

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1974

— ● —

ENROLLED

*Committee Substitute for*  
HOUSE BILL No. 706

(By Mr. *Samuel E. / W. Polun*)

— ● —

PASSED *March 8* 1974

In Effect *90 days* Passage



FILED IN THE OFFICE  
HONORABLE ROBERT M. HILL  
SECRETARY OF STATE

FILED DATE *3/29/74*

*VETO - 706*

**ENROLLED**  
**COMMITTEE SUBSTITUTE**

**FOR**

**H. B. 706**

**(By MR. SAVILLA and MR. POLEN)**

[Passed March 8, 1974; in effect ninety days from passage.]

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; and to further amend said article by adding thereto a new section, designated section four, all relating to granting a person convicted for the first offense of driving a vehicle while intoxicated, or of having permitted an intoxicated person to operate his vehicle, the option to attend an alcohol-countermeasure safety school in lieu of having his operator's or chauffeur's license revoked, providing that the school shall be conducted under the jurisdiction and supervision of the division of alcoholism and drug abuse of the department of mental health, with advice from the department of public safety, providing that persons attending the school shall satisfactorily complete the course provided, authorizing the division of alcoholism and drug abuse of the department of mental health to collect a fee, not to exceed ten dollars to pay the administrative costs of the school, establishing for a fee of five dollars a limited license to be used to drive to and from the place of employment, during the course of employment and to and from the alcohol-countermeasure safety school, and providing for surrender, retention and revocation of operator's and chauffeur's licenses.

*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; and that said article five be further amended by adding thereto a new section, designated section four, all to read as follows:

**ARTICLE 5. NEGLIGENCE, DRIVING WHILE INTOXICATED AND RECKLESS DRIVING.**

**§17C-5-2. Persons driving under influence of intoxicating liquor or drugs.**

1 (a) It is unlawful and punishable as provided in sub-  
2 section (c) of this section for any person who is under the  
3 influence of intoxicating liquor to drive any vehicle on any  
4 highway of this state or for any owner of such vehicle to  
5 knowingly permit the same to be so operated by one under  
6 the influence of intoxicating liquor.

7 (b) It is unlawful and punishable as provided in subsection  
8 (c) of this section for any person who is an habitual user  
9 of or under the influence of any narcotic drug or who is under  
10 the influence of any other drug to a degree which renders him  
11 incapable of safely driving a vehicle to drive a vehicle within  
12 this state or for any owner of such vehicle to knowingly permit  
13 the same to be so operated by one under the influence of any  
14 narcotic drug or who is under the influence of any other drug  
15 to a degree which renders him incapable of safely driving a  
16 vehicle. The fact that any person charged with a violation of  
17 this subsection is or has been entitled to use such drug under  
18 the law of this state shall not constitute a defense against any  
19 charges of violating this subsection.

20 (c) A person violating any provision of this section shall,  
21 for the first offense, be guilty of a misdemeanor, and, upon  
22 conviction thereof, shall be imprisoned in the county jail  
23 not less than twenty-four hours nor more than six months  
24 and, in addition to such mandatory jail sentence, such person  
25 may be fined not less than fifty nor more than one hundred  
26 dollars; and, in every case of conviction under this section,  
27 such convicted person's operator's or chauffeur's license shall  
28 be revoked for a period of six months: *Provided, That if (1)*

29 such convicted person were convicted for a first offense under  
30 subsection (a) of this section and (2) the records of the de-  
31 partment of motor vehicles disclose that such person had in  
32 fact not been previously convicted for a violation of any pro-  
33 vision of this section, then such person shall, notwithstanding  
34 the provisions of section five, article three, chapter seventeen-b  
35 of this code, be granted the option of attending an alcohol-  
36 countermeasure safety school conducted under the jurisdiction  
37 and supervision of the division on alcoholism and drug abuse  
38 of the department of mental health, with advice from the de-  
39 partment of public safety, in lieu of having his operator's or  
40 chauffeur's license revoked and, upon choosing said option,  
41 shall be issued for a fee of five dollars a limited license in ac-  
42 cordance with section four of this article.

43 Any such school shall be conducted in accordance with rules  
44 and regulations promulgated by the director of the department  
45 of mental health under chapter twenty-nine-a of this code and  
46 shall consist of one course of not less than eight nor more than  
47 twenty-four hours of instruction and training to be held during  
48 a period of time not to exceed six months.

49 The division on alcoholism and drug abuse of the depart-  
50 ment of mental health is hereby authorized to collect from  
51 each person, who attends any such alcohol-countermeasure  
52 safety school it conducts, a fee of not to exceed ten dollars  
53 to be deposited in a special fund to be used only to pay ad-  
54 ministrative costs it incurs in providing any such school.

55 An person violating any provision of this section shall, for  
56 the second offense occurring within a five-year period, be  
57 guilty of a misdemeanor, and, upon conviction thereof, shall  
58 be imprisoned in the county jail for a period of not less than  
59 six months nor more than one year, which sentence shall  
60 not be subject to probation; and whenever the records of  
61 the department of motor vehicles disclose that a conviction  
62 is the second such conviction of such person, within a period  
63 of five years for a violation of this section, his operator's or  
64 chauffeur's license shall be revoked by the commissioner of  
65 motor vehicles for a period of ten years, unless reissued by  
66 the department of motor vehicles as hereinafter provided.  
67 Whenever the commissioner of motor vehicles, after full in-

68 vestigation, shall find that the character of any person who  
69 was convicted of a second offense under this section and the  
70 circumstances at the time indicate that he is not likely again to  
71 repeat his offense and that the public good does not require  
72 that his license be longer revoked, the commissioner may if it  
73 is deemed advisable reissue such license at any time more than  
74 five years after the date on which it was revoked.

75 A person violating any provision of this section shall, for  
76 the third or any subsequent offense occurring within a  
77 five-year period, be guilty of a felony, and, upon conviction  
78 thereof, shall be imprisoned in the penitentiary for not less  
79 than one nor more than three years; and whenever the records  
80 of the department of motor vehicles disclose that a conviction is  
81 the third such or any subsequent conviction of such person  
82 within a period of five years for a violation of this section, his  
83 operator's or chauffeur's license shall be revoked by the com-  
84 missioner of motor vehicles for a period of ten years and in-  
85 definitely thereafter unless reissued as hereinafter provided.  
86 Whenever the commissioner of motor vehicles, after full  
87 investigation, shall find that the character of any person  
88 who was convicted of a third or subsequent offense under  
89 this section and the circumstances at the time indicate that  
90 he is not likely again to repeat his offense and the public  
91 good does not require that his license be longer revoked,  
92 the commissioner may if it is deemed advisable reissue such  
93 license at any time more than ten years after the date on  
94 which it was revoked. The discretionary power herein con-  
95 ferred may be exercised by the commissioner and the de-  
96 partment of motor vehicles with respect to the reissuing of  
97 licenses revoked because of convictions prior to the enactment  
98 hereof.

**§17C-5-4. Limited license to drive to and from place of employ-  
ment during the course of employment and to and  
from the alcohol-countermeasure safety school, re-  
tention and return of surrendered license.**

1 A person convicted of a first offense under subsection (a),  
2 section two of this article, who is entitled to and accepts  
3 the option of attending an alcohol-countermeasure safety  
4 school as provided in said section, shall immediately sur-  
5 render his operator's or chauffeur's license to the court wherein

6 he was convicted, if a court of record, or if convicted in a  
7 court other than a court of record, to the court of record  
8 having criminal jurisdiction in the county wherein he was  
9 convicted or resides. The court shall forward the surrend-  
10 ered license to the commissioner of motor vehicles and shall,  
11 upon receipt of the proper fee prescribed in section two,  
12 issue to the person surrendering the license, a limited license  
13 on a form prescribed by the commissioner of motor vehicles.  
14 The limited license shall be valid only for the purposes of  
15 driving directly to and from the person's place of employment,  
16 during the course of employment, and to go directly to and  
17 from the alcohol-countermeasure safety school, which purpose  
18 shall be specified on such limited license. Such limited license  
19 shall be valid for a period of one week after its issuance by  
20 the court and thereafter must be validated on its face, for  
21 each week during which it is used, by the regional or county  
22 coordinator of the division of alcoholism and drug abuse of  
23 the department of mental health or his designated representa-  
24 tive. Such coordinator and his designated representative shall  
25 cease to validate the limited license of any person failing to  
26 complete an alcohol-countermeasure safety school as provided  
27 in section two of this article. Any violation of the limitations  
28 on the limited license or its use without proper validation  
29 shall, after hearing, be grounds for revocation of such limited  
30 license by the commissioner of motor vehicles, if so recom-  
31 mended by the court of record which issued such limited  
32 license. If a subsequent review of the records of the de-  
33 partment of motor vehicles discloses that the conviction of the  
34 person who received a limited license was not in fact the first  
35 conviction of such person for a violation of any provision of  
36 section two of this article, the commissioner of motor vehicles  
37 shall advise the court which issued such limited license of  
38 such fact and such commissioner shall thereupon revoke such  
39 person's operator's or chauffeur's license for a period of six  
40 months from the date of notification to such court. Upon  
41 receipt of such notification, such court shall thereupon require  
42 the return to it of such limited license which shall be can-  
43 celed by such court.

44 The division on alcoholism and drug abuse of the department  
45 of mental health shall certify to the commissioner of motor

46 vehicles either satisfactory completion of or failure to satisfac-  
47 torily complete an alcohol-countermeasure safety school. Upon  
48 certification of satisfactory completion of such school, the com-  
49 missioner of motor vehicles shall immediately return the sur-  
50 rendered license to the person so completing such school. Upon  
51 certification of failure to complete such school, the commission-  
52 er shall revoke the surrendered operator's or chauffeur's license  
53 for a period of six months from the date of such certification.

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

H. Daniel Darby  
Chairman Senate Committee

Clarence L. Christon Jr.  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard W. Carson  
Clerk of the Senate

C. Blankenship  
Clerk of the House of Delegates

M. T. Brotherton, Jr.  
President of the Senate

Lewis F. McMane  
Speaker House of Delegates

The within disapproved this the 26th  
day of March, 1974.

Arch A. Shreve Jr.  
Governor





PRESENTED TO THE  
GOVERNOR

Date 3/15/74  
Time 2:50 p.m.