty  
23 nor more than one hundred dollars or by imprisonment

24 in the county jail for a period of not less than five days  
25 nor more than six months, or by both such fine and im-  
26 prisonment, and his operator's or chauffeur's license shall  
27 be revoked for a period of six months. A person violat-  
28 ing any provision of this section shall, for the second  
29 offense, occurring within a five-year period, be guilty of  
30 a misdemeanor, and upon conviction thereof shall be  
31 punished by imprisonment in the county jail for a period  
32 of not less than six months nor more than one year, which  
33 sentence shall not be subject to probation, and whenever  
34 the records of the department disclose that a conviction  
35 is the second such conviction of such person, within a  
36 period of five years, for a violation of this section his  
37 operator's or chauffeur's license shall be revoked by the  
38 commissioner for a period of ten years, unless reissued  
39 by the department of motor vehicles as hereinafter pro-  
40 vided. Whenever the commissioner of motor vehicles,  
41 after full investigation, shall find that the character of  
42 any person who was convicted of a second offense under  
43 this section and the circumstances at the time indicate  
44 that he is not likely again to repeat his offense, and that

45 the public good does not require that his license be longer  
46 revoked, the commissioner may if it is deemed advisable  
47 reissue such license at any time more than five years  
48 after the date on which it was revoked. A person violat-  
49 ing any provision of this section shall, for the third or  
50 any subsequent offense, occurring within a five-year pe-  
51 riod, be guilty of a felony, and upon conviction thereof  
52 shall be punished by imprisonment in the penitentiary  
53 for not less than one nor more than three years, and  
54 whenever the records of the department disclose that a  
55 conviction is the third such or any subsequent conviction  
56 of such person, within a period of five years, for a vio-  
57 lation of this section his operator's or chauffeur's license  
58 shall be revoked by the commissioner for a period of ten  
59 years and indefinitely thereafter unless reissued as here-  
60 inafter provided. Whenever the commissioner of motor  
61 vehicles, after full investigation, shall find that the char-  
62 acter of any person who was convicted of a third or sub-  
63 sequent offense under this section and the circumstances  
64 at the time indicate that he is not likely again to repeat  
65 his offense, and the public good does not require that his

66 license be longer revoked, the commissioner may if it is  
67 deemed advisable reissue such license at any time more  
68 than ten years after the date on which it was revoked.  
69 The discretionary power herein conferred may be exer-  
70 cised by the commissioner and the department of motor  
71 vehicles with respect to the reissuing of licenses, revoked  
72 because of convictions prior to the passage hereof.

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

*[Signature]*  
 Chairman Senate Committee

*[Signature]*  
 Chairman House Committee

Originated in the Senate.

Takes effect from passage.

*[Signature]*  
 Clerk of the Senate

*[Signature]*  
 Clerk of the House of Delegates

*[Signature]*  
 President of the Senate

*[Signature]*  
 Speaker House of Delegates

The within approved this the 1  
 day of March, 1955.

*[Signature]*  
 Governor.



Filed in the Office of the Secretary of State  
 of West Virginia. **MAR 2 1955**  
 D. H. ...  
 SECRETARY OF STATE