

No. 378

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988



ENROLLED

SENATE BILL NO. 378

(By Senators TUCKER AND LOEHR)



PASSED MARCH 12, 1988

In Effect 90 days from Passage



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Senate Bill No. 378
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[Passed March 12, 1988; in effect ninety days from passage.]

AN ACT to amend article ten, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section two-a; to amend and reenact sections six and nine, article three, chapter seventeen-b of said code; to further amend said article three by adding thereto a new section, designated section three-a; to amend article two, chapter twenty of said code by adding thereto a new section, designated section thirty-eight-a; and to amend article three, chapter fifty of said code by adding thereto a new section, designated section two-a, all relating to collection of fines by magistrate courts and municipal courts; payment by credit cards or by installments; and revocation of hunting, fishing, operator's or chauffeur's license for failure to pay such fines or appear in court.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section two-a; that sections six and nine, article three, chapter seventeen-b of said code be amended and reenacted; that said article three be further amended by adding thereto a new section, designated section three-a; that article two, chapter twenty of said code be amended

by adding thereto a new section, designated section thirty-eight-a; and that article three, chapter fifty of said code be amended by adding thereto a new section, designated section two-a, all to read as follows:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.

§8-10-2a. Payment of fines by credit cards or payment plan; suspension of driver's license for failure to pay motor vehicle violation fines or to appear in court.

1 (a) A municipal court may accept credit cards in
2 payment of all costs, fines, forfeitures or penalties. A
3 municipal court may collect a substantial portion of all
4 costs, fines, forfeitures or penalties at the time such amount
5 is imposed by the court so long as the court requires the
6 balance to be paid within ninety days and in accordance
7 with a payment plan which specifies: (1) The number of
8 additional payments to be made; (2) the dates on which such
9 payments and amounts shall be made; and (3) amounts due
10 on such dates.

11 (b) If costs, fines, forfeitures or penalties imposed by the
12 municipal court for motor vehicle violations as described in
13 section three-a, article three, chapter seventeen-b of this
14 code are not paid within ninety days, or if a person who
15 committed any such violation defaults on a payment plan as
16 described in subsection (a) of this section, or if a person fails
17 to appear or otherwise respond in court when charged with
18 a motor vehicle violation as defined in section three-a,
19 article three, chapter seventeen-b of this code, the
20 municipal court must notify the commissioner of the
21 department of motor vehicles of such failure to pay or
22 failure to appear.

CHAPTER 17B. MOTOR VEHICLE OPERATORS' AND CHAUFFEURS' LICENSES.

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.

§17B-3-3a. Suspending license for failure to pay fines or penalties imposed by magistrate court or municipal court.

1 The department shall suspend the license of any resident

2 of this state or the privilege of a nonresident to drive a motor
3 vehicle in this state upon receiving notice from a magistrate
4 court or municipal court of this state, pursuant to
5 subsection (b), section two-a, article three, chapter fifty or
6 subsection (b), section two-a, article ten, chapter eight of
7 the code of West Virginia, that such person has defaulted on
8 the payment of costs, fines, forfeitures or penalties, which
9 were imposed on the person by the magistrate court or
10 municipal court upon conviction of any motor vehicle
11 violation, after ninety days following such conviction, or
12 that such person has failed to appear in court when charged
13 with a motor vehicle violation. For the purposes of this
14 section, section two-a, article three, chapter fifty and
15 section two-a, article ten, chapter eight, "motor vehicle
16 violation" shall be defined as any violation designated in
17 chapters seventeen-a, seventeen-b, seventeen-c and
18 seventeen-d of this code, or the violation of any municipal
19 ordinance relating to the operation of a motor vehicle for
20 which the violation thereof would result in a fine or penalty:
21 *Provided*, That any parking violation or other violation for
22 which a citation may be issued to an unattended vehicle
23 shall not be considered a motor vehicle violation for the
24 purposes of this section, section two-a, article three,
25 chapter fifty or section two-a, article ten, chapter eight of
26 this code.

**§17B-3-6. Authority of department to suspend or revoke
license; hearing.**

1 The department is hereby authorized to suspend the
2 license of an operator or chauffeur without preliminary
3 hearing upon a showing by its records or other sufficient
4 evidence that the licensee:

5 (1) Has committed an offense for which mandatory
6 revocation of license is required upon conviction;

7 (2) Has by reckless or unlawful operation of a motor
8 vehicle, caused or contributed to an accident resulting in
9 the death or personal injury of another or property damage;

10 (3) Has been convicted with such frequency of serious
11 offenses against traffic regulations governing the
12 movement of vehicles as to indicate a disrespect for traffic
13 laws and a disregard for the safety of other persons on the
14 highways;

15 (4) Is an habitually reckless or negligent driver of a
16 motor vehicle;

17 (5) Is incompetent to drive a motor vehicle;

18 (6) Has permitted an unlawful or fraudulent use of such
19 license;

20 (7) Has committed an offense in another state which if
21 committed in this state would be a ground for suspension or
22 revocation;

23 (8) Has failed to pay or has defaulted on a plan for the
24 payment of all costs, fines, forfeitures or penalties imposed
25 by a magistrate court or municipal court within ninety
26 days, as required by section two-a, article three, chapter
27 fifty or section two-a, article ten, chapter eight of this code;
28 or

29 (9) Has failed to appear or otherwise respond before a
30 magistrate court or municipal court when charged with a
31 motor vehicle violation as defined in section three-a, article
32 three, chapter seventeen-b of this code.

33 The operator's or chauffeur's license of any person having
34 his or her license suspended shall be reinstated if:

35 (A) The license was suspended under the provisions of
36 subdivision (8) of this section and the payment of costs,
37 fines, forfeitures or penalties imposed by the applicable
38 court has been made; or

39 (B) The license was suspended under the provisions of
40 subdivision (9) of this section, and the person having his or
41 her license suspended has appeared in court and has
42 prevailed against the motor vehicle violations charged, or
43 such person has paid any and all costs, fines, forfeitures or
44 penalties imposed by the applicable court.

45 Any reinstatement of a license under paragraph (A) or (B)
46 of this subdivision shall be subject to a reinstatement fee
47 designated in section nine of this chapter.

48 Upon suspending the license of any person as
49 hereinbefore in this section authorized, the department
50 shall immediately notify the licensee in writing, sent by
51 certified mail to the address given by the licensee in
52 applying for license, and upon his request shall afford him
53 an opportunity for a hearing as early as practical after
54 receipt of such request in the county wherein the licensee
55 resides unless the department and the licensee agree that
56 such hearing may be held in some other county. Upon such
57 hearing the commissioner or his duly authorized agent may

58 administer oaths and may issue subpoenas for the
59 attendance of witnesses and the production of relevant
60 books and papers and may require a reexamination of the
61 licensee. Upon such hearing the department shall either
62 rescind its order of suspension or, good cause appearing
63 therefor, may extend the suspension of such license or
64 revoke such license.

**§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
3 be retained by the department: *Provided*, That before such
4 license may be reinstated, the licensee shall pay a fee of
5 fifteen dollars, in addition to all other fees and charges,
6 which fee shall be collected by the department and
7 deposited in a special revolving fund to be appropriated to
8 the department for use in the enforcement of the provisions
9 of this section. If any person shall willfully fail to return to
10 the department such suspended or revoked license, the
11 commissioner shall secure possession thereof through the
12 department of public safety, a local law-enforcement
13 agency, or other lawful means and return same to the
14 department. Said superintendent of the department of
15 public safety or local law-enforcement agency shall make a
16 report in writing to the commissioner as to the result of his
17 efforts to secure the possession and return of such license.
18 For each license which shall have been suspended or
19 revoked and which the holder thereof shall have willfully
20 failed to return to the department within ten days from the
21 time that such suspension or revocation becomes effective
22 and which shall have been certified to the superintendent of
23 the department of public safety as aforesaid, the holder
24 thereof, before the same may be reinstated, in addition to all
25 other fees and charges, shall pay a fee of fifty dollars, which
26 shall be collected by the department of motor vehicles and
27 paid into the state treasury and credited to the general fund
28 to be appropriated to the department of public safety for
29 application in the enforcement of road laws.

CHAPTER 20. NATURAL RESOURCES.**ARTICLE 2. WILDLIFE RESOURCES.****§20-2-38a. Suspension of license or permit for failure to pay fines or penalties imposed by magistrate court.**

1 The director shall suspend the license or permit of any
2 person to whom a license or permit has been granted upon
3 receiving notice from a magistrate court of this state,
4 pursuant to subsection (b), section two-a, article three,
5 chapter fifty of this code, that such person has defaulted on
6 the payment of costs, fines, forfeitures or penalties which
7 were imposed on the person by the magistrate court upon
8 conviction of any hunting or fishing violation, after ninety
9 days following such conviction.

10 Any reinstatement of a license or permit under this
11 section shall be subject to a reinstatement fee, in an amount
12 to be prescribed by the director of the department of natural
13 resources, which fee shall be collected by the department of
14 natural resources and deposited into the law-enforcement
15 division account to be utilized by the law-enforcement
16 division in administering the provisions of this section.

CHAPTER 50. MAGISTRATE COURTS.**ARTICLE 3. COSTS, FINES AND RECORDS.****§50-3-2a. Payment of fines by credit card or payment plan; suspension of licenses for failure to pay fines.**

1 (a) A magistrate court may accept credit cards in
2 payment of all costs, fines, forfeitures or penalties. The
3 supreme court of appeals shall adopt rules and regulations
4 regarding the use of credit cards to pay fines, and such rules
5 and regulations shall state that any charges made by the
6 credit company shall be paid by the person responsible for
7 paying the fine. A magistrate court may collect a
8 substantial portion of all costs, fines, forfeitures or
9 penalties at the time such amount is imposed by the court so
10 long as the court requires the balance to be paid within
11 ninety days and in accordance with a payment plan which
12 specifies: (1) The number of additional payments to be
13 made; (2) the dates on which such payments and amounts
14 shall be made; and (3) amounts due on such dates.

15 (b) If costs, fines, forfeitures or penalties imposed by the
16 magistrate court for hunting or fishing violations as
17 described in chapter twenty of this code, or for motor
18 vehicle violations as described in section three-a, article
19 three, chapter seventeen-b of this code are not paid within
20 ninety days, or if a person who committed any such
21 violation defaults on a payment plan as described in
22 subsection (a) of this section, or if the person fails to appear
23 or otherwise respond in court when charged with a motor
24 vehicle violation as defined in section three-a, article three,
25 chapter seventeen-b of this code, the magistrate court must
26 notify the director of the department of natural resources or
27 the department of motor vehicles, whichever is applicable,
28 of such failure to pay if:

29 (1) Within the ninety-day period, the action is not set for
30 trial pursuant to the requirements of section ten, article
31 four of this chapter; or

32 (2) Within the ninety-day period, the action is not
33 removed to circuit court pursuant to the requirements of
34 section eight, article four of this chapter; or

35 (3) Within the ninety-day period, the action is not
36 appealed, timely filed in the circuit court and granted for
37 appeal by the circuit court pursuant to the requirements of
38 sections twelve or thirteen, article five of this chapter.

39 Upon such notice, the department of motor vehicles shall
40 suspend the operator's or chauffeur's license and the
41 director of the department of natural resources shall
42 suspend the hunting or fishing license of the person
43 defaulting on payment until such time that the costs, fines,
44 forfeitures or penalties are paid.

45 In every criminal case which involves a misdemeanor
46 violation, a magistrate may order restitution when
47 rendering judgment.

[Handwritten signatures and initials]

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

Bruce O. Allmon
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Isaac C. Hill
.....
Clerk of the Senate

Donald D. Kopp
.....
Clerk of the House of Delegates

Sam Tomlin
.....
President of the Senate

W. H. C. C.
.....
Speaker House of Delegates

The within *approved* this the *28th*
March
day of 1988.

W. A. Thayer
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/22/88

Time 3:04 p.m.

RECEIVED
1989 MAR 31 AM 10:50
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE