WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

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ENROLLED

Committee Substitute for

HOUSE BILL No. 706

(By Mr. Samuels of M. Polin)

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PASSED March 8, 1974

In Effect 90 days 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. NEGLIGENT HOMICIDE, DRIVING WHILE INTOXICATED AND RECKLESS DRIVING.

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

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

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

(c) A person violating any provision of this section shall, for the first offense, be guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned in the county jail not less than twenty-four hours nor more than six months and, in addition to such mandatory jail sentence, such person may be fined not less than fifty nor more than one hundred dollars; and, in every case of conviction under this section, such convicted person's operator's or chauffeur's license shall be revoked for a period of six months: Provided, That if (1)
such convicted person were convicted for a first offense under
subsection (a) of this section and (2) the records of the de-
partment of motor vehicles disclose that such person had in
fact not been previously convicted for a violation of any pro-
vision of this section, then such person shall, notwithstanding
the provisions of section five, article three, chapter seventeen-b
of this code, be granted the option of attending an alcohol-
countermeasure safety school conducted under the jurisdiction
and supervision of the division on alcoholism and drug abuse
of the department of mental health, with advice from the de-
partment of public safety, in lieu of having his operator's or
chauffeur's license revoked and, upon choosing said option,
shall be issued for a fee of five dollars a limited license in ac-
cordance with section four of this article.

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

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

An person violating any provision of this section shall, for
the second offense occurring within a five-year period, be
guilty of a misdemeanor, and, upon conviction thereof, shall
be imprisoned in the county jail for a period of not less than
six months nor more than one year, which sentence shall
not be subject to probation; and whenever the records of
the department of motor vehicles disclose that a conviction
is the second such conviction of such person, within a period
of five years for a violation of this section, his operator's or
chauffeur's license shall be revoked by the commissioner of
motor vehicles for a period of ten years, unless reissued by
the department of motor vehicles as hereinafter provided.
Whenever the commissioner of motor vehicles, after full in-
vestigation, shall find that the character of any person who was convicted of a second offense under this section and the circumstances at the time indicate that he is not likely again to repeat his offense and that the public good does not require that his license be longer revoked, the commissioner may if it is deemed advisable reissue such license at any time more than five years after the date on which it was revoked.

A person violating any provision of this section shall, for the third or any subsequent offense occurring within a five-year period, be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary for not less than one nor more than three years; and whenever the records of the department of motor vehicles disclose that a conviction is the third such or any subsequent conviction of such person within a period of five years for a violation of this section, his operator's or chauffeur's license shall be revoked by the commissioner of motor vehicles for a period of ten years and indefinitely thereafter unless reissued as hereinafter provided.

Whenever the commissioner of motor vehicles, after full investigation, shall find that the character of any person who was convicted of a third or subsequent offense under this section and the circumstances at the time indicate that he is not likely again to repeat his offense and the public good does not require that his license be longer revoked, the commissioner may if it is deemed advisable reissue such license at any time more than ten years after the date on which it was revoked. The discretionary power herein conferred may be exercised by the commissioner and the department of motor vehicles with respect to the reissuing of licenses revoked because of convictions prior to the enactment hereof.

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

A person convicted of a first offense under subsection (a), section two of this article, who is entitled to and accepts the option of attending an alcohol-countermeasure safety school as provided in said section, shall immediately surrender his operator's or chauffeur's license to the court wherein
he was convicted, if a court of record, or if convicted in a
court other than a court of record, to the court of record
having criminal jurisdiction in the county wherein he was
convicted or resides. The court shall forward the surren­
dered license to the commissioner of motor vehicles and shall,
upon receipt of the proper fee prescribed in section two,
issue to the person surrendering the license, a limited license
on a form prescribed by the commissioner of motor vehicles.
The limited license shall be valid only for the purposes of
driving directly to and from the person's place of employment,
during the course of employment, and to go directly to and
from the alcohol-countermeasure safety school, which purpose
shall be specified on such limited license. Such limited license
shall be valid for a period of one week after its issuance by
the court and thereafter must be validated on its face, for
each week during which it is used, by the regional or county
coordinator of the division of alcoholism and drug abuse of
the department of mental health or his designated representa­
tive. Such coordinator and his designated representative shall
cease to validate the limited license of any person failing to
complete an alcohol-countermeasure safety school as provided
in section two of this article. Any violation of the limitations
on the limited license or its use without proper validation
shall, after hearing, be grounds for revocation of such limited
license by the commissioner of motor vehicles, if so recom­
mended by the court of record which issued such limited
license. If a subsequent review of the records of the de­
partment of motor vehicles discloses that the conviction of the
person who received a limited license was not in fact the first
conviction of such person for a violation of any provision of
section two of this article, the commissioner of motor vehicles
shall advise the court which issued such limited license of
such fact and such commissioner shall thereupon revoke such
person's operator's or chauffeur's license for a period of six
months from the date of notification to such court. Upon
receipt of such notification, such court shall thereupon require
the return to it of such limited license which shall be can­
celed by such court.

The division on alcoholism and drug abuse of the department
of mental health shall certify to the commissioner of motor
vehicles either satisfactory completion of or failure to satisfactorily complete an alcohol-countermeasure safety school. Upon certification of satisfactory completion of such school, the commissioner of motor vehicles shall immediately return the surrendered license to the person so completing such school. Upon certification of failure to complete such school, the commissioner shall revoke the surrendered operator's or chauffeur's license 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.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House.
Takes effect ninety days 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 ________ disapproved ________ this the ________ day of ________, 1974.

[Signature]
Governor
PRESENTED TO THE
GOVERNOR

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