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
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.

Upon the annual registration of any motorcycle, the department shall collect a four dollar motorcycle safety fee in addition to the registration fee specified in section three of this article. The department shall deposit one half of the motorcycle safety fee into the state treasury and credit the moneys to the motorcycle safety fund. The department shall deposit the remaining one half of the motorcycle safety fee into the state treasury and credit the moneys collected to the motorcycle license examination fund established in section seven-c, article two, chapter seventeen-b of this code.

CHAPTER 17B. MOTOR VEHICLE DRIVER LICENSES.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17B-1-1. Definitions.

The following words and phrases when used in this
chapter shall, for the purpose of this chapter, have the
meanings respectively ascribed to them in this article:

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

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

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

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

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

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

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

(h) Chauffeur.—Every person who is employed by
another for the principal purpose of driving a motor
vehicle and every person who drives a school bus
transporting school children or any motor vehicle
when in use for the transportation of persons or
property for compensation;

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

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

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

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

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

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

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

(p) **Suspension**.—Suspension means that the driver’s
license and privilege to drive a motor vehicle on the
public highways are temporarily withdrawn but only
during the period of such suspension;

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

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

ARTICLE ID. MOTORCYCLE SAFETY EDUCATION.

§17B-1D-1. Legislative findings.

1 The Legislature hereby finds and declares that:

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

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

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

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

§17B-1D-2. Program established.

1 (a) The West Virginia motorcycle safety education program is hereby established within the department to be administered by the commissioner. The program
shall include rider training courses and instructor training courses. It may also include efforts to enhance public motorcycle safety awareness, alcohol and drug effects awareness for motorcyclists, driver improvement efforts, licensing improvement efforts, program promotion and other efforts to enhance motorcycle safety through education.

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

§17B-1D-3. Rider training.

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

(b) Rider training courses shall be open to all residents of the state who are eligible for a motorcycle learner’s permit. An adequate number of rider training courses shall be provided to meet the reasonably anticipated needs of all persons in the state who are eligible and who desire to participate in the program. Program delivery may be phased in over a reasonable period of time.

(c) The department shall issue certificates of completion in the manner and form prescribed by the commissioner to persons who satisfactorily complete the requirements of the course.

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

(a) The department shall establish standards for an approved motorcycle rider education instructor preparation course. Successful completion of the course shall require the participant to demonstrate knowledge of the course material, knowledge of safe motorcycle operating practices, and the necessary aptitude for instructing students.

(b) The department shall establish minimum requirements for the qualification of a rider education 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 and regulations as are necessary to carry out the provisions of this article in accordance with the 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 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 exempted, may drive any motor vehicle upon a street or highway in this state or upon any subdivision street, as used in article twenty-four, chapter eight of this code, when the use of such subdivision street is generally used by the public unless the person has a valid driver license under the provisions of this code.

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

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

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

22 (b) No person, except those hereinafter expressly exempted, shall drive any motorcycle upon a street or highway in this state or upon any subdivision street, as used in article twenty-four, chapter eight, when the
use of such subdivision street is generally used by the
public unless the person has a valid motorcycle license
or a valid license which has been endorsed under
section seven-b, article two of this chapter for motor-
cycle operation or has a valid motorcycle instruction
permit.

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

Any person who is at least fifteen years of age may
apply to the department for an instruction permit. The
department may, in its discretion, after the applicant
has appeared before the department of public safety
and successfully passed all parts of the examination
other than the driving test and presented documenta-
tion of compliance with the provisions of section
eleven, article eight, chapter eighteen of this code,
issue to the applicant an instruction permit which
shall entitle the applicant while having such permit in
his immediate possession to drive a motor vehicle
upon the public highways when accompanied by a
licensed driver of at least twenty-one years of age or
a driver’s education or driving school instructor that is
acting in an official capacity as an instructor, who is
occupying a seat beside the driver, except in the event
the permittee is operating a motorcycle, but in no
event shall the permittee be allowed to operate a
motorcycle upon a public highway until reaching
sixteen years of age. Any such instruction permit
issued to a person under the age of sixteen shall expire
sixty days after the permittee reaches sixteen years of
age: Provided, That only permittees who have reached
their sixteenth birthday are eligible to take the driving
examination as provided in section six of this article.
The instruction permit may be renewed for an addi-
tional period of sixty days. Any such permit issued to
a person who has reached the age of sixteen shall be
valid for a period of sixty days and may be renewed
for an additional period of sixty days or a new permit
issued. The fee for such instruction permit shall be
four dollars, one dollar of which shall be paid into the
state treasury and credited to the state road fund, and
the other three dollars of which shall be paid into the
state treasury and credited to the general fund to be
appropriated to the department of public safety for
application in the enforcement of the road law.

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

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

The department of public safety shall administer a
separate motorcycle examination for applicants for a
license valid for operation of a motorcycle. Any
applicant for a license valid for operation of a motor-
cycle shall be required to successfully complete the
motorcycle examination, which shall be in addition to
the examination administered pursuant to section
seven, article two, chapter seventeen-b of this code:
Provided, That the commissioner of motor vehicles
may exempt an applicant for a motorcycle driver
license or endorsement from all or part of the motor-
cycle license examination as provided in section six, article one-d of this chapter. The motorcycle examination shall test the applicant’s knowledge of the operation of a motorcycle and of any traffic laws specifically relating thereto and shall include an actual demonstration of the ability to exercise ordinary and reasonable control in the operation of a motorcycle. An applicant for a license valid for the operation of only a motorcycle shall be tested as provided in this section and in section seven, article two, chapter seventeen-b of this code, but need not demonstrate actual driving ability in any vehicle other than a motorcycle. The examination provided in this section shall not be made a condition upon the renewal of the license of any person under this section.

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

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

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

There is hereby created a special revolving fund in the state treasury which shall be designated as the “motorcycle license examination fund”. The fund shall consist of all moneys received from fees collected for
motorcycle instruction permits under this article and any other moneys specifically allocated to the fund. The fund shall not be treated by the auditor or treasurer as part of the general revenue of the state. The fund shall be a special revolving fund to be used and paid out upon order of the superintendent of public safety solely for the purposes specified in this article. The fund shall be used by the department of public safety to defray the costs of implementing and administering a special motorcycle license examination, including a motorcycle driving test.

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

(1) The department shall, upon payment of the required fee, issue to every applicant qualifying therefor a driver license, or motorcycle-only license. Each license shall contain a coded number assigned to the licensee, the full name, date of birth, residence address, a brief description and a color photograph of the licensee and either a facsimile of the signature of the licensee or a space upon which the signature of the licensee shall be written with pen and ink immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee. A driver license which is valid for operation of a motorcycle shall contain a motorcycle endorsement. The department shall use such process or processes in the issuance of licenses that will, insofar as possible, prevent any alteration, counterfeiting, duplication, reproduction, forging or modification of, or the superimposition of a photograph on, such license.

(2) The fee for the issuance of a driver license shall be ten dollars. The one-time only additional fee for adding a motorcycle endorsement to a driver license shall be five dollars. The fee for issuance of a motorcycle-only license shall be ten dollars. The fees for the motorcycle endorsement or motorcycle-only license shall be paid into a special fund in the state treasury known as the motorcycle safety fund as established in section seven, article one-d, chapter
seventeen-b of this code.

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

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

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

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

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

§17B-2-15. Authority for regulations.

(a) The commissioner of the department of motor vehicles is authorized to adopt such rules and regulations as are necessary to carry out the license and endorsement provisions of this chapter and the provisions regarding motor vehicle registration in accordance with the provisions of chapter twenty-nine-a of this code.

(b) The superintendent of the department of public safety is authorized to adopt such rules and regulations as are necessary to carry out the provisions relating to the issuance of an instruction permit and conducting the license qualifying examinations provided for in this chapter in accordance with the provisions of chapter twenty-nine-a of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the day of , 1990.

Governor