

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

ENROLLED

SENATE BILL NO. 550

(By Senator Craig, et al)

PASSED March 9, 1990

In Effect 90 days from Passage

ENROLLED
Senate Bill No. 550

(By SENATORS CRAIGO, DITTMAR AND BLATNIK)

[Passed March 9, 1990; in effect ninety days from passage.]

AN ACT to amend article ten, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section three-b; to amend and reenact section one, article one; and sections one, five, eight and twelve, article two, chapter seventeen-b of said code; to further amend said chapter seventeen-b by adding thereto a new article, designated article one-d; and to further amend article two of said chapter seventeen-b by adding thereto three new sections, designated sections seven-b, seven-c and fifteen, all relating to motorcycle safety; establishing a motorcycle safety fee; providing a definition of motorcycle; providing a definition of driver and driver license; providing for motorcycle education; establishing motorcycle education program; providing for rider training; setting forth instructor training and education; setting forth program implementation; providing for exemption from motorcycle examination; establishing motorcycle safety fund; providing department of motor vehicles with authority for regulations; establishing effective date; establishing motorcycle driver license; establishing qualifications and fee for issuance of driving instruction permits to fifteen year olds; establishing motorcycle instruction permit; providing for separate examination

for motorcycle license; establishing motorcycle license examination fund; providing for motorcycle license and endorsement fee; providing department of motor vehicles and department of public safety with authority to promulgate rules.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section three-b; that section one, article one and sections one, five, eight and twelve, article two, chapter seventeen-b of said code be amended and reenacted; that chapter seventeen-b be further amended by adding thereto a new article, designated article one-d; and that article two of said chapter seventeen-b be further amended by adding thereto three new sections, designated sections seven-b, seven-c and fifteen, all to read as follows:

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION,
REGISTRATION, CERTIFICATE OF TITLE, AND ANTI-
THEFT PROVISIONS.**

ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.

§17A-10-3b. Motorcycle safety fee.

1 Upon the annual registration of any motorcycle, the
2 department shall collect a four dollar motorcycle
3 safety fee in addition to the registration fee specified
4 in section three of this article. The department shall
5 deposit one half of the motorcycle safety fee into the
6 state treasury and credit the moneys to the motorcycle
7 safety fund. The department shall deposit the remain-
8 ing one half of the motorcycle safety fee into the state
9 treasury and credit the moneys collected to the
10 motorcycle license examination fund established in
11 section seven-c, article two, chapter seventeen-b of
12 this code.

CHAPTER 17B. MOTOR VEHICLE DRIVER LICENSES.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17B-1-1. Definitions.

1 The following words and phrases when used in this

2 chapter shall, for the purpose of this chapter, have the
3 meanings respectively ascribed to them in this article:

4 (a) *Vehicle*.—Every device in, upon, or by which any
5 person or property is or may be transported or drawn
6 upon a public highway, excepting devices moved by
7 human power or used exclusively upon stationary rails
8 or tracks;

9 (b) *Motor vehicle*.—Every vehicle which is self-
10 propelled and every vehicle which is propelled by
11 electric power obtained from overhead trolley wires,
12 but not operated upon rails;

13 (c) *Motorcycle*.—Every motor vehicle having a seat
14 or saddle for the use of the rider and designed to
15 travel on not more than three wheels in contact with
16 the ground, but excluding a farm tractor as defined
17 herein, a moped as defined in section five-a, article
18 one, chapter seventeen-c, a snowmobile as defined in
19 section one-mm, article one, chapter seventeen-a and
20 an all-terrain vehicle as defined in section one-ii,
21 article one, chapter seventeen-a;

22 (d) *Farm tractor*.—Every motor vehicle designed and
23 used primarily as a farm implement for drawing
24 plows, mowing machines, and other implements of
25 husbandry;

26 (e) *School bus*.—Every motor vehicle owned by a
27 public governmental agency and operated for the
28 transportation of children to or from school or pri-
29 vately owned and operated for compensation for the
30 transportation of children to or from school;

31 (f) *Person*.—Every natural person, firm, copartner-
32 ship, association or corporation;

33 (g) *Operator*.—Every person, other than a chauffeur,
34 who drives or is in actual physical control of a motor
35 vehicle upon a highway or who is exercising control
36 over or steering a vehicle being towed by a motor
37 vehicle;

38 (h) *Chauffeur*.—Every person who is employed by
39 another for the principal purpose of driving a motor

40 vehicle and every person who drives a school bus
41 transporting school children or any motor vehicle
42 when in use for the transportation of persons or
43 property for compensation;

44 (i) *Driver*.—Means any person who drives, operates
45 or is in physical control of a motor vehicle, in any
46 place open to the general public for purposes of
47 vehicular traffic, or who is required to hold a driver
48 license;

49 (j) *Driver License*.—Means any permit or license
50 issued by this state to a person which authorizes the
51 person to drive a motor vehicle of a specific class or
52 classes subject to any restriction or endorsement
53 contained thereon;

54 (k) *Owner*.—A person who holds the legal title of a
55 vehicle or in the event a vehicle is the subject of an
56 agreement for the conditional sale or lease thereof
57 with the right of purchase upon performance of the
58 conditions stated in the agreement and with an
59 immediate right of possession vested in the conditional
60 vendee or lessee, or in the event a mortgagor of a
61 vehicle is entitled to possession, then such conditional
62 vendee or lessee or mortgagor shall be deemed the
63 owner for the purpose of this chapter;

64 (l) *Nonresident*.—Every person who is not a resident
65 of this state;

66 (m) *Street or highway*.—The entire width between
67 the boundary lines of every way publicly maintained
68 when any part thereof is open to the use of the public
69 for purposes of vehicular travel;

70 (n) *Commissioner*.—The commissioner of motor
71 vehicles of this state;

72 (o) *Department*.—The department of motor vehicles
73 of this state acting directly or through its duly autho-
74 rized officers or agents;

75 (p) *Suspension*.—Suspension means that the driver's
76 license and privilege to drive a motor vehicle on the
77 public highways are temporarily withdrawn but only

78 during the period of such suspension;

79 (q) *Revocation*.—Revocation means that the driver's
80 license and privilege to drive a motor vehicle on the
81 public highways are terminated and shall not be
82 renewed or restored, except that an application for a
83 new license may be presented and acted upon by the
84 department after the expiration of at least one year
85 after the date of revocation, except as otherwise
86 provided in section two, article five-a, chapter
87 seventeen-c of this code;

88 (r) *Cancellation*.—Cancellation means that driver's
89 license is annulled and terminated because of some
90 error or defect or because the licensee is no longer
91 entitled to such license, but the cancellation of a
92 license is without prejudice and application for a new
93 license may be made at any time after such
94 cancellation.

ARTICLE 1D. MOTORCYCLE SAFETY EDUCATION.

§17B-1D-1. Legislative findings.

1 The Legislature hereby finds and declares that:

2 (a) Motorcycles account for approximately three
3 percent of the state's registered motor vehicles but are
4 involved in over six percent of the state's motor
5 vehicle fatalities.

6 (b) In terms of fatalities per vehicle mile traveled,
7 the state's motorcyclists face about ten times the risk
8 of passenger car occupants.

9 (c) Lack of proper riding skills have been shown to
10 be largely responsible for the motorcycle fatality
11 problem.

12 (d) It is therefore the purpose of this article to
13 provide for a motorcycle safety education program in
14 this state.

§17B-1D-2. Program established.

1 (a) The West Virginia motorcycle safety education
2 program is hereby established within the department
3 to be administered by the commissioner. The program

4 shall include rider training courses and instructor
5 training courses. It may also include efforts to enhance
6 public motorcycle safety awareness, alcohol and drug
7 effects awareness for motorcyclists, driver improve-
8 ment efforts, licensing improvement efforts, program
9 promotion and other efforts to enhance motorcycle
10 safety through education.

11 (b) The commissioner shall appoint a program
12 coordinator who shall oversee and direct the program,
13 and conduct an annual evaluation.

§17B-1D-3. Rider training.

1 (a) The department shall establish standards for the
2 rider training course designed to develop and instill
3 the knowledge, attitudes, habits and skills necessary
4 for safe operation of a motorcycle.

5 (b) Rider training courses shall be open to all
6 residents of the state who are eligible for a motorcycle
7 learner's permit. An adequate number of rider train-
8 ing courses shall be provided to meet the reasonably
9 anticipated needs of all persons in the state who are
10 eligible and who desire to participate in the program.
11 Program delivery may be phased in over a reasonable
12 period of time.

13 (c) The department shall issue certificates of comple-
14 tion in the manner and form prescribed by the
15 commissioner to persons who satisfactorily complete
16 the requirements of the course.

§17B-1D-4. Instructor training and qualification.

1 (a) The department shall establish standards for an
2 approved motorcycle rider education instructor prepa-
3 ration course. Successful completion of the course
4 shall require the participant to demonstrate knowl-
5 edge of the course material, knowledge of safe motor-
6 cycle operating practices, and the necessary aptitude
7 for instructing students.

8 (b) The department shall establish minimum
9 requirements for the qualification of a rider education
10 instructor.

§17B-1D-5. Program implementation.

1 The department may enter into contracts with
2 either public or private organizations for technical
3 assistance in conducting rider and instructor training
4 courses, if the courses are administered and taught
5 according to standards established by the department.
6 An organization conducting such courses may charge a
7 reasonable tuition fee. The department shall deter-
8 mine the maximum tuition fee an organization may
9 charge.

§17B-1D-6. Exemption from motorcycle license examination.

1 The commissioner may exempt applicants for a
2 motorcycle driver's license or endorsement from all or
3 part of the special motorcycle license examination
4 required by section seven-b, article two of this chapter
5 if the applicant presents a certificate of completion of
6 the rider training course specified in sections two and
7 three, article one-d of this chapter.

§17B-1D-7. Motorcycle safety account.

1 (a) There is hereby created a special fund in the
2 state treasury which shall be designated the "motorcy-
3 cle safety fund". The fund shall consist of all moneys
4 received from motorcycle driver licensing fees except
5 instruction permit fees, one half of the moneys
6 received from the motorcycle safety fee assessed with
7 each motorcycle registration under section three-b,
8 article ten, chapter seventeen-a of this code and any
9 other moneys specifically allocated to the fund. The
10 fund shall not be treated by the auditor and treasurer
11 as part of the general revenue of the state. The fund
12 shall be a special revolving fund to be used and paid
13 out upon order of the commissioner of motor vehicles
14 solely for the purposes specified in this chapter.

15 (b) The fund shall be used by the department of
16 motor vehicles to defray the cost of implementing and
17 administering the motorcycle safety education pro-
18 gram established in section two, article one-d of this
19 chapter. Moneys in the special revolving fund may
20 also be used to defray the cost of implementing and
21 administering the motorcycle driver licensing program.

§17B-1D-8. Authority for regulations.

1 The department is authorized to adopt such rules
2 and regulations as are necessary to carry out the
3 provisions of this article in accordance with the
4 provisions of chapter twenty-nine-a of this code.

§17B-1D-9. Effective date.

1 This article shall become effective on the first day of
2 July, one thousand nine hundred ninety-two.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

§17B-2-1. Drivers must be licensed; chauffeur licensee need not procure driver license; licensees need not obtain local government license; motorcycle driver license.

1 (a) No person, except those hereinafter expressly
2 exempted, may drive any motor vehicle upon a street
3 or highway in this state or upon any subdivision
4 street, as used in article twenty-four, chapter eight of
5 this code, when the use of such subdivision street is
6 generally used by the public unless the person has a
7 valid driver license under the provisions of this code.

8 No person shall drive a motor vehicle as a chauffeur
9 unless he holds a valid chauffeur license. No person
10 may receive a chauffeur license until he surrenders to
11 the department any driver license issued to him or an
12 affidavit that he does not possess a driver license.

13 Any person holding a valid chauffeur license
14 hereunder need not procure a driver license.

15 Any person licensed to operate a motor vehicle as
16 provided in this code may exercise the privilege
17 thereby granted as provided in this code and, except as
18 otherwise provided by law, shall not be required to
19 obtain any other license to exercise such privilege by
20 any county, municipality or local board or body having
21 authority to adopt local police regulations.

22 (b) No person, except those hereinafter expressly
23 exempted, shall drive any motorcycle upon a street or
24 highway in this state or upon any subdivision street, as
25 used in article twenty-four, chapter eight, when the

26 use of such subdivision street is generally used by the
27 public unless the person has a valid motorcycle license
28 or a valid license which has been endorsed under
29 section seven-b, article two of this chapter for motor-
30 cycle operation or has a valid motorcycle instruction
31 permit.

§17B-2-5. Qualifications, issuance and fee for instruction permits.

1 Any person who is at least fifteen years of age may
2 apply to the department for an instruction permit. The
3 department may, in its discretion, after the applicant
4 has appeared before the department of public safety
5 and successfully passed all parts of the examination
6 other than the driving test and presented documenta-
7 tion of compliance with the provisions of section
8 eleven, article eight, chapter eighteen of this code,
9 issue to the applicant an instruction permit which
10 shall entitle the applicant while having such permit in
11 his immediate possession to drive a motor vehicle
12 upon the public highways when accompanied by a
13 licensed driver of at least twenty-one years of age or
14 a driver's education or driving school instructor that is
15 acting in an official capacity as an instructor, who is
16 occupying a seat beside the driver, except in the event
17 the permittee is operating a motorcycle, but in no
18 event shall the permittee be allowed to operate a
19 motorcycle upon a public highway until reaching
20 sixteen years of age. Any such instruction permit
21 issued to a person under the age of sixteen shall expire
22 sixty days after the permittee reaches sixteen years of
23 age: *Provided*, That only permittees who have reached
24 their sixteenth birthday are eligible to take the driving
25 examination as provided in section six of this article.
26 The instruction permit may be renewed for an addi-
27 tional period of sixty days. Any such permit issued to
28 a person who has reached the age of sixteen shall be
29 valid for a period of sixty days and may be renewed
30 for an additional period of sixty days or a new permit
31 issued. The fee for such instruction permit shall be
32 four dollars, one dollar of which shall be paid into the
33 state treasury and credited to the state road fund, and

34 the other three dollars of which shall be paid into the
35 state treasury and credited to the general fund to be
36 appropriated to the department of public safety for
37 application in the enforcement of the road law.

38 Any person sixteen years of age or older may apply
39 to the department for a motorcycle instruction permit.
40 The department of motor vehicles may, in its discre-
41 tion, after the applicant has appeared before the
42 department of public safety and successfully passed all
43 parts of the motorcycle examination other than the
44 driving test, and presented documentation of com-
45 pliance with the provisions of section eleven, article
46 eight, chapter eighteen of this code, issue to the
47 applicant an instruction permit which entitles the
48 applicant while having such permit in his immediate
49 possession to drive a motorcycle upon the public
50 streets or highways for a period of sixty days, during
51 the daylight hours between sunrise and sunset only.
52 No holder of a motorcycle instruction permit shall
53 operate a motorcycle while carrying any passenger on
54 the vehicle. A motorcycle instruction permit is not
55 renewable, but a qualified applicant may apply for a
56 new permit. The fee for a motorcycle instruction
57 permit shall be five dollars, which shall be paid into a
58 special fund in the state treasury known as the
59 motorcycle license examination fund as established in
60 section seven-c, article two, chapter seventeen-b of
61 this code.

**§17B-2-7b. Separate examination and endorsement for a
license valid for operation of motorcycle.**

1 The department of public safety shall administer a
2 separate motorcycle examination for applicants for a
3 license valid for operation of a motorcycle. Any
4 applicant for a license valid for operation of a motor-
5 cycle shall be required to successfully complete the
6 motorcycle examination, which shall be in addition to
7 the examination administered pursuant to section
8 seven, article two, chapter seventeen-b of this code:
9 *Provided*, That the commissioner of motor vehicles
10 may exempt an applicant for a motorcycle driver
11 license or endorsement from all or part of the motor-

12 cycle license examination as provided in section six,
13 article one-d of this chapter. The motorcycle examina-
14 tion shall test the applicant's knowledge of the opera-
15 tion of a motorcycle and of any traffic laws specifically
16 relating thereto and shall include an actual demonstra-
17 tion of the ability to exercise ordinary and reasonable
18 control in the operation of a motorcycle. An applicant
19 for a license valid for the operation of only a motor-
20 cycle shall be tested as provided in this section and in
21 section seven, article two, chapter seventeen-b of this
22 code, but need not demonstrate actual driving ability
23 in any vehicle other than a motorcycle. The examina-
24 tion provided in this section shall not be made a
25 condition upon the renewal of the license of any
26 person under this section.

27 For an applicant who successfully completes the
28 motorcycle examination, upon payment of the
29 required fee, the department shall issue a motorcycle
30 endorsement on the driver license of the applicant, or
31 shall issue a special motorcycle-only license if the
32 applicant does not possess a driver license.

33 Any person who already holds a valid driver license
34 on or before the first day of April, one thousand nine
35 hundred ninety-two, upon application and payment of
36 the required fee to the department of motor vehicles
37 at any time between the first day of April, one
38 thousand nine hundred ninety-two, and the thirtieth
39 day of June, one thousand nine hundred ninety-two,
40 may be issued a motorcycle endorsement without
41 being required to take the examination specified in
42 this section. On or after the first day of July, one
43 thousand nine hundred ninety-two, every person,
44 including those holding valid driver license, shall be
45 required to take the examination specified in this
46 section to obtain a motorcycle license or endorsement.

§17B-2-7c. Motorcycle license examination fund.

1 There is hereby created a special revolving fund in
2 the state treasury which shall be designated as the
3 "motorcycle license examination fund". The fund shall
4 consist of all moneys received from fees collected for

5 motorcycle instruction permits under this article and
6 any other moneys specifically allocated to the fund.
7 The fund shall not be treated by the auditor or
8 treasurer as part of the general revenue of the state.
9 The fund shall be a special revolving fund to be used
10 and paid out upon order of the superintendent of
11 public safety solely for the purposes specified in this
12 article.

13 The fund shall be used by the department of public
14 safety to defray the costs of implementing and admin-
15 istering a special motorcycle license examination,
16 including a motorcycle driving test.

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

1 (1) The department shall, upon payment of the
2 required fee, issue to every applicant qualifying
3 therefor a driver license, or motorcycle-only license.
4 Each license shall contain a coded number assigned to
5 the licensee, the full name, date of birth, residence
6 address, a brief description and a color photograph of
7 the licensee and either a facsimile of the signature of
8 the licensee or a space upon which the signature of the
9 licensee shall be written with pen and ink immedi-
10 ately upon receipt of the license. No license shall be
11 valid until it has been so signed by the licensee. A
12 driver license which is valid for operation of a motor-
13 cycle shall contain a motorcycle endorsement. The
14 department shall use such process or processes in the
15 issuance of licenses that will, insofar as possible,
16 prevent any alteration, counterfeiting, duplication,
17 reproduction, forging or modification of, or the super-
18 imposition of a photograph on, such license.

19 (2) The fee for the issuance of a driver license shall
20 be ten dollars. The one-time only additional fee for
21 adding a motorcycle endorsement to a driver license
22 shall be five dollars. The fee for issuance of a
23 motorcycle-only license shall be ten dollars. The fees
24 for the motorcycle endorsement or motorcycle-only
25 license shall be paid into a special fund in the state
26 treasury known as the motorcycle safety fund as
27 established in section seven, article one-d, chapter

28 seventeen-b of this code.

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

§17B-2-12. Expiration of licenses; renewal; renewal fees.

1 (1) Every driver license shall expire four years from
2 the date of its issuance, except that the driver license
3 of any person in the armed forces shall be extended
4 for a period of six months from the date the person is
5 separated under honorable circumstances from active
6 duty in the armed forces.

7 (2) A person who allows his driver license to expire
8 may apply to the department for renewal thereof.
9 Application shall be made upon a form furnished by
10 the department and shall be accompanied by payment
11 of the fee required by section eight of this article plus
12 an additional fee of one dollar and fifty cents. The
13 commissioner shall determine whether such person
14 qualifies for a renewed license and may, in his
15 discretion, renew any expired license without examination
16 of the applicant.

17 (3) Each renewal of a driver license shall contain a
18 new color photograph of the licensee. By first class
19 mail to the address last known to the department, the
20 commissioner shall notify each person who holds a
21 valid driver license of the expiration date of the
22 license. The notice shall be mailed at least thirty days
23 prior to the expiration date of the license and shall

24 include a renewal application form.

§17B-2-15. Authority for regulations.

1 (a) The commissioner of the department of motor
2 vehicles is authorized to adopt such rules and regula-
3 tions as are necessary to carry out the license and
4 endorsement provisions of this chapter and the provi-
5 sions regarding motor vehicle registration in accor-
6 dance with the provisions of chapter twenty-nine-a of
7 this code.

8 (b) The superintendent of the department of public
9 safety is authorized to adopt such rules and regulations
10 as are necessary to carry out the provisions relating to
11 the issuance of an instruction permit and conducting
12 the license qualifying examinations provided for in
13 this chapter in accordance with the provisions of
14 chapter twenty-nine-a of this code.

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

Frederick L. Kerker
.....
Chairman Senate Committee

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

Originated in the Senate.

In effect ninety days from passage.

Robert E. Allen
.....
Clerk of the Senate

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

Kath Rundette
.....
President of the Senate

Robert C. Allen
.....
Speaker House of Delegates

The within *is approved* this the *26th*.....
day of *March*....., 1990.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/22/90

Time

9:29 am

RECEIVED

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OFFICE OF THE
SECRETARY