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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1991

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ENROLLED

Com. Sub. for
HOUSE BILL No. 2349

(By Mr. *Delegate Louissas*)

— ● —

Passed *March 9,* 1991

In Effect *90 days from* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2349
(By DELEGATE LOUISOS)

[Passed March 9, 1991; in effect ninety days from passage.]

AN ACT to amend article five-a, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section one-a, relating to the revocation of licenses to operate a motor vehicle for driving under the influence of alcohol, controlled substances or drugs; providing that a person who is convicted of driving a motor vehicle while under the influence of alcohol, controlled substance or drugs shall have his or her operator's license revoked; and eliminating the administrative hearing for persons so convicted who do not act to appeal such convictions.

Be it enacted by the Legislature of West Virginia:

That article five-a, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended, by adding thereto a new section, designated section one-a, to read as follows:

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

§17C-5A-1a. Revocation upon conviction for driving under the influence of alcohol, controlled substances or drugs.

1 (a) If a person is convicted for an offense defined in
2 section two, article five of this chapter or for an offense
3 described in a municipal ordinance which has the same
4 elements as an offense described in said section two of
5 article five, because such person did drive a motor
6 vehicle while under the influence of alcohol, controlled
7 substances or drugs, or the combined influence of
8 alcohol or controlled substances or drugs, or did drive
9 a motor vehicle while having an alcoholic concentration
10 in his blood of ten hundredths of one percent or more,
11 by weight, and if such person does not act to appeal such
12 conviction within the time periods described in subsec-
13 tion (b) of this section, such person's license to operate
14 a motor vehicle in this state shall be revoked in
15 accordance with the provisions of this section.

16 (b) The clerk of the court in which a person is
17 convicted for an offense described in section two, article
18 five of this chapter or for an offense described in a
19 municipal ordinance which has the same elements as an
20 offense described in said section two of article five, shall
21 forward to the commissioner a transcript of the
22 judgment of conviction. If the conviction is the judgment
23 of a magistrate court, the magistrate court clerk shall
24 forward such transcript when the person convicted has
25 not requested an appeal within twenty days of the
26 sentencing for such conviction. If the conviction is the
27 judgment of a mayor or police court judge or municipal
28 court judge, the clerk or recorder shall forward such
29 transcript when the person convicted has not perfected
30 an appeal within ten days from and after the date upon
31 which the sentence is imposed. If the conviction is the
32 judgment of a circuit court, the circuit clerk shall
33 forward such transcript when the person convicted has
34 not filed a notice of intent to file a petition for appeal
35 or writ of error within thirty days after the judgment
36 was entered.

37 (c) If, upon examination of the transcript of the
38 judgment of conviction, the commissioner shall deter-
39 mine that the person was convicted for an offense
40 described in section two, article five of this chapter or
41 for an offense described in a municipal ordinance which

42 has the same elements as an offense described in said
43 section two of article five, because such person did drive
44 a motor vehicle while under the influence of alcohol,
45 controlled substances or drugs, or the combined influ-
46 ence of alcohol or controlled substances or drugs, or did
47 drive a motor vehicle while having an alcoholic concen-
48 tration in his blood of ten hundredths of one percent or
49 more, by weight, the commissioner shall make and enter
50 an order revoking such person's license to operate a
51 motor vehicle in this state. The order shall contain the
52 reasons for the revocation and the revocation periods
53 provided for in section two of this article. Further, the
54 order shall give the procedures for requesting a hearing
55 which is to be held in accordance with the provisions of
56 section two of this article. The person shall be advised
57 in the order that because of the receipt of a transcript
58 of the judgment of conviction by the commissioner a
59 presumption exists that the person named in the
60 transcript of the judgment of conviction is the person
61 named in the commissioner's order and such constitutes
62 sufficient evidence to support revocation and that, the
63 sole purpose for the hearing held under this section is
64 for the person requesting the hearing to present
65 evidence that he or she is not the person named in the
66 transcript of the judgment of conviction. A copy of such
67 order shall be forwarded to such person by registered
68 or certified mail, return receipt requested. No revoca-
69 tion shall become effective until ten days after receipt
70 of a copy of such order.

71 (d) The provisions of this section shall not apply if an
72 order reinstating the operator's license of the person has
73 been entered by the commissioner prior to the receipt
74 of the transcript of the judgment of conviction.

75 (e) For the purposes of this section, a person is
76 convicted when such person enters a plea of guilty or
77 is found guilty by a court or jury.

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

Homer Heck

Chairman Senate Committee

Ernest C. Moore

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Russell E. Nelson

Clerk of the Senate

Donald A. Glapp

Clerk of the House of Delegates

Pete Buntz

President of the Senate

Bob C. C. C.

Speaker of the House of Delegates

The within *is approved* this the *2nd*

day of *April*, 1991.

Jefferson

Governor

PRESENTED TO THE

GOVERNOR

Date

9/28/91

Time

10:10 am