

APPROVED AND SIGNED BY THE GOVERNOR

Date 5-1-81

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No. 711-S

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981



ENROLLED

SENATE BILL NO. 711-S

(By Mr. Boettner, Mr. Ash, et al)



PASSED April 11, 1981

In Effect September 1, 1981 ~~Passage~~



ENROLLED

Senate Bill No. 711-S

(By MR. BOETTNER, MR. ASH, MS. CHACE, MR. HECK,
MR. HOLLIDAY, MR. MCCUNE and MR. WHITE)

[Passed April 11, 1981; in effect September 1, 1981.]

AN ACT to repeal sections four, five, six, seven and eight, article five-a, and article five-b, chapter seventeen-c; to amend and reenact sections seven and eight, article two, and sections five, eight and nine, article three, chapter seventeen-b; to amend and reenact section two, article five, and to further amend said article by adding thereto eight new sections, designated sections two-a, four, five, six, seven, eight, nine and ten; to amend and reenact sections one, two, three and four, article five-a, chapter seventeen-c; to amend article six, chapter sixty by adding thereto a new section, designated section twenty-four, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to driving a motor vehicle under the influence of alcohol, controlled substances or drugs generally; requiring that applicants for a license to operate a motor vehicle shall be tested on their knowledge of the effects of alcohol upon persons and the dangers of driving a motor vehicle while under the influence of alcohol; prescribing the form and content of a license to operate a motor vehicle and requiring licenses to be marked so as to indicate past violations resulting in suspension; setting forth the grounds for mandatory revocation of licenses upon conviction of certain offenses; placing limitations on the period of suspension; providing for the surrender and return of licenses and the willful refusal to return a license and fees in connection therewith; defining criminal offenses involving driving a motor vehicle while under the influence of alcohol, controlled substances or drugs and setting forth the penalties therefor;

providing for implied consent to blood alcohol tests and the administration of such tests; defining the term "law-enforcement officer"; prescribing how preliminary breath analysis to be administered and how the results thereof are to be used; describing how blood tests are administered, and granting immunities to persons administering tests; permitting persons to refuse to take tests upon being warned of penalties for refusal; providing administrative penalties for refusal and allowing right to hearing before suspension; setting forth hearing procedure; providing for judicial review of suspension based on refusal to submit to tests; providing for the interpretation and use of chemical tests and describing presumptions arising from such tests; granting person arrested the right to demand test; allowing fee for withdrawing blood sample and permitting recovery of fee upon conviction; providing for implied consent to administrative procedures dealing with suspension and revocation of licenses; allowing temporary suspension and subsequent revocation of license; setting forth hearing procedures; defining the scope of the hearing; providing for findings to be made prior to revocation of license; providing for order of suspension and judicial review of the same; establishing a safety and treatment program for persons violating article; providing a procedure for reissuance of revoked license; requiring commissioner to report prior offenses to police officer submitting report of violations; establishing penalties to be imposed on officer or commissioner for failure to file affidavits or mail reports within time periods prescribed; requirement for posting informational sign in establishments selling alcoholic beverages or nonintoxicating beer.

Be it enacted by the Legislature of West Virginia:

That sections four, five, six, seven and eight, article five-a, and article five-b, chapter seventeen-c be repealed; that sections seven and eight, article two, and sections five, eight and nine, article three, chapter seventeen-b be amended and reenacted; that section two, article five, chapter seventeen-c be amended and reenacted, and that said article be further amended by adding thereto eight new sections, designated sections two-a, four, five, six, seven, eight, nine and ten; and that sections one, two, three and four, article five-a, chapter seventeen-c be amended and reenacted; and that article six, chapter sixty be amended by adding thereto a new section, designated section twenty-four, all to read as follows:

**CHAPTER 17B. MOTOR VEHICLE OPERATOR'S AND
CHAUFFEUR'S LICENSES.**

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

§17B-2-7. Examination of applicants.

1 (a) Upon the exhibiting by the applicant under the age of
2 eighteen years, of his or her birth certificate, or a certified
3 copy thereof, as evidence that the applicant is of lawful age,
4 the department of public safety shall examine every applicant
5 for a license to operate a motor vehicle in this state, except as
6 otherwise provided in this section. Such examination shall
7 include a test of the applicant's eyesight, his ability to read
8 and understand highway signs regulating, warning, and
9 directing traffic, his knowledge of the traffic laws of this state,
10 his knowledge of the effects of alcohol upon persons and the
11 dangers of driving a motor vehicle under the influence of
12 alcohol, and shall include an actual demonstration of ability
13 to exercise ordinary and reasonable control in the operation
14 of a motor vehicle, and such further physical and mental
15 examination as the department of motor vehicles deems
16 necessary to determine the applicant's fitness to operate a
17 motor vehicle safely upon the highways.

18 (b) The commissioner shall adopt and promulgate
19 regulations concerning the examination of applicants for
20 licenses and the qualifications required of such applicants,
21 and the examination of such applicants by the department of
22 public safety shall be in accordance with such regulations.
23 Such regulations shall provide for the viewing of educational
24 material or films on the effects of alcohol upon persons and
25 the dangers of driving a motor vehicle while under the
26 influence of alcohol.

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

1 On and after the first day of January, one thousand nine
2 hundred eighty-two, the department shall, upon payment of
3 the required fee, issue to every applicant qualifying therefor
4 an operator's or chauffeur's license which license shall
5 contain a coded number assigned to the licensee, the full
6 name, date of birth, residence address, a brief description and
7 a color photograph of the licensee and either a facsimile of the
8 signature of the licensee or a space upon which the signature
9 of the licensee shall be written with pen and ink immediately
10 upon receipt of the license. No license shall be valid until it

11 has been so signed by the licensee. The department shall use
12 such process or processes in the issuance of licenses that will,
13 insofar as possible, prevent any alteration, counterfeiting,
14 duplication, reproduction, forging, or modification of, or the
15 superimposition of a photograph on, such license. The color
16 photograph shall be contained on all licenses issued on and
17 after the first day of January, one thousand nine hundred
18 eighty-two, and upon every such license issued under the
19 provisions of section twelve of this article.

20 The fee for the issuance of an operator's license shall be ten
21 dollars. The fee for the issuance of a chauffeur's license shall
22 be fifteen dollars.

23 The department of motor vehicles shall mark any license
24 which is reissued following a suspension of a person's license
25 to operate a motor vehicle in this state with the type of
26 violation for which the original license was suspended and
27 shall indicate the date of the violation. For purposes of this
28 section, any conviction under the provisions of subsections
29 (a) and (b) of the prior enactment of section two, article five,
30 chapter seventeen-c of this code which offense was
31 committed within a period of five years immediately
32 preceding the effective date of the present section two, article
33 five, chapter seventeen-c, shall be treated as a violation to
34 which this section is applicable and suspensions based on
35 such convictions shall be marked on licenses which are
36 hereafter reissued.

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.

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

1 The department shall forthwith revoke the license of any
2 operator or chauffeur upon receiving a record of such
3 operator's or chauffeur's conviction of any of the following
4 offenses, when such conviction has become final:

5 (1) Manslaughter or negligent homicide resulting from the
6 operation of a motor vehicle;

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

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

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

17 (5) Conviction, or forfeiture of bail not vacated, upon three
18 charges of reckless driving committed within a period of
19 twenty-four months;

20 (6) Nothing herein shall prohibit the department from
21 exercising its authority to revoke or suspend a person's
22 license to drive a motor vehicle in this state as provided in
23 article seventeen-c of this chapter.

§17B-3-8. Period of suspension or revocation.

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

§17B-3-9. Surrender and return of license; willful refusal to return; additional fee for reinstatement.

1 The department upon suspending or revoking a license
2 shall require that such license shall be surrendered to and be
3 retained by the department, except that at the end of the
4 period of suspension such license so surrendered shall be
5 returned to the licensee: *Provided*, That, before such license
6 may be reinstated, the licensee shall pay a fee of fifteen
7 dollars, in addition to all other fees and charges, which fee
8 shall be collected by the department and deposited in a
9 special revolving fund to be appropriated to the department
10 for use in the enforcement of the provisions of this section. If
11 any person shall willfully fail to return to the department
12 such suspended or revoked license, the commissioner shall
13 forthwith notify the superintendent of the department of
14 public safety who shall, without delay, secure possession
15 thereof and return same to the department. Said
16 superintendent of the department of public safety shall make
17 a report in writing to the commissioner, within two weeks
18 after being so notified by the commissioner, as to the result of
19 his efforts to secure the possession and return of such license.
20 For each license which shall have been suspended or revoked
21 and which the holder thereof shall have willfully failed to
22 return to the department within ten days from the time that
23 such suspension or revocation becomes effective and which

24 shall have been certified to the superintendent of the
25 department of public safety as aforesaid, the holder thereof,
26 before the same may be reinstated, in addition to all other fees
27 and charges, shall pay a fee of fifteen dollars, which shall be
28 collected by the department of motor vehicles and paid into
29 the state treasury and credited to the general fund to be
30 appropriated to the department of public safety for
31 application in the enforcement of the road laws.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-2. Driving under influence of alcohol, controlled substances or drugs; penalties.

1 (a) Any person who, while under the influence of alcohol,
2 or under the influence of any controlled substance, or under
3 the influence of any other drug to a degree which renders him
4 incapable of safely driving, or under the combined influence
5 of alcohol and any controlled substance or any other drug to a
6 degree which renders him incapable of safely driving, drives
7 a vehicle in this state, and when so driving does any act
8 forbidden by law or fails to perform any duty imposed by law
9 in the driving of such vehicle, which act or failure
10 proximately causes the death of any person within one year
11 next following such act or failure, if such act or failure be
12 committed in reckless disregard of the safety of others, and if
13 the influence of alcohol, controlled substances or drugs is
14 shown to be a contributing cause to the death, shall be guilty
15 of a felony, and upon conviction thereof shall be confined in
16 the penitentiary for not less than one nor more than three
17 years and shall be fined not less than one thousand dollars.

18 (b) Any person who, while under the influence of alcohol,
19 or under the influence of any controlled substance, or under
20 the influence of any other drug to a degree which renders him
21 incapable of safely driving, or under the combined influence
22 of alcohol and any controlled substance or any other drug to a
23 degree which renders him incapable of safely driving, drives
24 a vehicle in this state, and when so driving does any act
25 forbidden by law or neglects any duty imposed by law in the
26 driving of such vehicle, which act or neglect proximately
27 causes the death of any person within one year next following
28 such act, shall be guilty of a misdemeanor, and upon

29 conviction thereof shall be confined in the county jail for not
30 less than ninety days nor more than one year and shall be
31 fined not less than five hundred dollars nor more than one
32 thousand dollars.

33 (c) Any person who, while under the influence of alcohol,
34 or under the influence of any controlled substance, or under
35 the influence of any other drug to a degree which renders him
36 incapable of safely driving, or under the combined influence
37 of alcohol and any controlled substance or any other drug to a
38 degree which renders him incapable of safely driving, drives
39 a vehicle in this state, and when so driving does any act
40 forbidden by law or neglects any duty imposed by law in the
41 driving of such vehicle, which act or neglect proximately
42 causes bodily injury to any person other than himself, shall be
43 guilty of a misdemeanor, and upon conviction thereof shall be
44 confined in the county jail for a period of not less than one
45 day nor more than one year, which jail term shall include
46 actual confinement of not less than twenty-four hours, and
47 shall be fined not less than two hundred dollars nor more
48 than one thousand dollars.

49 (d) Any person who, while under the influence of alcohol,
50 or under the influence of any controlled substance, or under
51 the influence of any other drug to a degree which renders him
52 incapable of safely driving, or under the combined influence
53 of alcohol and any controlled substance or any other drug to a
54 degree which renders him incapable of safely driving, drives
55 a vehicle in this state, shall be guilty of a misdemeanor, and
56 upon conviction thereof shall be confined in the county jail
57 for a period of not less than one day nor more than six
58 months, which jail term shall include actual confinement of
59 not less than twenty-four hours, and shall be fined not less
60 than one hundred dollars nor more than five hundred dollars.

61 (e) Any person who, being an habitual user of narcotic
62 drugs or amphetamine or any derivative thereof, drives a
63 vehicle in this state, shall be guilty of a misdemeanor, and
64 upon conviction thereof shall be confined in the county jail
65 for not more than six months.

66 (f) Any person who knowingly permits his vehicle to be
67 driven in this state by any other person who is under the
68 influence of alcohol, or under the influence of any controlled
69 substance, or under the influence of any other drug to a
70 degree which renders him incapable of safely driving, or
71 under the combined influence of alcohol and any controlled

72 substance or any other drug to a degree which renders him
73 incapable of safely driving, or is an habitual user of narcotic
74 drugs or amphetamine or any derivative thereof shall be
75 guilty of a misdemeanor and upon conviction thereof shall be
76 confined in the county jail for not more than six months and
77 shall be fined not less than one hundred dollars nor more than
78 five hundred dollars.

79 (g) Any person violating any provision of subsection (b),
80 (c), (d), (e) or (f) of this section shall, for the second offense
81 under this section, be guilty of a misdemeanor, and, upon
82 conviction thereof, shall be imprisoned in the county jail for a
83 period of not less than six months nor more than one year.

84 (h) A person violating any provision of subsection (b), (c),
85 (d), (e) or (f) of this section shall, for the third or any
86 subsequent offense under this section, be guilty of a felony,
87 and, upon conviction thereof, shall be imprisoned in the
88 penitentiary for not less than one nor more than three years.

89 (i) For purposes of subsections (g) and (h) of this section
90 relating to second, third and subsequent offenses, any
91 conviction under the provisions of subsections (a) or (b) of the
92 prior enactment of this section which occurred within a
93 period of five years immediately preceding the effective date
94 of this section, shall be regarded as convictions under
95 subsections (d) or (f) of this section.

96 (j) The fact that any person charged with a violation of
97 subsection (a), (b), (c), (d) or (e) of this section is or has been
98 legally entitled to use alcohol, a controlled substance or a
99 drug shall not constitute a defense against any charge of
100 violating subsection (a), (b), (c), (d) or (e) of this section.

101 (k) For purposes of this section, the term "controlled
102 substance" shall have the meaning ascribed to it in chapter
103 sixty-a of this code.

104 (l) The sentences provided herein upon conviction of a
105 violation of this article are mandatory and shall not be subject
106 to suspension or probation, except that the court may provide
107 for community service, or work release alternatives, or
108 weekends or part-time confinements.

**§17C-5-2a. Phrases synonymous with driving under the
influence of alcohol; validation of warrants and
indictments.**

1 (a) When used in this code, the terms or phrases "driving
2 under the influence of intoxicating liquor," "driving or

3 operating a motor vehicle while intoxicated,” “for any person
4 who is under the influence of intoxicating liquor to drive any
5 vehicle,” or any similar term or phrase shall be construed to
6 mean and be synonymous with the term or phrase “while
7 under the influence of alcohol . . . drives a vehicle” as the
8 latter term or phrase is used in section two of this article.

9 (b) From and after the effective date of this section, a
10 warrant or indictment which charges or alleges the offense
11 prohibited by the provisions of section two of this article and
12 which warrant or indictment uses any of the terms or phrases
13 set forth in subsection (a) of this section shall not thereby be
14 fatally defective if such warrant or indictment otherwise
15 informs the person so accused of the charges against him.

**§17C-5-4. Implied consent to test; administration at direction of
law-enforcement officer; designation of type of test;
definition of law-enforcement officer.**

1 Any person who drives a motor vehicle upon the public
2 streets or highways of this state shall be deemed to have given
3 his consent by the operation thereof, subject to the provisions
4 of this article, to a preliminary breath analysis and a
5 secondary chemical test of either his blood, breath or urine
6 for the purposes of determining the alcoholic content of his
7 blood. A preliminary breath analysis may be administered in
8 accordance with the provisions of section five of this article
9 whenever a police officer has reasonable cause to believe a
10 person to have been driving a motor vehicle upon the public
11 streets and highways while under the influence of alcohol,
12 controlled substances or drugs as prohibited by section two
13 of this article. A secondary test of blood, breath or urine shall
14 be incidental to a lawful arrest and shall be administered at
15 the direction of the arresting law-enforcement officer having
16 reasonable grounds to believe the person to have been
17 driving a motor vehicle upon the public streets or highways
18 while under the influence of alcohol, controlled substances or
19 drugs as prohibited by section two of this article. The
20 law-enforcement agency by which such law-enforcement
21 officer is employed shall designate which one of the aforesaid
22 secondary tests shall be administered: *Provided*, That if the
23 test so designated is a blood test and the person so arrested
24 refuses to submit to such blood test, then the
25 law-enforcement officer making such arrest shall designate in
26 lieu thereof, either a breath or urine test be administered, and

27 notwithstanding the provisions of section seven of this
28 article, such refusal to submit to a blood test only shall not
29 result in the suspension of the arrested person's license to
30 operate a motor vehicle in this state. Any person to whom a
31 preliminary breath test is administered who is then arrested
32 shall be told that his refusal to submit to the secondary test
33 finally designated as provided in this section, will result in the
34 suspension of his license to operate a motor vehicle in this
35 state for a period of one year.

36 For the purposes of this article the term "law-enforcement
37 officer" shall mean and be limited to (1) any member of the
38 department of public safety of this state, (2) any sheriff and
39 any deputy sheriff of any county, and (3) any member of a
40 municipal police department in any Class I, Class II or Class
41 III city, as cities are classified in section three, article one,
42 chapter eight of this code. If any Class I, Class II or Class III
43 city does not have available to its law-enforcement officers
44 the testing equipment or facilities necessary to conduct any
45 secondary test which a law-enforcement officer may
46 administer under this article, any member of the department
47 of public safety, the sheriff of the county wherein the arrest is
48 made or any deputy of such sheriff, may, upon the request of
49 such arresting law-enforcement officer and in his presence,
50 conduct such secondary test and the results of such test may
51 be used in evidence to the same extent and in the same
52 manner as if such test had been conducted by such arresting
53 law-enforcement officer. Only the person actually
54 administering or conducting such test shall be competent to
55 testify as to the results and the veracity of such test.

**§17C-5-5. Preliminary analysis of breath to determine alcoholic
content of blood.**

1 When a police officer has reason to believe a person to have
2 been driving a motor vehicle upon the public streets and
3 highways of this state while under the influence of alcohol,
4 controlled substances or drugs, the police officer may require
5 such person to submit to a preliminary breath analysis for the
6 purpose of determining such person's blood alcohol content.
7 Such breath analysis must be administered as soon as
8 possible after the police officer has a reasonable belief that
9 the person has been driving while under the influence of
10 alcohol, controlled substances or drugs. Any preliminary
11 breath analysis required under this section must be

12 administered with a device and in a manner approved by the
13 department of health for that purpose. The results of a
14 preliminary breath analysis shall be used solely for the
15 purpose of guiding the officer in deciding whether an arrest
16 should be made. When a driver is arrested following a
17 preliminary breath analysis, the tests as hereinafter provided
18 in this article shall be administered in accordance with the
19 provisions thereof.

**§17C-5-6. How blood test administered; additional test at
option of person tested; use of test results; certain
immunity from liability incident to administering
test.**

1 Only a doctor of medicine or osteopathy, or registered
2 nurse, or trained medical technician at the place of his
3 employment, acting at the request and direction of the
4 law-enforcement officer, may withdraw blood for the purpose
5 of determining the alcoholic content thereof. These
6 limitations shall not apply to the taking of a breath test or a
7 urine specimen. In withdrawing blood for the purpose of
8 determining the alcoholic content thereof, only a previously
9 unused and sterile needle and sterile vessel may be utilized
10 and the withdrawal shall otherwise be in strict accord with
11 accepted medical practices. A nonalcoholic antiseptic shall
12 be used for cleansing the skin prior to venapuncture. The
13 person tested may, at his own expense, have a doctor of
14 medicine or osteopathy, or registered nurse, or trained
15 medical technician at the place of his employment, of his own
16 choosing, administer a chemical test in addition to the test
17 administered at the direction of the law-enforcement officer.
18 Upon the request of the person who is tested, full information
19 concerning the test taken at the direction of the
20 law-enforcement officer shall be made available to him. No
21 person who administers any such test upon the request of a
22 law-enforcement officer as herein defined, no hospital in or
23 with which such person is employed or is otherwise
24 associated or in which such test is administered, and no other
25 person, firm or corporation by whom or with which such
26 person is employed or is in any way associated, shall be in
27 anywise criminally liable for the administration of such test,
28 or civilly liable in damages to the person tested unless for
29 gross negligence or willful or wanton injury.

§17C-5-7. Refusal to submit to tests; suspension of license or privilege; consent not withdrawn if person arrested is incapable of refusal; hearing procedures; judicial review.

1 (a) If any person under arrest as specified in section four
2 of this article refuses to submit to any secondary chemical
3 test, the tests shall not be given: *Provided*, That prior to such
4 refusal, the person is given a written statement advising him
5 of the possible criminal and civil penalties for such refusal.
6 The officer shall within twenty-four hours of such refusal,
7 submit to the commissioner of motor vehicles a sworn
8 statement of the officer that (1) he had reasonable grounds to
9 believe such person had been driving a motor vehicle upon
10 the public streets and highways of this state while under the
11 influence of alcohol, controlled substances or drugs, (2) such
12 person was lawfully placed under arrest for the offense of
13 driving a motor vehicle upon the public streets or highways
14 of this state while under the influence of alcohol, controlled
15 substances or drugs, (3) such person refused to submit to the
16 secondary test finally designated in the manner provided in
17 section four of this article and (4) such person was told that
18 his license to operate a motor vehicle in this state would be
19 suspended for a period of one year if he refused to submit to
20 the secondary test finally designated in the manner provided
21 in section four of this article. The commissioner shall make
22 and enter an order suspending such person's license to
23 operate a motor vehicle in this state for a period of one year. A
24 copy of such order shall be forwarded to such person by
25 registered or certified mail, return receipt requested. No such
26 suspension shall become effective until ten days after receipt
27 of the copy of such order. Any person who is unconscious or
28 who is otherwise in a condition rendering him incapable of
29 refusal, shall be deemed not to have withdrawn his consent
30 for a test of his blood, breath or urine as provided in section
31 one of this article and the test may be administered although
32 such person is not told that his failure to submit to the test
33 will result in the suspension of his license to operate a motor
34 vehicle in this state for a period of one year.

35 A suspension hereunder shall run concurrently with the
36 period of any suspension or revocation imposed in
37 accordance with other provisions of this code and growing out
38 of the same incident which gave rise to the arrest for driving a

39 motor vehicle while under the influence of alcohol, controlled
40 substances or drugs and the subsequent refusal to undergo
41 the test finally designated in accordance with the provisions
42 of section four of this article.

43 (b) Upon the written request of a person whose license to
44 operate a motor vehicle in this state has been suspended
45 under the provisions of subsection (a) of this section, the
46 commissioner of motor vehicles shall afford the person an
47 opportunity to be heard. Such written request must be filed
48 with the commissioner in person or by registered or certified
49 mail, return receipt requested, within ten days after receipt of
50 a copy of the order of suspension. The hearing shall be before
51 said commissioner or authorized deputy or agent of said
52 commissioner, and all of the pertinent provisions of article
53 five, chapter twenty-nine-a of this code shall apply to and
54 govern the hearing and the administrative procedures in
55 connection with and following such hearing, with like effect
56 as if the provisions of said article five were set forth in
57 extenso in this section, except that in the case of a resident of
58 this state the hearing shall be held in the county wherein the
59 person resides unless the commissioner or his authorized
60 deputy or agent and such person agree that the hearing may
61 be held in some other county. Any such hearing shall be held
62 within twenty days after the date upon which the
63 commissioner received the timely written request therefor,
64 unless there is a postponement or continuance. The
65 commissioner may postpone or continue any hearing on his
66 own motion, or upon application of such person for good
67 cause shown. For the purpose of conducting such hearing,
68 the commissioner shall have the power and authority to issue
69 subpoenas and subpoenas duces tecum in accordance with
70 the provisions of section one, article five, chapter
71 twenty-nine-a of this code. All subpoenas and subpoenas
72 duces tecum shall be issued and served within the time and
73 for the fees and shall be enforced, as specified in section one,
74 article five of said chapter twenty-nine-a, and all of the said
75 section one provisions dealing with subpoenas and
76 subpoenas duces tecum shall apply to subpoenas and
77 subpoenas duces tecum issued for the purpose of a hearing
78 hereunder.

79 The scope of such hearing shall be (1) whether the arresting
80 law-enforcement officer had reasonable grounds to believe

81 such person had been driving a motor vehicle upon the public
82 streets or highways of this state while under the influence of
83 alcohol, controlled substances or drugs, (2) whether such
84 person was lawfully placed under arrest for the offense of
85 driving a motor vehicle upon the public streets or highways
86 of this state while under the influence of alcohol, controlled
87 substances or drugs, (3) whether such person refused to
88 submit to the secondary test finally designated in the manner
89 provided in section four of this article, and (4) whether such
90 person had been told that his license to operate a motor
91 vehicle in this state would be suspended for a period of one
92 year if he refused to submit to the test finally designated in
93 the manner provided in section four of this article.

94 After such hearing and consideration of all of the
95 testimony, evidence and record in the case, the commissioner
96 shall make and enter an order affirming or rescinding his
97 earlier order of suspension. The commissioner shall affirm his
98 earlier order of suspension if he finds that (1) the arresting
99 law-enforcement officer had reasonable grounds to believe
100 such person had been driving a motor vehicle upon the public
101 streets or highways of this state while under the influence of
102 alcohol, controlled substances or drugs, (2) such person was
103 lawfully placed under arrest for the offense of driving a motor
104 vehicle upon the public streets or highways of the state while
105 under the influence of alcohol, controlled substances or
106 drugs, (3) such person refused to submit to the test finally
107 designated in the manner provided in section four of this
108 article, and (4) such person had been told that his license to
109 operate a motor vehicle in this state would be suspended for a
110 period of one year if he refused to submit to the test finally
111 designated in the manner provided in section four of this
112 article. If the commissioner finds to the contrary with respect
113 to any one of the above issues, he shall rescind his earlier
114 order of suspension.

115 A copy of the commissioner's order made and entered
116 following the hearing shall be served upon such person by
117 registered or certified mail, return receipt requested. The
118 commissioner shall not stay enforcement of the order; and
119 pending appeal, the court to which such appeal is made, may
120 grant a stay or supersedeas of such order only upon motion
121 and hearing, and a finding by the court upon the evidence
122 presented, that there is a reasonable probability that the

123 appellant shall prevail upon the merits, and that the appellant
124 will suffer irreparable harm if such order is not stayed.

125 (c) If the commissioner shall after hearing make and enter
126 an order affirming his earlier order of suspension, such
127 person shall be entitled to judicial review thereof. All of the
128 pertinent provisions of section four, article five, chapter
129 twenty-nine-a of this code shall apply to and govern such
130 review with like effect as if the provisions of said section four
131 were set forth in extenso in this section. The judgment of the
132 circuit court shall be final unless reversed on appeal to the
133 supreme court of appeals, in accordance with the provisions
134 of section one, article six, chapter twenty-nine-a of this code,
135 except that notwithstanding the provisions of said section
136 one, the petition seeking such review must be filed with said
137 supreme court of appeals within thirty days from the date of
138 entry of the judgment of the circuit court.

§17C-5-8. Interpretation and use of chemical test.

1 Upon trial for the offense of driving a motor vehicle on the
2 public streets or highways of this state while under the
3 influence of alcohol, controlled substances or drugs, or upon
4 the trial of any civil or criminal action arising out of acts
5 alleged to have been committed by any person while driving a
6 motor vehicle while under the influence of alcohol, controlled
7 substances or drugs, evidence of the amount of alcohol in the
8 person's blood at the time of the arrest or of the acts alleged,
9 as shown by a chemical analysis of his blood, breath or urine,
10 is admissible, if the sample or specimen was taken within two
11 hours from and after the time of arrest or of the acts alleged,
12 and shall give rise to the following presumptions or have the
13 following effect:

14 (a) Evidence that there was, at that time, five hundredths
15 of one percent or less, by weight, of alcohol in his blood, shall
16 be prima facie evidence that the person was not under the
17 influence of intoxicating liquor;

18 (b) Evidence that there was, at that time, more than five
19 hundredths of one percent and less than ten hundredths of
20 one percent, by weight, of alcohol in the person's blood shall
21 be relevant evidence, but it is not to be given prima facie
22 effect in indicating whether the person was under the
23 influence of intoxicating liquor;

24 (c) Evidence that there was, at that time, ten hundredths
25 of one percent or more, by weight, of alcohol in his blood,

26 shall be admitted as prima facie evidence that the person was
27 under the influence of intoxicating liquor.

28 Percent by weight of alcohol in the blood shall be based
29 upon milligrams of alcohol per one hundred cubic
30 centimeters of blood.

31 A chemical analysis of a person's blood, breath or urine,
32 in order to give rise to the presumptions or to have the effect
33 provided for in subdivisions (a), (b) and (c) of this section,
34 must be performed in accordance with methods and
35 standards approved by the state department of health. A
36 chemical analysis of blood or urine to determine the alcoholic
37 content of blood shall be conducted by a qualified laboratory
38 or by the state police scientific laboratory, of the criminal
39 identification bureau of the department of public safety.

40 The provisions of this article shall not limit the introduction
41 in any administrative or judicial proceeding of any other
42 competent evidence bearing on the question of whether the
43 person was under the influence of alcohol, controlled
44 substances or drugs.

§17C-5-9. Right to demand test.

1 Any person lawfully arrested for driving a motor vehicle on
2 the public streets or highways of this state while under the
3 influence of alcohol, controlled substances or drugs who is
4 lawfully arrested as aforesaid by a police officer, shall have
5 the right to demand that a sample or specimen of his blood,
6 breath or urine be taken within two hours from and after the
7 time of arrest, and that a chemical test thereof be made. The
8 analysis disclosed by such chemical test shall be made
9 available to such arrested person forthwith upon demand.

**§17C-5-10. Fee for withdrawing blood sample and making urine
test; payment of fees.**

1 A reasonable fee shall be allowed to the person
2 withdrawing a blood sample or administering a urine test at
3 the request and direction of a law-enforcement officer in
4 accordance with the provisions of this article. If the person
5 whose blood sample was withdrawn or whose urine was
6 tested was arrested and charged with a violation of
7 subsection (a) of section two, article five of this chapter, the
8 county having venue of such charge shall pay said fee, and if
9 said person is subsequently convicted of such charge, such
10 fee shall be taxed as a part of the costs of the criminal

11 proceeding and shall be paid, notwithstanding any other
 12 provision of this code to the contrary, into the general fund of
 13 said county. If the person whose blood sample was
 14 withdrawn or whose urine was tested was arrested and
 15 charged with a violation of a similar ordinance of any
 16 municipality, said municipality shall pay said fee, and if said
 17 person is subsequently convicted of such charge, such fee
 18 shall be taxed as a part of the costs of the criminal proceeding
 19 and shall be paid, notwithstanding any other provision of this
 20 code to the contrary, into the general fund of said
 21 municipality.

**ARTICLE 5A. ADMINISTRATIVE PROCEDURES FOR SUSPENSION AND
 REVOCATION OF LICENSES FOR DRIVING UNDER THE
 INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES
 OR DRUGS.**

**§17C-5A-1. Implied consent to administrative procedure;
 revocation for driving under the influence of
 alcohol, controlled substances or drugs or
 driving with alcoholic concentration in blood of
 ten hundredths of one percent (.10), or more, by
 weight; temporary suspension of license.**

1 (a) Any person who drives a motor vehicle upon the public
 2 streets or highways of this state shall be deemed to have given
 3 his consent by the operation thereof, subject to the provisions
 4 of this article, to the administrative procedure set forth in this
 5 article for the determination of whether his license to operate
 6 a motor vehicle in this state should be revoked or suspended
 7 because he did drive a motor vehicle while under the
 8 influence of alcohol, controlled substances or drugs, or did
 9 drive a motor vehicle while having an alcoholic concentration
 10 in his blood of ten hundredths of one percent (.10), or more,
 11 by weight.

12 (b) Any law-enforcement officer arresting a person for an
 13 offense described in section two, article five of this chapter
 14 shall report to the commissioner of the department of motor
 15 vehicles by sworn, written statement within twenty-four
 16 hours the name and address of the person so arrested. Such
 17 report shall include the specific offense with which the
 18 person is charged, and, if applicable, a copy of the results of
 19 any secondary tests of blood, breath or urine. The
 20 law-enforcement officer shall certify that such tests were

21 administered in accordance with the provisions of article five
22 of this chapter, and that he believes the results to be correct.

23 (c) If, upon examination of the sworn statement and the
24 tests results described in subsection (b) of this section, the
25 commissioner shall determine that a person was arrested for
26 an offense described in section two, article five of this
27 chapter, and that the results of the tests indicate that at the
28 time the test or tests were administered the person had, in his
29 blood, an alcohol concentration of ten hundredths of one
30 percent (.10), or more, by weight, or at the time the person was
31 arrested he was under the influence of a controlled substance
32 or drug, the commissioner shall make and enter an order
33 temporarily suspending such person's license to operate a
34 motor vehicle in this state. A copy of such order shall be
35 forwarded to such person by registered or certified mail,
36 return receipt requested. No suspension shall become
37 effective until ten days after receipt of a copy of such order.

**§17C-5A-2. Hearing procedures; scope of hearing; revocation
upon proof by a preponderance of the evidence;
period of revocation imposed; order of
suspension; service; judicial review.**

1 (a) Upon the written request of a person whose license to
2 operate a motor vehicle in this state has been suspended,
3 under the provisions of section one of this article, the
4 commissioner of motor vehicles shall afford the person an
5 opportunity to be heard. Such written request must be filed
6 with the commissioner in person or by registered or certified
7 mail, return receipt requested, within ten days after receipt of
8 a copy of the order of suspension. The hearing shall be before
9 said commissioner or authorized deputy or agent of said
10 commissioner and all of the pertinent provisions of article
11 five, chapter twenty-nine-a of this code shall apply.

12 (b) Except that in the case of a resident of this state the
13 hearing shall be held in the county wherein the person resides
14 unless the commissioner or his authorized deputy or agent
15 and such person agree that the hearing may be held in some
16 other county. Any such hearing shall be held within twenty
17 days after the date upon which the commissioner received
18 the timely written request therefor, unless there is a
19 postponement or continuance. The commissioner may
20 postpone or continue any hearing on his own motion, or upon
21 application for each person for good cause shown. For the
22 purpose of conducting such hearing, the commissioner shall

23 have the power and authority to issue subpoenas and
24 subpoenas duces tecum in accordance with the provisions of
25 section one, article five, chapter twenty-nine-a of this code.
26 All subpoenas and subpoenas duces tecum shall be issued
27 and served within the time and for the fees and shall be
28 enforced, as specified in section one, article five of said
29 chapter twenty-nine-a, and all of the said section one
30 provisions dealing with subpoenas and subpoenas duces
31 tecum shall apply to subpoenas and subpoenas duces tecum
32 issued for the purpose of a hearing hereunder.

33 (c) The principal question at such hearing shall be
34 whether the person did drive a motor vehicle while under the
35 influence of alcohol, or under the influence of any controlled
36 substance, or under the influence of any other drug to a
37 degree which renders him incapable of safely driving, or
38 under the combined influence of alcohol and any controlled
39 substance or any other drug to a degree which renders him
40 incapable of safely driving, or did drive a motor vehicle while
41 having an alcoholic concentration in his blood of ten
42 hundredths of one percent (.10), or more, by weight.

43 The commissioner shall make specific findings as to (1)
44 whether the arresting law-enforcement officer had reasonable
45 grounds to believe such person to have been driving while
46 under the influence of alcohol, controlled substances or
47 drugs, (2) whether such person was lawfully placed under
48 arrest for an offense involving driving under the influence of
49 alcohol, controlled substances or drugs, and (3) whether the
50 tests which were administered were administered in
51 accordance with the provisions of this article and article five
52 of this code.

53 (1) If, in addition to a finding that the person did drive a
54 motor vehicle while under the influence of alcohol, or under
55 the influence of any controlled substance, or under the
56 influence of any other drug to a degree which renders him
57 incapable of safely driving, or under the combined influence
58 of alcohol and any controlled substance or any other drug to a
59 degree which renders him incapable of safely driving, or did
60 drive a motor vehicle while having an alcoholic concentration
61 in his blood of ten hundredths of one percent (.10), or more,
62 by weight, the commissioner also finds by a preponderance of
63 the evidence that the person when so driving did an act
64 forbidden by law or failed to perform a duty imposed by law,

65 which act or failure proximately caused the death of a person
66 and was committed in reckless disregard of the safety of
67 others, and if the commissioner further finds that the
68 influence of alcohol, controlled substances or drugs or the
69 alcoholic concentration in the blood was a contributing cause
70 to the death, the commissioner shall revoke the person's
71 license for a period of ten years: *Provided*, That if the
72 commissioner has previously suspended the person's license
73 under the provisions of this section, the period of revocation
74 shall be for the life of such person.

75 (2) If, in addition to a finding that the person did drive a
76 motor vehicle while under the influence of alcohol, or under
77 the influence of any controlled substance, or under the
78 influence of any other drug to a degree which renders him
79 incapable of safely driving, or under the combined influence
80 of alcohol and any controlled substance or any other drug to a
81 degree which renders him incapable of safely driving, or did
82 drive a motor vehicle while having an alcoholic concentration
83 in his blood of ten hundredths of one percent (.10), or more,
84 by weight, the commissioner also finds by a preponderance of
85 the evidence that the person when so driving did an act
86 forbidden by law or failed to perform a duty imposed by law,
87 which act or failure proximately caused the death of a person
88 the commissioner shall revoke the person's license for a
89 period of five years: *Provided*, That if the commissioner has
90 previously suspended the person's license under the
91 provisions of this section, the period of revocation shall be for
92 the life of such person.

93 (3) If, in addition to a finding that the person did drive a
94 motor vehicle while under the influence of alcohol, or under
95 the influence of any controlled substance, or under the
96 influence of any other drugs to a degree which renders him
97 incapable of safely driving, or under the combined influence
98 of alcohol and any controlled substance or any other drug to a
99 degree which renders him incapable of safely driving, or did
100 drive a motor vehicle while having an alcoholic concentration
101 in his blood of ten hundredths of one percent (.10), or more,
102 by weight, the commissioner also finds by a preponderance of
103 the evidence that the person when so driving did an act
104 forbidden by law or failed to perform a duty imposed by law,
105 which act or failure proximately caused bodily injury to a
106 person other than himself, the commissioner shall revoke the
107 person's license for a period of two years: *Provided*, That if

108 the commissioner has previously suspended the person's
109 license under the provisions of this section, the period of
110 revocation shall be ten years.

111 (4) If the commissioner finds by a preponderance of the
112 evidence that the person did drive a motor vehicle while
113 under the influence of alcohol, or under the influence of any
114 controlled substance, or under the influence of any other
115 drug to a degree which renders him incapable of safely
116 driving, or under the combined influence of alcohol and any
117 controlled substance or any other drug to a degree which
118 renders him incapable of safely driving, or did drive a motor
119 vehicle while having an alcoholic concentration in his blood
120 of ten hundredths of one percent (.10), or more, by weight, or
121 finds that the person, being an habitual user of narcotic drugs
122 or amphetamine or any derivative thereof, did drive a motor
123 vehicle, or finds that the person knowingly permitted his
124 vehicle to be driven by another person who was under the
125 influence of alcohol, or under the influence of any controlled
126 substance, or under the influence of any other drug to a
127 degree which rendered him incapable of safely driving, or
128 under the combined influence of alcohol and any controlled
129 substance or any other drug to a degree which rendered him
130 incapable of safely driving, the commissioner shall revoke the
131 person's license for a period of six months: *Provided*, That if
132 the commissioner has previously suspended the person's
133 license under the provisions of this section, the period of
134 revocation shall be ten years: *Provided, however*, That if the
135 commissioner has previously suspended the person's license
136 more than once under the provisions of this section, the
137 period of revocation shall be for the life of the person.

138 (d) For the purpose of this section, a conviction for an
139 offense under subsection (a) or (b) of the prior enactment of
140 section two, article five, of this chapter, which offense was
141 committed within five years immediately preceding the
142 effective date of said section two, article five, shall be
143 considered the same as a prior finding of the commissioner
144 under this section.

145 (e) If the commissioner finds to the contrary with respect
146 to the above issues, he shall rescind his earlier order of
147 suspension or shall reduce the order of revocation to the
148 appropriate period of revocation under this section.

149 A copy of the commissioner's order made and entered

150 following the hearing shall be served upon such person by
151 registered or certified mail, return receipt requested. During
152 the pendency of any such hearing, the suspension of the
153 person's license to operate a motor vehicle in this state shall
154 be stayed.

155 If the commissioner shall after hearing make and enter an
156 order affirming his earlier order of suspension, such person
157 shall be entitled to judicial review as set forth in chapter
158 twenty-nine-a of this code, except that the commissioner
159 shall not stay enforcement of the order; and, pending such
160 appeal, the court may grant a stay or supersedeas of such
161 order only upon motion and hearing, and a finding by the
162 court upon the evidence presented, that there is a reasonable
163 probability that the appellant shall prevail upon the merits,
164 and that the appellant will suffer irreparable harm if such
165 order is not stayed.

**§17C-5A-3. Safety and treatment program to be established;
application and reissuance of license; procedure.**

1 (a) The department of motor vehicles in cooperation with
2 the department of health, the division of alcoholism and drug
3 abuse, shall establish by rule and regulation, a
4 comprehensive safety and treatment program for persons
5 found in initial and subsequent violations of this article. The
6 program shall include, but not be limited to, treatment of
7 alcoholism, alcohol and drug abuse, psychological
8 counseling, educational courses on the dangers of alcohol and
9 drugs as they relate to driving, defensive driving, or other
10 safety driving instruction, and other programs designed to
11 properly educate, train, and rehabilitate the offender.

12 (b) The department of motor vehicles, in cooperation with
13 the department of health, the division of alcoholism and drug
14 abuse, shall provide for the preparation of an educational and
15 treatment program for each person found in violation of this
16 article, which shall contain the following: (1) A listing and
17 evaluation of the offender's prior traffic record; (2)
18 characteristics and history of alcohol or drug use, if any; (3)
19 his amenability to rehabilitation through the alcohol safety
20 program; and (4) a recommendation as to treatment or
21 rehabilitation, and the terms and conditions of such
22 treatment or rehabilitation. The program shall be prepared by
23 persons knowledgeable in the diagnosis of alcohol or drug
24 abuse and treatment. The cost of the program shall be paid
25 out of fees established by the commissioner of motor vehicles

26 in cooperation with the department of health, division of
27 alcohol and drug abuse. These fees shall be deposited in a
28 special account administering the program, to be designated
29 the "driver's rehabilitation fund."

30 The commissioner, after giving due consideration to the
31 program developed for the offender, shall prescribe the
32 necessary terms and conditions for the reissuance of the
33 license to operate a motor vehicle in this state suspended
34 hereunder, which shall include successful completion of the
35 educational, treatment, or rehabilitation program, subject to
36 the following:

37 (1) When the period of revocation is six months, the
38 license to operate a motor vehicle in this state shall not be
39 reissued until (1) at least thirty days have elapsed from the
40 date of the initial suspension, during which time the
41 suspension was actually in effect, (2) the offender has
42 successfully completed the program, (3) all costs of the
43 program and administration have been paid, (4) the
44 commissioner finds that the offender is not likely to repeat a
45 violation of this article, and (5) there is no unusual and
46 immediate danger to the public if the offender is permitted to
47 drive again.

48 (2) When the period of revocation is for a period of years,
49 the license to operate a motor vehicle in this state shall not be
50 reissued until (1) at least one half of such time period has
51 elapsed from the date of the initial suspension, during which
52 time the suspension was actually in effect, (2) the offender has
53 successfully completed the program, (3) all costs of the
54 program and administration have been paid, (4) the
55 commissioner finds that the offender is not likely to repeat a
56 violation of this article, and (5) there is no unusual and
57 immediate danger to the public if the offender is permitted to
58 drive again.

59 (3) When the period of revocation is for life, the license to
60 operate a motor vehicle in this state shall not be reissued until
61 (1) at least ten years have elapsed from the date of the initial
62 suspension, during which time the suspension was actually in
63 effect, (2) the offender has successfully completed the
64 program, (3) all costs of the program and administration have
65 been paid, (4) the commissioner finds that the offender is not
66 likely to repeat a violation of this article, and (5) there is no
67 unusual and immediate danger to the public if the offender is
68 permitted to drive again.

§17C-5A-4. Receipt of officer's affidavit; search and report to officer by commissioner; failure to report violation of this article to and failure to report prior offense by commissioner of department of motor vehicles; penalty.

1 The commissioner shall immediately upon receipt of the
2 affidavits required by section seven, article five of this
3 chapter and section one of this article record the date and
4 time of day of the receipt of such affidavits and shall
5 forthwith cause a search of the appropriate records of the
6 department to be made for any record of prior offenses under
7 this article and such commissioner shall immediately report
8 to the officer making such affidavit an abstract showing any
9 such prior offense, the date thereof, the identity of any court
10 record which any proceedings in regard thereto were
11 instituted and the disposition thereof.

12 Any police officer who fails to file the affidavits required by
13 this chapter within twenty-four hours of the arrest of any
14 person charged for any violation of article five shall be guilty
15 of a misdemeanor and shall be subject to a fine of not less
16 than twenty dollars nor more than five hundred dollars. And
17 if the commissioner shall willfully fail to post by United
18 States mail or other adequate means of communication a
19 written report addressed to the police officer of any such
20 offense, as required by this section, within a period of
21 twenty-four hours after the receipt of the affidavit, the
22 commissioner shall be guilty of a misdemeanor and shall be
23 subject to a fine of not less than twenty dollars nor more than
24 five hundred dollars.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

§60-6-24. Requirement for posting informational sign.

1 Each store or outlet controlled or operated by the state
2 alcohol beverage control commission, and any store,
3 supermarket, club, restaurant, or other facility selling
4 alcoholic beverages or nonintoxicating beer for either on
5 premise or off premise consumption, shall post in an open
6 and prominent place within such establishment a
7 blood-alcohol chart containing information showing the
8 estimated percent of alcohol in the blood by the number of
9 drinks in relation to body weight and time of consumption, as
10 follows:

BLOOD-ALCOHOL CHART

SHOWING ESTIMATED % OF ALCOHOL IN THE BLOOD
BY NO. OF DRINKS IN RELATION TO BODY WEIGHT

DRINKS		1	2	3	4	5	6	7	8	9	10	11	12
BODY WEIGHT	100 lb.	.038	.075	.113	.150	.188	.225	.263	.300	.338	.375	.413	.450
	120 lb.	.031	.063	.094	.125	.156	.188	.219	.250	.281	.313	.344	.375
	140 lb.	.027	.054	.080	.107	.134	.161	.188	.214	.241	.268	.295	.321
	160 lb.	.023	.047	.070	.094	.117	.141	.164	.188	.211	.234	.258	.281
	180 lb.	.021	.042	.063	.083	.104	.125	.146	.167	.188	.208	.229	.250
	200 lb.	.019	.038	.056	.075	.094	.113	.131	.150	.169	.188	.206	.225
	220 lb.	.017	.034	.051	.068	.085	.102	.119	.136	.153	.170	.188	.205
	240 lb.	.016	.031	.047	.063	.078	.094	.109	.125	.141	.156	.172	.188

TRAFFIC RESEARCH & SAFETY DIVISION
W.VA. DEPARTMENT OF PUBLIC SAFETY

HAS ALCOHOL AFFECTED YOUR DRIVING ABILITY?

The % of alcohol in your blood will tell you. This % can be estimated by--
COUNTING YOUR DRINKS (1-drink equalling 1 volume oz. of 100 proof alcohol
 or 1-12 oz. bottle of beer).

Use Blood-Alcohol Chart below. Under number of **DRINKS** and opposite
Body-Weight find the % of Blood-Alcohol listed.

SUBTRACT from this number the % of alcohol "burned up" during the time
 elapsed since your first drink.

No. Hours Since 1st Drink	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>
SUBTRACT	.015%	.030%	.045%	.060%	.075%	.090%

Example—180 lb. man - 8 drinks in 4 hours
 .167% minus .060% == .107%

THIS REMAINDER IS AN ESTIMATE of the % of alcohol in your blood.

INTERPRETATION OF RESULTS

<u>% OF BLOOD-ALCOHOL</u>	<u>INTOXICATED?</u>	<u>IF YOU DRIVE A CAR—</u>
.000 to .050	You Are Not	Take It Easy
.050 to .100	You Probably Are	Better Not

FOR BEST RESULTS - DON'T DRINK AND DRIVE.

11 The size of display and location of said blood-alcohol chart
12 shall be prescribed by the commissioner, by rule and
13 regulation. Enforcement of the posting provisions of this
14 section shall be carried out by the West Virginia
15 nonintoxicating beer commissioner in establishments which
16 are required to post such notice but are not subject to the
17 supervision of the West Virginia alcohol beverage control
18 commissioner.

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

R. P. Taylor
Chairman Senate Committee

Tommy E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect September 1, 1981.

Sodd C. Willis
Clerk of the Senate

D. Blankenship
Clerk of the House of Delegates

Marion P. Hill
President of the Senate

Walter M. Lee, Jr.
Speaker House of Delegates

The within approved this the 1

day of May, 1981.

John R. Rhyne
Governor

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OFFICE OF THE GOVERNOR

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SECY. OF STATE